

5 Ordinary Business

5.1 T210346 PA - Use of the land for an Education Centre (Adult Training Centre), Food & Drink Premises and associated buildings and works at 55 Southeast Bvd, Pakenham

Responsible GM: Lili Rosic
Author: Evie McGauley-Kennedy

Recommendation(s)

That Council refuses an application to grant a Planning Permit for the use of the land for an Education Centre (Adult Training Centre) and Food and Drink Premises and associated buildings and works on the following grounds:

1. The proposal is incompatible with the industrial location and contrary to the purpose of the Industrial 1 Zone.
2. The proposal undermines state and local policies which seek to protect state significant industrial land from non-industrial land uses that (have the potential to) prejudice the future availability of industrial land.
3. The proposal results in unreasonable impacts to future and established industrial uses.
4. The proposal does not represent the orderly planning of the area.

Attachments

1. T 210346 PA - Locality Map [5.1.1 - 1 page]
2. T 210346 PA - Application plans and documents [5.1.2 - 43 pages]
3. T 210346 PA - Applicants response to land use concerns [5.1.3 - 6 pages]

Executive Summary

APPLICATION NO.:	T210346
APPLICANT:	Human Habitats
LAND:	L82 PS827498, 55 Southeast Boulevard, Pakenham
PROPOSAL:	Use of the land for an Education Centre (Adult Training Centre) and Food and Drink Premises and associated buildings and works.
PLANNING CONTROLS:	Zone: <ul style="list-style-type: none"> • Industrial 1 Zone

	Overlay: <ul style="list-style-type: none"> No overlays
NOTIFICATION & OBJECTIONS:	Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , the application was advertised by the placing of signs on site and sending notices in the mail to nearby property owners.
KEY PLANNING CONSIDERATIONS:	State significant industrial land Protection of industrial land Land use compatibility Sensitive land uses On-site parking availability Traffic issues and safety Intensity of land use and appropriateness in industrial area Out of centre development
RECOMMENDATION:	That the application be refused, subject to the grounds within this report.

Background

The subject site is part of the South East Business Park and was created by Planning Permit T170658 which was issued for the subdivision of the land in stages on 25 July 2018.

The building in which the use is proposed was constructed following the issue of Planning Permit T200765 which allowed for the construction of one (1) Warehouse (with an ancillary office) and associated works on 21 January 2021.

Subject Site



The subject site is located at 55 Southeast Boulevard, Pakenham, within the South East Business Park. The area is identified as a large employment corridor within the *Casey-Cardinia Growth Area Framework Plan, 2006*.

It is located on the southern side of Southeast Boulevard on the eastern corner with Innovation Way.

The site is developed with a warehouse which was approved under Planning Permit T200765. According to the application for this previous permit, the building was intended to be used for warehousing and was to be “...occupied by a local business who is upgrading their requirements to a larger building which will better meet the needs of the expanding business”.

Access to the site is provided by two (2) crossovers. One (1) provides access to Southeast Boulevard to the north and the other provides access to Innovation Way to the west.

The topography of the land is relatively flat.

The following title restrictions affect the land:

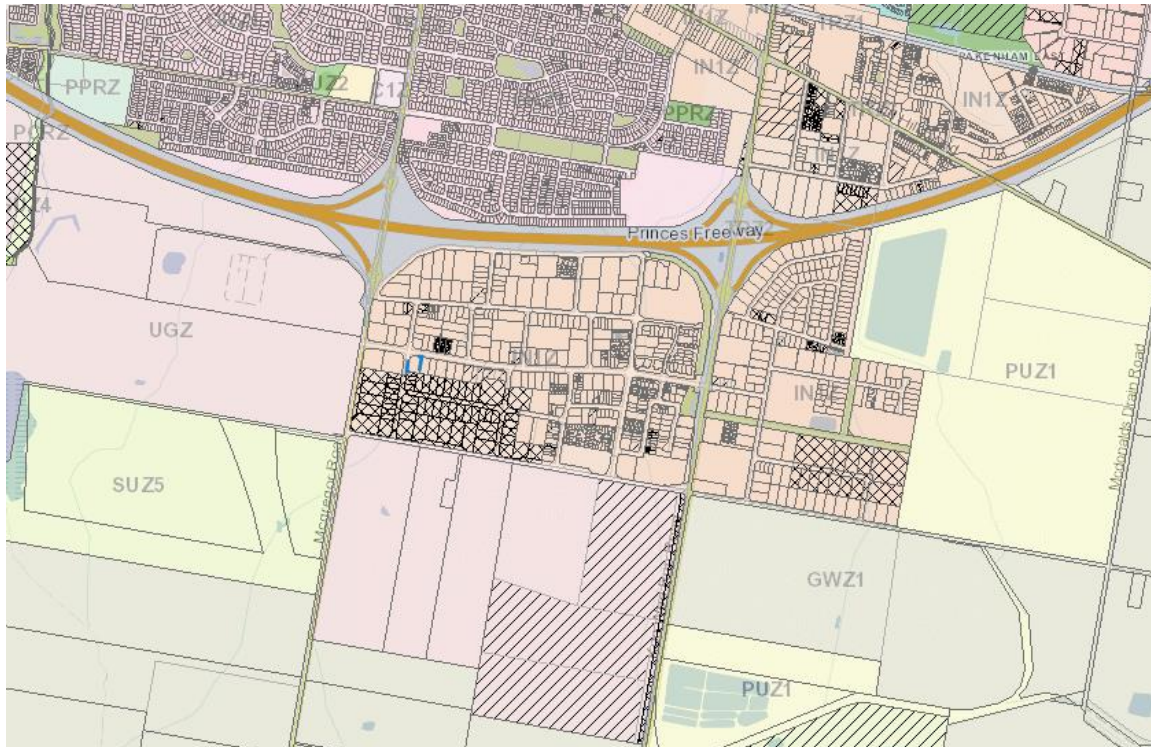
- Restrictive Covenant PS827498B which relates to the Southeast Business Park Building Design Guidelines endorsed under Planning Permit T170658. It also relates to developer approval being required prior to commencement of any buildings and works.
 - This restriction requires that:
 1. The Registered Proprietor or Proprietors for the time being of any burdened lot must not construct a building or allow a building to be constructed that does not comply with the objectives of the endorsed Southeast Boulevard Design Guidelines as approved by Cardinia Shire Council under Planning Permit T170658.
 2. The Registered Proprietor or Proprietors for the time being of any burdened lot must not construct or externally alter a building or allow a building to be constructed or externally altered unless approval for the proposed development has been granted in writing by a representative of Southeast Business Developments Pty Ltd.
- The proposal complies with the restriction on title.

The site is in an area subject to Aboriginal Cultural sensitivity and Cultural Heritage Management Plan (CHMP) 15725 which was prepared as part of the subdivision allowed by Planning Permit T170658 and applies to the land. Therefore, a new CHMP is not required to be prepared for the use of the existing building for the proposal.

The main characteristics of the surrounding area are:

- North: Directly north of the site is Southeast Boulevard. Across the road there is a mixture of vacant and established industrial sites. The existing buildings are generally used for warehousing and industry.
- South: Directly south of the site are several undeveloped industrial parcels which are not yet titled. Further south (across Greenhills Road) is land located in the Urban Growth Zone to be developed for employment land (including Industrial land) within the future Pakenham South Employment Precinct Structure Plan (PSP).

- East: Directly east of the site is a vacant parcel of industrial land which was issued a Planning Permit (T210235) for the development of a warehouse on 21 June 2021. Further east there is a mixture of undeveloped industrial parcels and established industrial sites, generally used for warehousing.
- West: Directly west of the site is Innovation Way. Across the road there are two (2) similarly sized industrial parcels which are currently vacant, with no permits having been issued for development of these parcels to date. Further west (across McGregor Road) there is more Urban Growth Zone land which is to be developed for employment land (including Industrial land) within the future Pakenham West Employment Precinct Structure Plan (PSP).

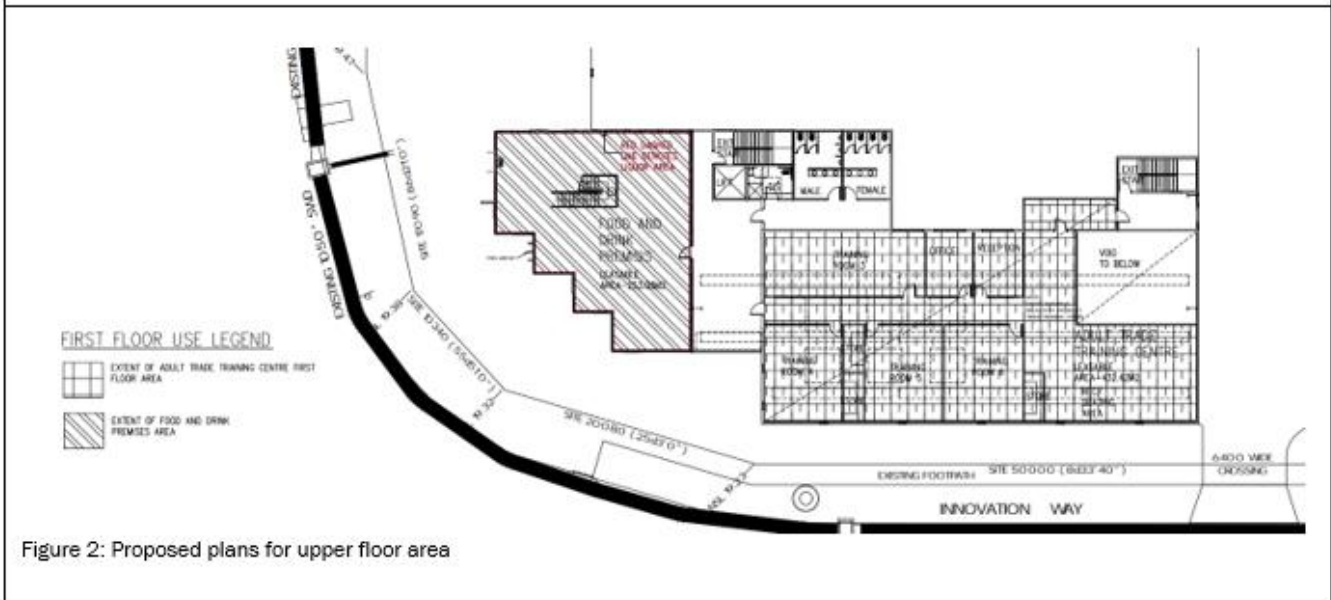
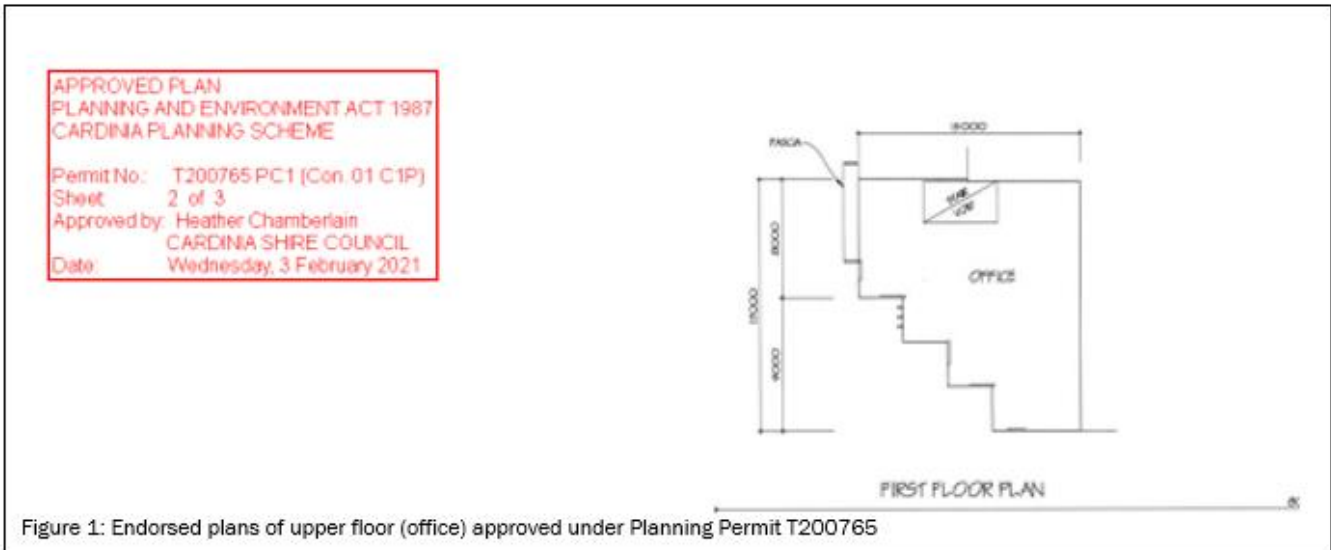


Proposal

Approval is sought for the use of the land for an Education Centre (Adult Training Centre) and Food and Drink Premises and associated buildings and works.

The proposal also includes the use of the land for a Convenience Shop which does not trigger a planning permit so long as the leasable floor area does not exceed 240sqm. The proposed Convenience Shop has a leasable floor area of 237.36sqm, therefore no Planning Permit is required for this use. The required number of car parking spaces for this use can also be provided.

In addition to the uses proposed, an internal extension to the first-floor office space approved under T200765 is also proposed. Currently (according to the endorsed plans) the first-floor office area of the building measures 185sqm in area. The proposal seeks to increase the leasable floor area of the existing office space at the first-floor level by 68.08sqm, as well as including more leasable floor area at the first floor level by including training rooms at the first floor level totalling 432.42sqm in leasable floor area. Overall, the leasable floor area at the first-floor level will be increased from 185sqm to 500.5sqm.



Education Centre (Adult Training Centre)

The Education Centre (Adult Training Centre) is proposed to span the two (2) levels of the building and provide training facilities for Mechanical and Culinary Trades. The practical training facilities will be located at ground floor level, whilst the classrooms will be provided at first floor level. This use will occupy the rear (western portion of the building).

It is proposed that a maximum of twenty-four (24) students and five (5) staff members will be present on-site at any one time within the Education Centre. It is proposed that the Education Centre will operate between 8:00am and 10:00pm, Monday to Sunday.

Food and Drink Premises

The Food and Drink Premises is also proposed to span the two (2) levels of the building and will be located to the north-west (front) of the building. It will occupy a floor area of 388.16sqm over these two (2) levels.

The proposed operating hours are between 6:00am and 10:00pm, Monday to Saturday and 8:00am to 10:00pm on Sundays.

No further details (including patron numbers) on the type of food and drink premises proposed have been provided other, than it is proposed to be a café which will serve various food items such as sandwiches, fried foods and various drinks.

According to the plans submitted it appears that the sale and consumption of liquor as part of the food and drink premises will be applied for at a later date.

Freezing and Cool Storage

The remainder of the building that is not proposed to be occupied by the Convenience Shop, Education Centre and Food and Drink Premises is proposed to be occupied by Freezing and Cool Storage. This use is proposed to occupy the eastern portion of the building and will measure a total area of 903.16sqm. The use is proposed 24-hours, Monday to Sunday.

This will include an ancillary office, meeting room, toilets and two (2) loading bays.

The Freezing and Cool Storage area will mainly be used for the storage of processed and pre-packaged food items. Deliveries and distribution to and from the site will be made during the hours of operation proposed.

Buildings and works

As discussed above, buildings and works to add floor space to the existing first floor office are proposed as part of this application.

They include extensions to the first-floor office as described above to cater for the Food and Drink Premises and Classrooms for the Education Centre proposed.

Other than these works, substantial internal alterations such as the construction of partition walls are also proposed.

Car parking

A total of forty-one (41) car parking spaces are currently provided to the site, as was required for the warehouse approved by Planning Permit T200765.

Whilst the proposal does not seek a reduction in car parking for each of the uses proposed, this is because an additional nine (9) spaces are proposed. Eight (8) of these new spaces are proposed within the rear loading bay of the Freezing and Cool Storage portion of the building.

Based on the uses proposed, the applicant contends that the proposal generates the need for 47 spaces with 50 spaces (including an accessible space) being provided.

Other considerations

It is noted that if approved, an application for the sale and consumption of liquor associated with the Food and Drink Premises will be applied for.

Planning Scheme Provisions

Zone

The land is subject to the following zone:

- Industrial 1 Zone

Overlays

The land is not subject to any overlays.

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
- Clause 13.05-1S Noise abatement
- Clause 13.07-1S Land use compatibility
- Clause 17.02-2S Out-of-centre development
- Clause 17.02-1S Business
- Clause 17.03-2S Sustainable industry
- Clause 17.03-3S State significant industrial land
- Clause 17.04-1S Facilitating tourism
- Clause 18.02-4S Roads

Local Planning Policy Framework

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.04-1 Employment
- Clause 21.04-4 Industry
- Clause 21.04-5 Tourism
- Clause 21.05-3 – Local roads

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking
- Clause 53.10 Uses with adverse amenity potential
- Clause 65 Decision Guidelines
- EPA Victoria's *Recommended Separation Distances for Industrial Residual Air Emissions, March 2013* (EPA Publication 1518)

Planning Permit Triggers

The proposal requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 33.01-1 of the Industrial 1 Zone, a permit is required to use the land for a Food and Drink premises and Education Centre and
- Pursuant to Clause 33.01-4 of the Industrial 1 Zone, a permit is required to construct a building or carry out works.

Public Notification

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

- Sending notices to the owners and occupiers of adjoining and nearby land.
- Placing signs on the site.

Council has received one (1) objection to date. The key issues raised by this objection are:

- The affect the proposed food and drink premises will have on the objector's premises (cafe).

The affect that an application may have on the commercial viability of another (similar) use is not a consideration of the *Planning and Environment Act, 1987*. Section 57(2A) of the *Planning and Environment Act, 1987* states that 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.

Based on this, it is considered that the grounds of the objection are not based on planning merit and will not be considered.

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	N/A	
Section 52 Notices	N/A	

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Strategic Planning	Not supportive of the establishment of a sensitive use in the Industrial 1 Zone.
Traffic	No objection to the proposal. (Subject to conditions)

Discussion

The application for a permit has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed uses are determined to be inconsistent with these requirements.

The Planning Scheme puts particular emphasis on the facilitation and protection of industrial land, in particular when located in an area identified by Strategic Planning Frameworks as State significant industrial land as well as the ongoing facilitation and protection of employment land that services the wider community.

The location of the proposed Food and Drink premises and Education Centre outside of a nearby activity centre and within an establishing industrial estate earmarked by Policy as significant industrial and employment land is not supported by the Cardinia Planning Scheme, due to the potential conflicts such sensitive uses may have on existing and future industrial activities, as well as the potential to reduce the ability for these facilities to expand in the future.

Policy protecting State Significant Industrial land

Clause 13.07-1S (Land use compatibility) seeks to protect community amenity, human health and safety, while facilitating appropriate commercial, industrial, infrastructure and other uses with potential adverse off-site amenity impacts by ensuring that uses and development is compatible with adjoining or nearby land uses and protecting existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

The application fails to align with these policies as there is very little link between this proposal and the industrial location. Whilst it could be argued that an Education Centre providing for mechanical trades might be reasonable in an industrial setting, the broader impacts of allowing an Education Centre to establish within a new industrial area must be given greater weight in Council's decision.

The establishment of an Education Centre has the potential to negatively impact (the mostly vacant) lots and newly constructed buildings surrounding the subject site from establishing 'as of right' industrial uses without requiring planning permission. For example:

- Currently the use of the land for a warehouse or industry does not require planning permission, so long as it meets the Conditions of Table 1 to the Industrial 1 Zone.
- If an Education Centre were to establish on this site, at a minimum, the allotments within 30 metres around the site would require planning permission to use their site for a warehouse or industrial use which would otherwise (generally) be 'as of right' if

the Education Centre was not present.

- This is without taking into account any threshold distances in Clause 53.10 (Uses with adverse amenity potential) which could result in certain uses which would normally be considered appropriate in the Industrial 1 Zone within up to 5 kilometres of the site needing additional consideration under this provision, which would not normally apply.

The Industrial 1 Zone is specifically set aside away from residential and commercial areas to avoid these land use conflicts. In this instance, Southeast Business Park is separated by the Princes Freeway from the Pakenham Town Centre and surrounded by employment land to ensure that industrial uses are adequately provided for and protected from sensitive uses.

The appropriateness of the Food and Drink Premises proposed, is also considered incompatible for similar reasons. Policy specifically seeks to protect commercial and industrial uses and safeguard them from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

The Food and Drink premises is not an industrial function and this component is expected to generate the primary off-site issues in the industrial area that centre around land use conflicts, traffic and may affect the ability for neighbouring businesses to operate safely.

It is also noted that the presence of a Food and Drink Premises in an industrial context requires careful consideration as the operator and patrons may expect a higher standard of general amenity than can be provided in a precinct where odour and noise related emissions are likely to be higher and more frequent, as expected in industrial areas. The higher likelihood of these emissions will only increase the opportunity of land use conflicts with other industries and affect their ability to function.

Clause 17.03-2S (Sustainable Industry) seeks to facilitate the sustainable operation of industry by employing a number of strategies including:

- Encouraging activities with minimal threshold requirements to locate towards the perimeter of the industrial area.
- Minimising inter-industry conflict and encourage like industries to locate within the same area.
- Protecting industrial activity in industrial zones from the encroachment of commercial, residential and other sensitive uses that would adversely affect industry viability.
- Encouraging industrial uses that meet appropriate standards of safety and amenity to locate within activity centres.
- Encouraging manufacturing and storage industries that generate significant volumes of freight to locate close to air, rail and road freight terminals.

The proposal encourages the establishment of commercial and educational uses which are not in conjunction with an industrial activity at the site. The proposal removes industrial land from industrial activity, as well as having the potential to impose limitations on existing or future industrial activities proximate to the site.

A higher standard of amenity may be expected for a Food and Drink Premises and the Planning Scheme acknowledges (*emphasis added*) that an Education Centre has a higher standard of amenity. Allowing these uses to establish within an industrial area will result in conflicts between land at least within 30 metres of the site and has the potential to impact land beyond this.

The Education Centre and Food and Drink Premises are compatible with tenancies typically found in commercial areas with a low likelihood of generating adverse safety or amenity issues and therefore does not align with this policy.

Clause 17.03-3S (State significant industrial land) seeks to protect industrial land of state significance where relevant strategies seek the protection of state significant industrial precincts from incompatible land uses to allow for future growth. The Officer/Pakenham industrial areas are specifically listed in this policy as a State Significant Precinct.

Southeast Business Park is among land that is recognised with this significance, placing further weight on interrelated policies that seek to protect this industrial land from encroachment and inappropriate land uses and/ or development.

An Education Centre and Food and Drink Premises at this location encourages educational and retail land uses which, reasons listed previously, undermine the protection of industrial areas for the and critically erodes the purpose of activity centres where these uses are actively encouraged.

As discussed, apart from the Education Centre proposing to provide training for mechanical trades, the proposal introduces a significant focus on non-industrial uses on-site and the Education Centre especially will place an unreasonable burden on the surrounding land for future industrial business that is inconsistent with the ongoing protection of this state significant land.

In addition to the policy above, the proposal is also inconsistent with local policies such as Clauses 21.04-1 (Employment) and 21.04-4 (Industry), which deal with the same issues of protecting industrial and employment land from inappropriate uses.

Other relevant Planning Policy

Clause 11.01-1S (Settlement) seeks to promote the sustainable growth and development of Victoria through strategies such as ensuring that settlements are prosperous and sustainable by providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan.

The application fails to align with the objectives of this policy as it is expected to negatively impact sustainable growth within the newly formed industrial precinct by establishing sensitive uses.

Clause 13.05-1S (Noise abatement) seeks to assist the control of noise effects on sensitive land uses by ensuring that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 17.01-1S (Diversified economy) aims to strengthen and diversify the economy. The proposal is expected to generate further local employment opportunities and the introduction of skilled and unskilled jobs across the operation. The introduction of the mixture of uses proposed will also increase the variety of businesses type to the area, where a positive flow on effect could be anticipated.

Clause 17.02-1S (Business) seeks to encourage development that meets the community's needs for retail, entertainment, office and other commercial services. It seeks to locate

commercial facilities in existing or planned activity centres, provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

The proposed location is an establishing industrial precinct where Food and Drink Premises are currently limited to small cafés and takeaway premises that generally serve the local workforce.

No link to any industrial use associated with the Food and Drink Premises has been demonstrated by the application and therefore, it is a use in which there is no demonstrated reason why it should not be located in a commercial centre, where a higher aggregation of similar businesses and the supporting infrastructure, such as public transport, are readily available. The proposed Education Centre also provides limited link between the industrial precinct and the training provided, and therefore could also be provided in a commercial centre where access to supporting infrastructure is also available.

By contrast, the intention and scale of this business is intended to attract people from beyond the industrial precinct, where supporting infrastructure is far more limited, therefore failing to align with the policy.

Clause 17.02-2S (Out-of-centre development) aims to manage out-of-centre development by discouraging proposals for expansion of single use retail, commercial and recreational facilities outside activity centres and ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal or provides small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

The policy encourages 'single use' retail functions to be located within Activity Centres to improve the economic benefits associated with the agglomeration of businesses and avoid dilute these centres.

Southeast Business Park is not classified as an activity centre and as discussed, there is no link between the Food and Drink Premises and the industrial location, and a weak link between the Education centre and the industrial location. Based on this the application has failed to reasonably establish that it is complementary function to the industrial use of land, with the exception of the Freezing and Cool Storage (Warehouse) and Convenience Shop elements of the proposal, which are 'as of right' uses.

As a consequence of the focus on the retail and educational elements, the proposal heavily promotes a land use that is not compatible with the location and one that would be better integrate in an established commercial environment and centralised location, to provide greater community benefit and avoid eroding strength of these centres.

It is clear that a number of state and local policies are relevant to this application that seek to protect industrial land from the encroachment of sensitive uses such as those proposed. Whilst there often are positive economic and social impacts of introducing Education Centres and Food and Drink Premises, which arguably align with some Planning Policy, the negative impacts to industrial land when these uses are proposed there must outweigh these benefits, especially in a growth area Council such as Cardinia.

Therefore, the proposal is generally inconsistent with the location and prevailing policy.

Industrial 1 Zone

The purpose of the zone is to implement the municipal planning strategy and the planning policy framework. It also applies 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 discussed, the table of uses contained in this provision lists Convenience Shop as a section 1 use (permit not required) provided the proposal can meet a range of conditions. This part of the proposal is therefore not being assessed.

Food and Drink Premises forms part of the broader 'retail premises' land use, which is a section 2 use (permit required) under the Zone.

Education Centre is listed as section 2 use (permit required) under the Zone.

Freezing and Cool Storage is nested under the Warehouse land use definition, and therefore if it can meet the Conditions against the use of the land for a Warehouse in the Table of Uses it is a Section 1 (not permit required) use. The proposal meets the conditions and therefore does not require a planning permit.

In support of why this application is not supported it should be noted that; if this Freezing and Cool Storage component was located on a separate (neighbouring) site, the establishment of an Education Centre on this site would result in the 'as of right' use (such as Freezing and Cool Storage) requiring a planning permit, as it is unlikely that the threshold distances in the Table of Uses could be met.

It should be mentioned again that one of the criteria for warehousing and industry uses from being section 1 (permit not required) uses under the Zone is that they are not within the following distances of an Education Centre (among other sensitive uses such as hospitals or residential development):

- The threshold distance, for a purpose listed in the table to Clause 53.10; or
- 30 metres, for a purpose not listed in the table to Clause 53.10.

As discussed, the introduction of an Education Centre (even where proposed for adult training) has the potential to adversely impact the establishment of 'as of right' warehousing or industry uses within the vicinity of the site which, if they met the conditions of the Table of Uses would not require a planning permit.

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

- ***The Municipal Planning Strategy and the Planning Policy Framework.***

The most applicable policies that support this zone include Clause 13.07-1S (Land Use Compatibility), Clause 17.02-1S (Business), 17.02-2S (Out-of-centre development), Clause 17.03-2S (Sustainable Industry), Clause 17.03-3S (State significant industrial land) and Clause 21.04-4 (Industry).

Overall, the proposal is considered inconsistent with the key strategies outlined in these policies and is expected to result in a use that is incompatible with the site and industrial context due to its scale, intensity and parking-related issues.

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

Nearby industries are generally light industry, warehousing and some restricted forms of retail. The proposed Food and Drink Premises and Education Centre uses might be affected by emissions from nearby industrial uses given the location. There are also heavier industries and the South East Water Treatment Plant on the east side of Koo Wee Rup Road which may have greater separation distances required by Clause 53.10 (Uses with adverse amenity potential).

- ***The availability of and connection to services.***

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

- ***The effect of traffic to be generated on roads.***

The proposed uses are likely to generate a high demand for parking, and whilst the applicant contends that the parking provided meets the statutory parking rate, the hours of the Food and Drink Premises suggests that it is more likely to operate like a Restaurant. With the limited information provided on how the Food and Drink Premises is expected to operate (i.e. patron numbers) this could result in the parking provided being insufficient.

If this occurs, a high dependency on street parking is therefore expected and some impact to local road conditions are possible when the Food and Drink function of the business is operational.

Clause 52.06 – Car parking

This provision of the planning scheme contains the following purposes:

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

This clause applies to new uses where parking provision must be provided in accordance with the requirements of a use specified in table 1 of the provision. If the use is not listed, parking must be provided to the satisfaction of the Responsible Authority (Council).

In this instance all the proposed uses are listed in the Table and the applicant contends that the proposal complies with the statutory parking requirement as outlined in this table:

Use	Area	Statutory requirement	Total required	Total provided
Food and Drink Premises	388.16sqm	4 spaces to each 100sqm of leasable floor area	15	14 (plus 1 accessible space)

Convenience Shop	237.36sqm	If the Convenience Shop exceeds 80sqm, 10 spaces to each premises	10	10
Education Centre	24 students	0.4 spaces to each student that is part of the maximum number of students on the site at any time	9	11
Freezing and Cool Storage	903.16sqm	1.5 spaces to each 100sqm of net floor area	13	13 (8 of which are inside the building)
Surplus space			0	1
		Total	47	50

Whilst according to the applicant, the proposal meets the parking requirement, based on the lack of information provided about the Food and Drink Premises component of the application, and the hours it is proposed to operate, Council assumes that this use should more appropriately be defined as a Restaurant. Restaurant has a statutory parking rate based on patron numbers which is likely to generate a need for more car parking than what had been provided for this use. Based on the number of spaces provided, if the Food and Drink Premises element of the proposal operated more like a Restaurant, it would only permit 50 patrons at one time.

The car parking layout proposed (including the internal spaces for the Freezing and Cool Storage) is considered acceptable given that the car parking layout, dimensions and accessways were approved under the development permit. If a permit for the uses sought was to be granted, it would be recommended that the same conditions about access to the site that are located on the development permit (T200765) be placed on any permit granted, as well as restrictions on the number of patrons allowed in the Food and Drink Premises.

However, despite an acceptable level of compliance with this provision, given the overall lack of policy support for the use of the land for an Education Centre and Food and Drink Premises this factor should not mitigate against a refusal of the application.

Clause 53.10 – Uses with adverse amenity potential

This provision seeks to identify uses and activities which if not appropriately designed and located may cause offense or unacceptable risk to the neighbourhood.

The provision includes a range of threshold distances from sensitive zones or land use that must be met or otherwise referred to the Environment Protection Authority.

As discussed above, approval of this proposal has the potential to impact the establishment of industrial uses, as well as impact existing industrial uses and infrastructure (such as the South East Water Treatment Plant and nearby future South East food production, export and employment node) which are required to establish and maintain certain threshold (buffer) distances from sensitive uses (including Education Centres). As outlined above, these

threshold distances can require up to 5 kilometres separation between an industrial use and the sensitive use.

Because of this, the establishment of an Education Centre within an industrial precinct has the potential to negatively impact industrial uses well beyond the subject site. Whilst only a few land uses require threshold distances of up to 5 kilometres, it is not unusual for more common industrial land uses, automotive repairs or concrete batching plants (for example) to require between 100 and 300 metres separation from the sensitive use.

The industrial areas of Pakenham such as South East Business Park and Greenhills Industrial Estate already contain many of these types of uses, and the Planning Scheme encourages these land uses, as they are appropriately (*emphasis added*) located within the Industrial 1 Zone. This state significant industrial land has been located south of the Princes Freeway, away from the town centre and residential areas to maximise the amount of separation between sensitive uses and the industrial precinct as possible. Whilst some industrial uses which have large threshold distances may still have to work within the constraints of Clause 53.10, the average industrial land use with smaller separation requirements such as those listed above are (generally) currently free of these constraints.

The establishment of an Education Centre at this location will detrimentally impact these land uses if approved. These industrial land uses should not be penalised through further regulation when appropriately located away from sensitive areas. Therefore, given the state significance of this industrial land and the introduction of a sensitive use which will further reduce these threshold distances should not be supported.

Other matters (Consideration of applicant's response to land use compatibility concerns)

The applicant provided a detailed response to Council's concerns about the two (2) proposed land uses which require planning permission sought by this application. They note that a 'Take-away Food Premises' is a Section 1 Use, and therefore 'as of right' within the Industrial 1 Zone. A 'Take-away Food Premises' is defined by Clause 73.03 (Land use definitions) as:

Land use term	Definition	Includes	Included in
Take away food premises	Land used to prepare and sell food and drink for immediate consumption off the premises. It may include up to 10 seats available for consumption on the premises.		Food and drink premises

However, it must be identified that the applicant has not revised their application to state that the intended use is in fact a 'Take-away Food Premises', rather than a 'Food and Drink Premises', nor have they provided evidence that the proposal is a 'Take-away Food Premises' (for example: provided information on the number of seats provided). Based on the overall floor area of the 'Food and Drink Premises' component, and given that the applicant continues to apply for the use of a 'Food and Drink Premises' and not a 'Take-away Food Premises', the Officer's position in regards to the compatibility of this land use remains unchanged.

It is noted that if the applicant were to use (part) of the building for a 'Take-away Food Premises' within the true definition of the land use, then a Planning Permit would not be required. There would be no contention to this, so long as the required number of car parking

spaces were provided. However, Council must assess the proposal based on what has been identified and provided by the permit applicant as to what they are seeking permission for.

Additionally, the applicant also identifies in their response, that a number of 'Education centres' already exist within the South East Business Park. However, it should be noted that upon a search of the addresses provided for these sites by the permit applicant, that none of these uses appear to have been approved by Planning Permits, and therefore, are likely operating in breach of the Planning Scheme, if they are in fact 'Education centres'.

Based on this, the Officer's position in regards to the compatibility of this land use also remains unchanged.

Clause 65 – Decision Guidelines

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

As highlighted in the policy response and the assessment against policy, the zone and other particular provisions of the Cardinia Planning Scheme, the proposal not considered appropriate for site and does not reflect to orderly planning of Southeast Business Park and the broader industrial context.

Conclusion

The proposal seeks to introduce a multi-faceted business to the Shire, bringing the opportunity of greater business diversity, as well as education and employment opportunities. While these are qualities that are supported by the planning scheme, they must be considered in the context of the planning controls and other relevant policy that applies to the land to determine whether an application should be supported.

The Industrial 1 Zone is underpinned by a selection of state and local policies that seek to preserve land for appropriate uses, ensuring that new uses are compatible with existing and future uses and to protect this land for long-term sustainability and certainty for industry. The critical function of this land in facilitating industrial productivity is given further weight where land is recognised with state significance, a level of identification that is reserved for a small selection of industrial areas across Melbourne.

Key policy that also seeks to protect and strengthen activity centres through an aggregation of commercial activity and the minimisation of out-of-centre uses risks drawing activity away from established activity centres in the Shire and emphasising a theme that the application is inconsistent with critical planning policy.

An overwhelming burden created on nearby and surrounding industrial land to obtain a planning permit if within a certain distance of the Education Centre is not site-appropriate and will cause unreasonable impact to neighbouring businesses and the economic function of the area that is expected to outweigh the benefits introduced.

The overwhelming burden that would be placed on industrial uses to ensure that their operations do not affect the amenity of the Food and Drink Premises and Education Centre by way of noise, odour or other amenity impacts is not acceptable.

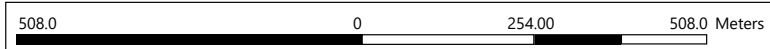
The Planning Scheme emphasises that industrial land must be maintained for industrial and other compatible land uses. Commercial, retail and sensitive uses which are better suited to activity centres must be directed there.

As a result of the adverse impacts to surrounding industrial, the application is considered inconsistent with the balance of relevant policies at the expense of Cardinia's activity centres and the long-term protection of Southeast Business Park and the state significant industrial land on which it sits.

It is therefore recommended that the application be refused on the following grounds:

1. The proposal is incompatible with the industrial location and contrary to the purpose of the Industrial 1 Zone.
2. The proposal undermines state and local policies which seek to protect state significant industrial land from non-industrial land uses that (have the potential to) prejudice the future availability of industrial land.
3. The proposal results in unreasonable impacts to future and established industrial uses.
4. The proposal does not represent the orderly planning of the area.

T210346 PA - Locality map



1: 10,000

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

21-Mar-2022

Notes



Cardinia Shire Council

Application to amend a current planning application



Application number:	T210346
Address of subject site	55 Southeast Boulevard, Pakenham

Pursuant to which section of the Planning and Environment Act 1987 is this amendment being made?	
Section 50 – Amendment to application at request of applicant before notice:	<input checked="" type="checkbox"/>
Section 50A - Amendment to application at request of responsible authority before notice:	<input type="checkbox"/>
Section 57A – Amendment to application after notice is given:	<input type="checkbox"/>

Applicant:		
Phone:		
Email:		
Postal Address:		

What is the purpose of the amendment? Please list all changes:
The amendment is for the use of the existing building (that was approved under permit T200765) as;
- Food & drink Premises
- Freezing & Cool Storage
- Convenience Shop
- Adult Training Facility
The proposed application now complies with the required car parking spaces required under clause 52.06.
Planning report provided as per Council RFI dated 16 June 2021.

Declaration	
I declare that all the information in this application is true and correct and the owner (if not myself) has been advised of the planning permit application.	
Print name:	
Signature:	

Fees	
Amendment in accordance with Section 50 or 50A	Nil
Amendment pursuant to Section 57A	40% of the fee applicable to the original permit class plus the difference in fees if the amendment changes the class of permit to that with a higher application fee.

Lodgement of application

Your application can then be sent via email, mail or submitted in person at Council's Civic Centre.

Assistance

If any assistance in completing this form is required, we recommend you contact Council's Statutory Planning Unit on **1300 787 624** before lodging an application. Insufficient or unclear information may delay the processing of your application.

Note: 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.

Cardinia Shire Council
Civic Centre
20 Siding Avenue, Officer

PO Box 7
Pakenham 3810 (DX 81006 Pakenham)

Phone: 1300 787 624
Email: mail@cardinia.vic.gov.au
Web: cardinia.vic.gov.au

National Relay Service (NRS)
TTY: 133 677 (ask for 1300 787 624)
Speak and Listen (speech-to-speech relay): 1300 555 727 (ask for 1300 787 624)

Translator Interpretation Service
131 450 (ask for 1300 787 624)





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

Clear Form

Office Use Only

Application No.:

Date Lodged: / /

Application for a Planning Permit

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

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

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

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

■ Click for further information.

The Land i

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

Street Address *

Unit No.:	St. No.: 55	St. Name: South East Boulevard
Suburb/Locality: Pakenham		Postcode:

Formal Land Description *

Complete either A or B.

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

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

A Lodged Plan Title Plan Plan of Subdivision

OR

B

The Proposal

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

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

Use of building for a food and drink premises, Education Centre for adult training, freezing and cooling storage, office, function room and convenience shop. where area exceeds 80m²

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

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

Cost \$ 987,500 **▲ You may be required to verify this estimate. Insert '0' if no development is proposed.**

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



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.

Industrial

Provide a plan of the existing conditions. 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.

Applicant and Owner Details i

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.

Contact person's details* Same as applicant

Name:

Title: First Name: Surname:

Organisation (if applicable):

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

Unit No.: St. No.: St. Name:

Suburb/Locality: State: Postcode:

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.

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.

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

Date: 7-5-2021
day / month / year

Need help with the Application?

General information about the planning process is available at planning.vic.gov.au

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

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

No Yes

If 'Yes', with whom?


Date: 17 March 2021 day / month / year

Checklist

Have you:

Filled in the form completely?

Paid or included the application fee?

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

Provided all necessary supporting information and documents?

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

A plan of existing conditions.

Plans showing the layout and details of the proposal.

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

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

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

Completed the relevant council planning permit checklist?

Signed the declaration?

Lodgement

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

Cardinia Shire Council
PO Box 7
Pakenham VIC 3810

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

Page 1 of 1

VOLUME 12296 FOLIO 694

Security no : 124089757480A
Produced 07/05/2021 01:02 PM

LAND DESCRIPTION

Lot 82 on Plan of Subdivision 827498B.
PARENT TITLE Volume 12154 Folio 204
Created by instrument PS827498B 13/04/2021

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
SOUTHEAST BUSINESS DEVELOPMENTS PTY LTD of 9 EMBREY COURT PAKENHAM VIC 3810
PS827498B 13/04/2021

ENCUMBRANCES, CAVEATS AND NOTICES



COVENANT PS827498B 13/04/2021

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.

DIAGRAM LOCATION

SEE PS827498B FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	PLAN OF SUBDIVISION	STATUS	DATE
PS827498B (B)	PLAN OF SUBDIVISION	Registered	13/04/2021
AU215148X (B)	REMOVAL OF ENCUMBRANCE	Registered	13/04/2021

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

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

Street Address: 55 SOUTHEAST BOULEVARD PAKENHAM VIC 3810

ADMINISTRATIVE NOTICES

NIL



DOCUMENT END



Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Victorian Land Registry Services.

Document Type	Plan
Document Identification	PS827498B
Number of Pages (excluding this cover sheet)	9
Document Assembled	07/05/2021 13:04

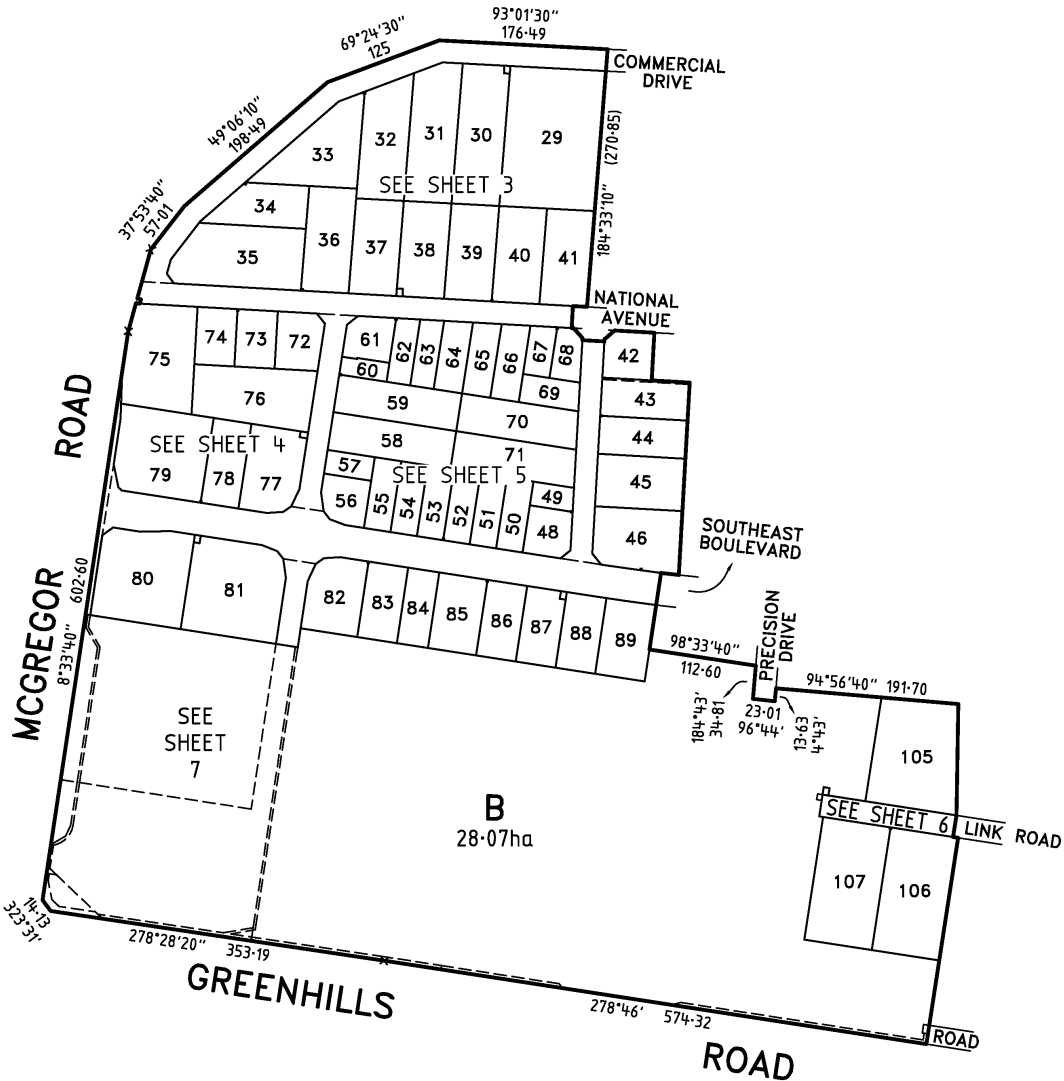
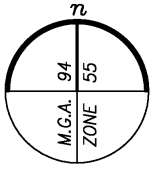
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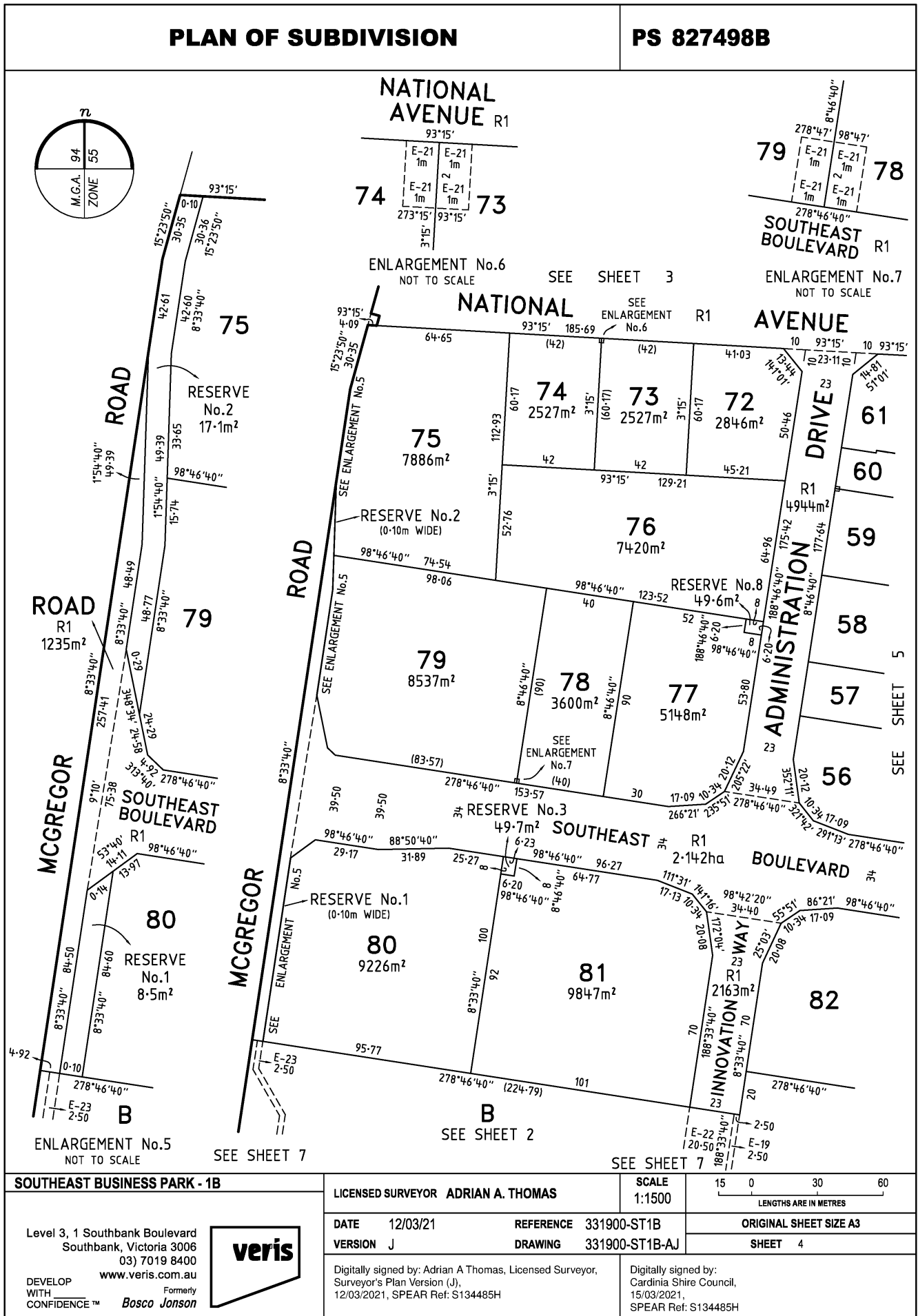
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PLAN OF SUBDIVISION		EDITION	PS 827498B	
<p style="text-align: center;">LOCATION OF LAND</p> <p>PARISH: NAR NAR GOON</p> <p>TOWNSHIP: -</p> <p>SECTION: -</p> <p>CROWN ALLOTMENT: 47, 49 & 50 (PARTS)</p> <p>CROWN PORTION: -</p> <p>TITLE REFERENCE: VOL 12154 FOL 204</p> <p>LAST PLAN REFERENCE: LOT A ON PS823245E</p> <p>POSTAL ADDRESS: (at time of subdivision) SOUTHEAST BOULEVARD PAKENHAM 3810</p> <p>MGA 94 CO-ORDINATES: (approx. centre of land in plan) E 366 250 N 5 782 350 ZONE: 55</p>		<p>Council Name: Cardinia Shire Council</p> <p>Council Reference Number: S19-004 Planning Permit Reference: T170658 SPEAR Reference Number: S134485H</p> <p>Certification</p> <p>This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6: 09/04/2020</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 15/03/2021</p> <p>Statement of Compliance issued: 29/03/2021</p>		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	STAGING	THIS IS NOT A STAGED SUBDIVISION PLANNING PERMIT NO. T170658	
ROAD R1 RESERVE No.1 RESERVE No.2 RESERVE No.3 RESERVE No.4 RESERVE No.5 RESERVE No.6 RESERVE No.7 RESERVE No.8	CARDINIA SHIRE COUNCIL CARDINIA SHIRE COUNCIL CARDINIA SHIRE COUNCIL AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118) AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118)	SURVEY	THIS PLAN IS NOT BASED ON SURVEY	
		<p>THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS NO(S) 144,147,512,519,605,606,607 IN PROCLAIMED SURVEY AREA NO. 71</p> <p>DEPTH LIMITATION DOES NOT APPLY</p> <p>LOTS 1 TO 28, 47, 90 TO 104 & LOT A (ALL INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN. EASEMENTS E-1 TO E-15 (BOTH INCLUSIVE) AND E-17 HAVE BEEN OMITTED FROM THIS PLAN. AREA OF LAND SUBDIVIDED (EXCLUDING LOT B) - 34.39ha TANGENT POINTS ARE SHOWN THUS: </p>		
		<p>OTHER PURPOSE OF PLAN</p> <p>TO REMOVE THAT PART OF POWERLINE EASEMENT E-17 ON PS823245E NOW CONTAINED IN COMMERCIAL DRIVE & NATIONAL AVENUE ON THIS PLAN.</p> <p>TO REMOVE THOSE PARTS OF DRAINAGE EASEMENT E-18 ON PS823245E NOW CONTAINED IN COMMERCIAL DRIVE, NATIONAL AVENUE, EVOLUTION DRIVE & SOUTHEAST BOULEVARD ON THIS PLAN.</p> <p>TO REMOVE THAT PART OF SEWERAGE EASEMENT E-19 ON PS823245E NOW CONTAINED IN NATIONAL AVENUE, ADMINISTRATION DRIVE, SOUTHEAST BOULEVARD & INNOVATION WAY ON THIS PLAN.</p>		
		<p>AGREEMENT BY ALL INTERESTED PARTIES.</p>		
EASEMENT INFORMATION				
LEGEND: E - ENCUMBERING EASEMENT, CONDITION IN CROWN GRANT IN THE NATURE OF AN EASEMENT OR OTHER ENCUMBRANCE A - APPURTENANT EASEMENT				
SUBJECT LAND	PURPOSE	WIDTH (metres)	ORIGIN	LAND BENEFITED/IN FAVOUR OF
E-16	DRAINAGE	SEE DIAG.	PS714684K	CARDINIA SHIRE COUNCIL
E-16	SEWERAGE	SEE DIAG.	PS714684K	SOUTH EAST WATER CORPORATION
E-18	DRAINAGE	SEE DIAG.	PS823245E	CARDINIA SHIRE COUNCIL
E-19	SEWERAGE	SEE DIAG.	PS823245E	SOUTH EAST WATER CORPORATION
E-20	DRAINAGE	SEE DIAG.	PS823245E	CARDINIA SHIRE COUNCIL
E-20	SEWERAGE	SEE DIAG.	PS823245E	SOUTH EAST WATER CORPORATION
E-20	TRANSMISSION OF TELECOMMUNICATION SIGNALS BY UNDERGROUND CABLE	SEE DIAG.	PS823245E	LOTS ON PS823245E
E-21	POWERLINE	SEE DIAG.	THIS PLAN - SECTION 88 ELECTRICITY INDUSTRY ACT 2000	AUSNET ELECTRICITY SERVICES PTY LTD (ABN 91 064 651 118)
E-22	DRAINAGE	SEE DIAG.	THIS PLAN	CARDINIA SHIRE COUNCIL
E-23	SEWERAGE	SEE DIAG.	THIS PLAN	SOUTH EAST WATER CORPORATION
E-24	DRAINAGE	SEE DIAG.	THIS PLAN	CARDINIA SHIRE COUNCIL
E-24	SEWERAGE	SEE DIAG.	THIS PLAN	SOUTH EAST WATER CORPORATION
E-25	SEWERAGE	SEE DIAG.	PS823245E	SOUTH EAST WATER CORPORATION
E-25	DRAINAGE	SEE DIAG.	THIS PLAN	CARDINIA SHIRE COUNCIL
E-26	PARTY WALL	SEE DIAG.	THIS PLAN	THE RELEVANT ABUTTING LOT ON THIS PLAN
SOUTHEAST BUSINESS PARK - 1B		LICENSED SURVEYOR ADRIAN A. THOMAS		
63 LOTS AND BALANCE LOT B		DATE 12/03/21	REFERENCE 331900-ST1B	ORIGINAL SHEET SIZE A3
Level 3, 1 Southbank Boulevard Southbank, Victoria 3006 03) 7019 8400 www.veris.com.au DEVELOP WITH CONFIDENCE™ veris Formerly Bosco Jonson		VERSION J	DRAWING 331900-ST1B-AJ	SHEET 1 OF 9 SHEETS
		Digitally signed by: Adrian A Thomas, Licensed Surveyor, Surveyor's Plan Version (J), 12/03/2021, SPEAR Ref: S134485H		PLAN REGISTERED TIME: 10:05 AM DATE: 13/04/2021 R.D'rozario Assistant Registrar of Titles

PLAN OF SUBDIVISION **PS 827498B**



SOUTHEAST BUSINESS PARK - 1B		LICENSED SURVEYOR ADRIAN A. THOMAS SCALE 1:5000	 LENGTHS ARE IN METRES
Level 3, 1 Southbank Boulevard Southbank, Victoria 3006 03) 7019 8400 www.veris.com.au DEVELOP WITH CONFIDENCE™ Formerly Bosco Jonson		DATE 12/03/21 REFERENCE 331900-ST1B VERSION J DRAWING 331900-ST1B-AJ	ORIGINAL SHEET SIZE A3 SHEET 2
		Digitally signed by: Adrian A Thomas, Licensed Surveyor, Surveyor's Plan Version (J), 12/03/2021, SPEAR Ref: S134485H	Digitally signed by: Cardinia Shire Council, 15/03/2021, SPEAR Ref: S134485H



SOUTHEAST BUSINESS PARK - 1B

Level 3, 1 Southbank Boulevard
 Southbank, Victoria 3006
 (03) 7019 8400
www.veris.com.au

DEVELOP WITH CONFIDENCE™ **veris** Formerly **Bosco Jonson**

LICENSED SURVEYOR **ADRIAN A. THOMAS**

DATE 12/03/21 REFERENCE 331900-ST1B
 VERSION J DRAWING 331900-ST1B-AJ

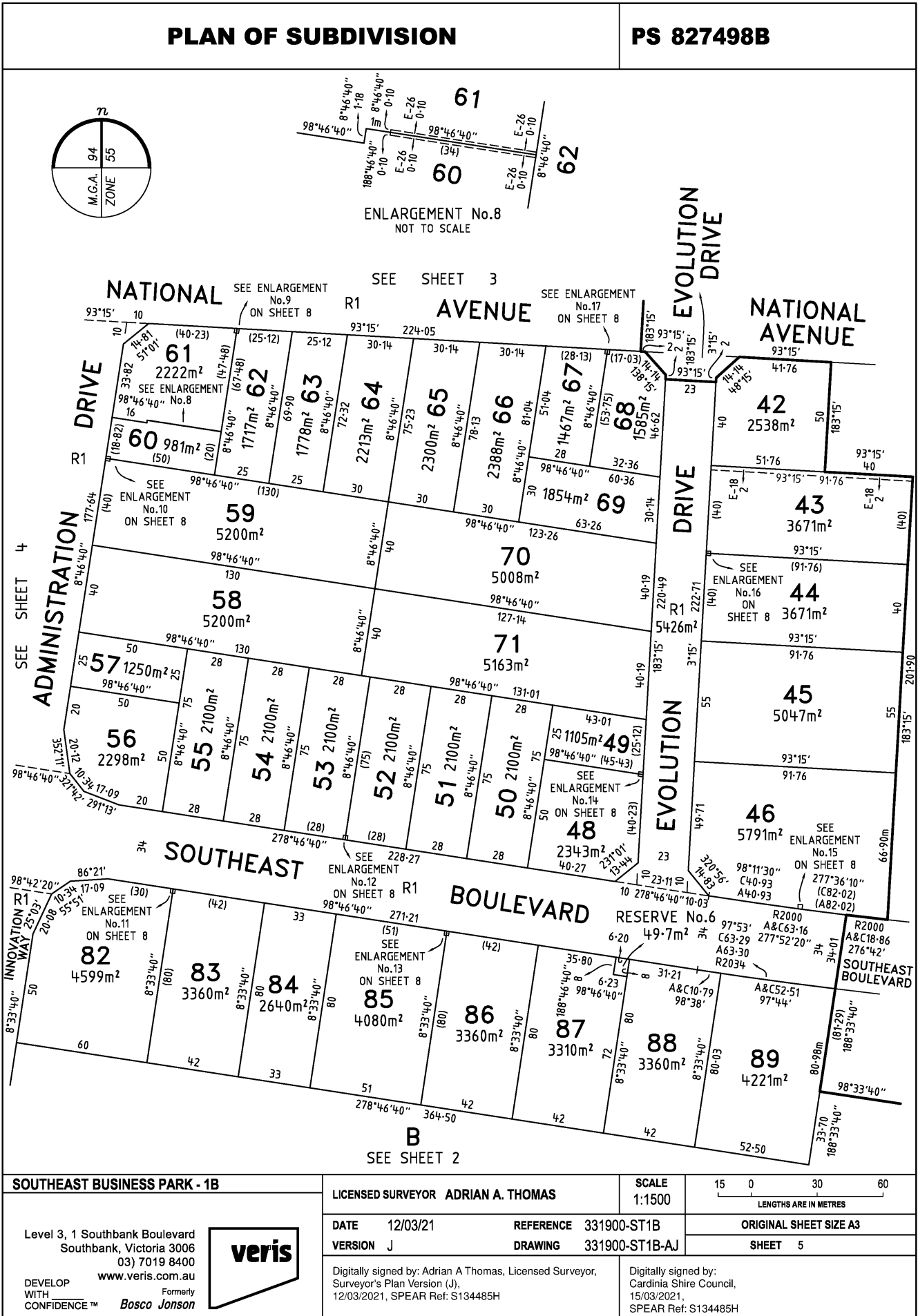
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 Surveyor's Plan Version (J),
 12/03/2021, SPEAR Ref: S134485H

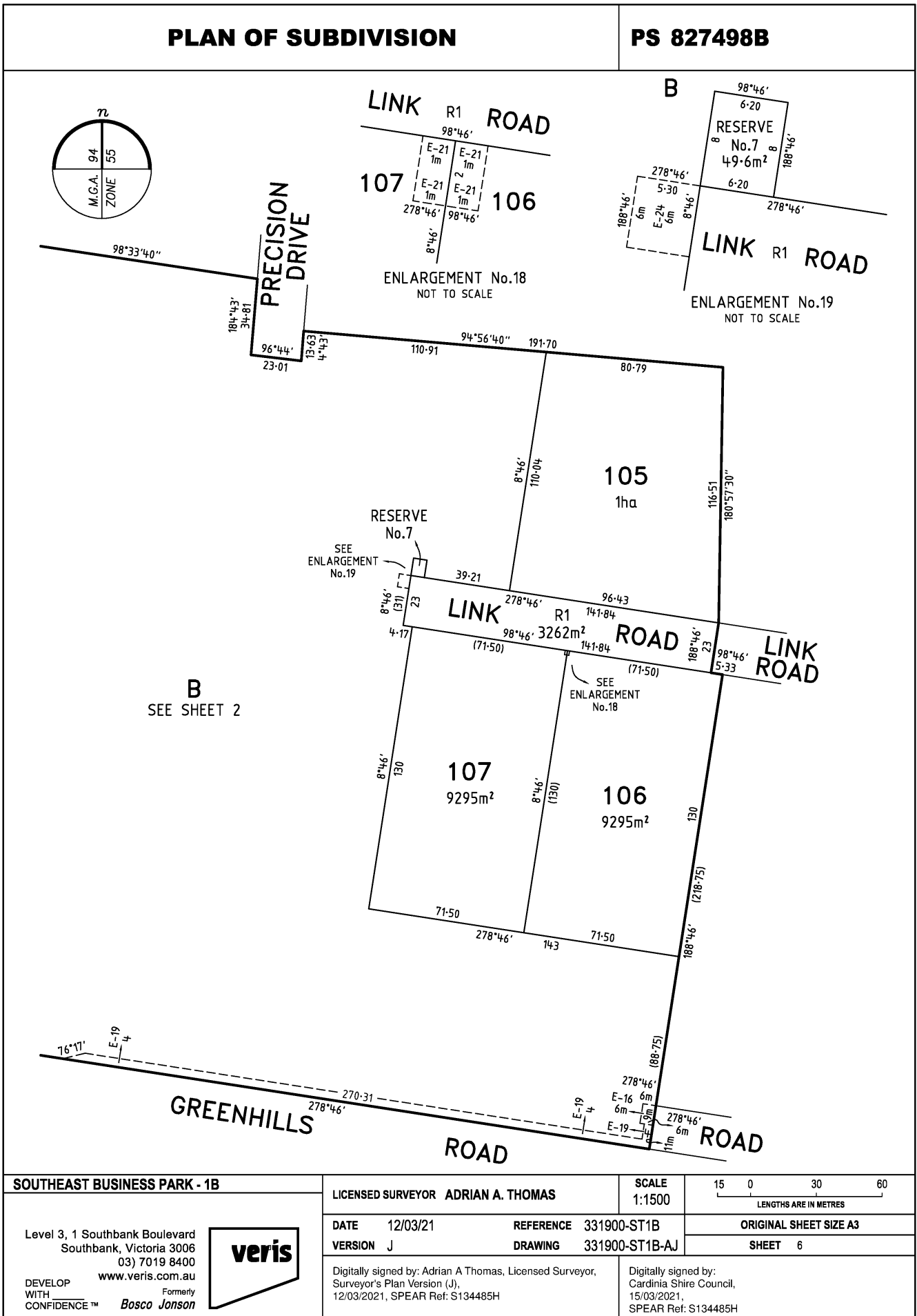
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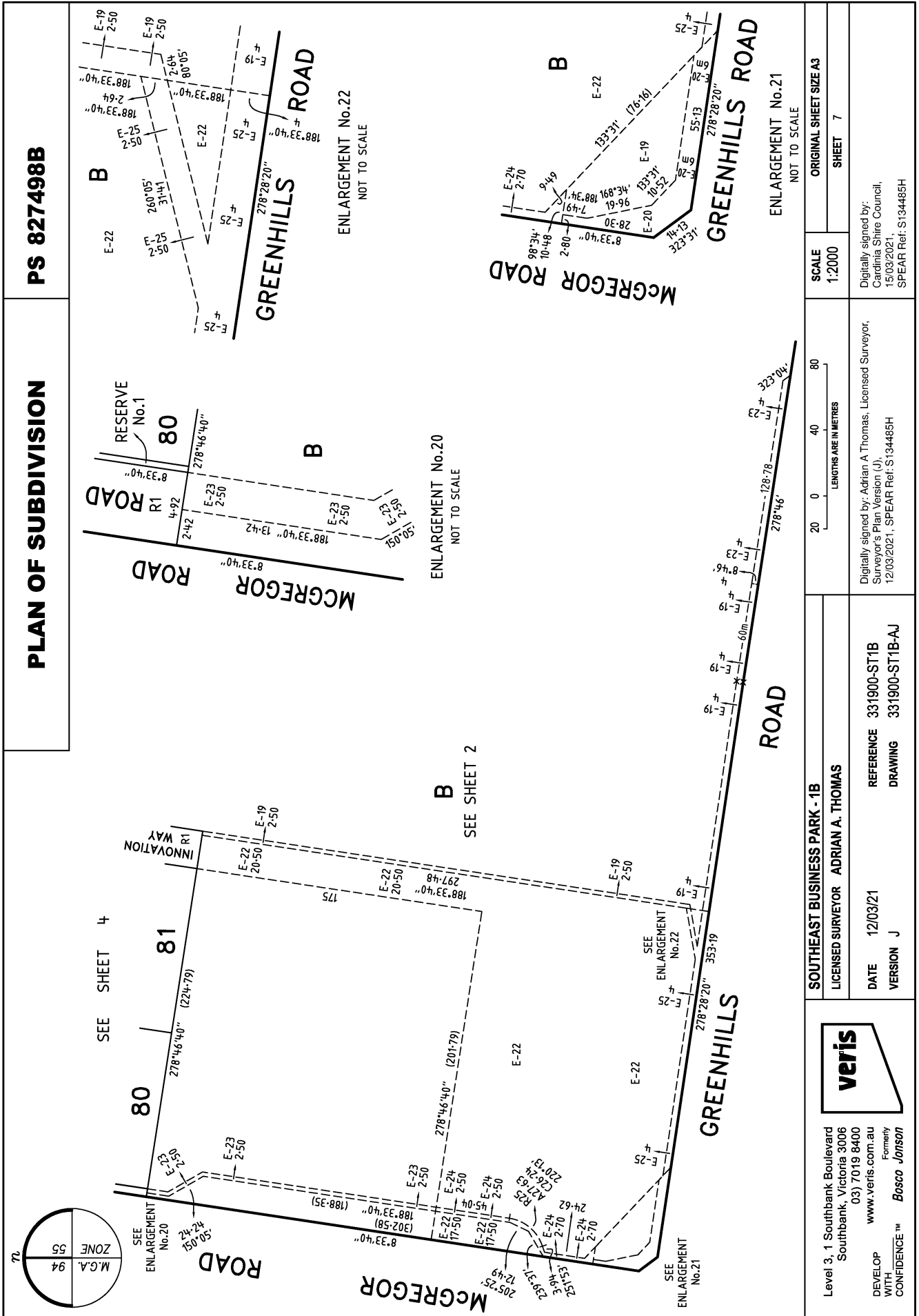
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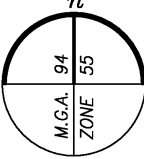
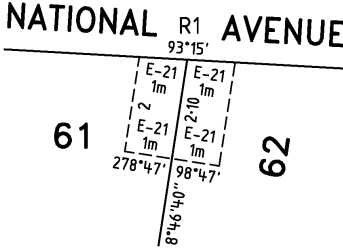
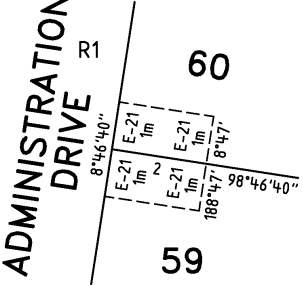
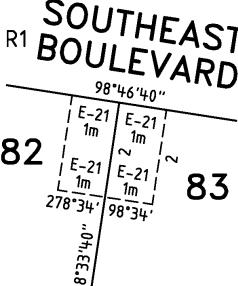
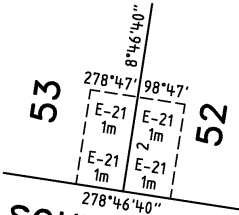
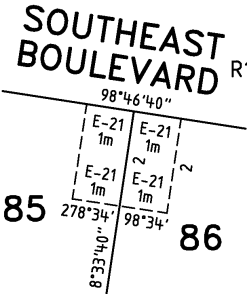
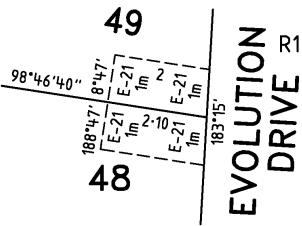
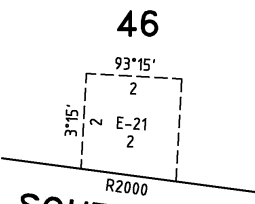
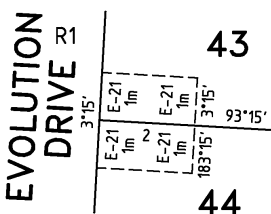
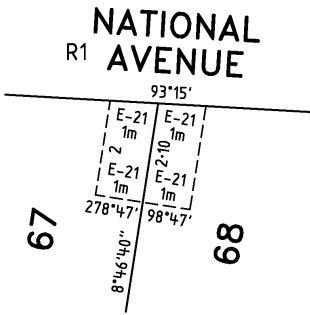

ORIGINAL SHEET SIZE A3
 SHEET 4

Digitally signed by:
 Cardinia Shire Council,
 15/03/2021,
 SPEAR Ref: S134485H







PLAN OF SUBDIVISION		PS 827498B	
			
 <p style="text-align: center;">ENLARGEMENT No.9 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.10 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.11 NOT TO SCALE</p>	
 <p style="text-align: center;">ENLARGEMENT No.12 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.13 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.14 NOT TO SCALE</p>	
 <p style="text-align: center;">ENLARGEMENT No.15 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.16 NOT TO SCALE</p>	 <p style="text-align: center;">ENLARGEMENT No.17 NOT TO SCALE</p>	
SOUTHEAST BUSINESS PARK - 1B		SCALE  <p style="text-align: center; font-size: small;">LENGTHS ARE IN METRES</p>	
Licensed Surveyor ADRIAN A. THOMAS		DATE 12/03/21 REFERENCE 331900-ST1B VERSION J DRAWING 331900-ST1B-AJ	
Level 3, 1 Southbank Boulevard Southbank, Victoria 3006 (03) 7019 8400 www.veris.com.au DEVELOP WITH CONFIDENCE™ veris Formerly Bosco Jonson		Digitally signed by: Adrian A Thomas, Licensed Surveyor, Surveyor's Plan Version (J), 12/03/2021, SPEAR Ref: S134485H	
Digitally signed by: Cardinia Shire Council, 15/03/2021, SPEAR Ref: S134485H		ORIGINAL SHEET SIZE A3 SHEET 8	

PLAN OF SUBDIVISION

PS 827498B

CREATION OF RESTRICTION

THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THE RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND.

TABLE OF LAND BURDENED AND LAND BENEFITED


BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
29	30, 40, 41
30	29, 31, 39
31	30, 32, 38
32	31, 33, 36, 37
33	32, 34, 36
34	33, 35, 36
35	34, 36
36	32, 33, 34, 35, 37
37	32, 36, 38
38	31, 37, 39
39	30, 38, 40
40	29, 39, 41
41	29, 40
42	43
43	42, 44
44	43, 45
45	44, 46
46	45
48	49, 50
49	48, 50, 71
50	48, 49, 51, 71
51	50, 52, 71
52	51, 53, 71
53	52, 54, 58, 71
54	53, 55, 58
55	54, 56, 57, 58
56	55, 57
57	55, 56, 58
58	53, 54, 55, 57, 59, 71
59	58, 60, 62, 63, 64, 70
60	59, 61, 62

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
61	60, 62
62	59, 60, 61, 63
63	59, 62, 64
64	59, 63, 65
65	64, 66, 70
66	65, 67, 69, 70
67	66, 68, 69
68	67, 69
69	66, 67, 68, 70
70	59, 65, 66, 69, 71
71	49, 50, 51, 52, 53, 58, 70
72	73, 76
73	72, 74, 76
74	73, 75, 76
75	74, 76, 79
76	72, 73, 74, 75, 77, 78, 79
77	76, 78
78	76, 77, 79
79	75, 76, 78
80	81
81	80
82	83
83	82, 84
84	83, 85
85	84, 86
86	85, 87
87	86, 88
88	87, 89
89	88
105	106
106	107
107	106

RESTRICTION:

1. THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF ANY BURDENED LOT MUST NOT CONSTRUCT A BUILDING OR ALLOW A BUILDING TO BE CONSTRUCTED THAT DOES NOT COMPLY WITH THE OBJECTIVES OF THE ENDORSED SOUTHEAST BUSINESS PARK BUILDING DESIGN GUIDELINES AS APPROVED BY CARDINIA SHIRE COUNCIL UNDER PLANNING PERMIT T170658.
2. THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF ANY BURDENED LOT MUST NOT CONSTRUCT OR EXTERNALLY ALTER A BUILDING OR ALLOW A BUILDING TO BE CONSTRUCTED OR EXTERNALLY ALTERED UNLESS APPROVAL FOR THE PROPOSED DEVELOPMENT HAS BEEN GRANTED IN WRITING BY A REPRESENTATIVE OF SOUTHEAST BUSINESS DEVELOPMENTS PTY LTD.

EXPIRY DATE: 31/12/2035

SOUTHEAST BUSINESS PARK - 1B Level 3, 1 Southbank Boulevard Southbank, Victoria 3006 03) 7019 8400 www.veris.com.au DEVELOP WITH CONFIDENCE™ veris Formerly Bosco Jonson	LICENSED SURVEYOR ADRIAN A. THOMAS	SCALE 
	DATE 12/03/21 REFERENCE 331900-ST1B VERSION J DRAWING 331900-ST1B-AJ	ORIGINAL SHEET SIZE A3 SHEET 9
Digitally signed by: Adrian A Thomas, Licensed Surveyor, Surveyor's Plan Version (J), 12/03/2021, SPEAR Ref: S134485H		Digitally signed by: Cardinia Shire Council, 15/03/2021, SPEAR Ref: S134485H



Human Habitats
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Docklands VIC 3008
www.humanhabitats.com.au
ABN 48 115 201 356
03 9909 2202

14 December 2021

[REDACTED]
Cardinia Shire Council
PO Box 7
Pakenham 3810

Dear [REDACTED]

PURPOSE: RESPONSE TO RFI

APPLICATION NO. T210346

ADDRESS: 55 SOUTHEAST BOULEVARD, PAKENHAM

We refer to the above matter and confirm we continue to act on behalf of the permit applicant (Modarc). We refer to Council's Request for Further Information letter dated 21 June 2021 and provide the following response in full to the items raised.

This response is accompanied by:

- Revised Architectural Plans prepared by Modarc, dated 26th of November 2021.
- Planning report prepared by Human Habitats dated 14th of December 2021.
- Amended Section 50 Application form.

1 Further Information

Council requested the following additional information in order to complete their assessment of the proposal. Accordingly, we provide the following response to these concerns:

1. Council's records show an outstanding amount for payment of application fees for \$2,006.55

RESPONSE: The additional application fee has now been paid.

2. Amended application form

2.1. Please provide an amended application form to include the following permit triggers (Section 50A amendment):

- 2.1.1. Reduction in car parking required by Clause 52.06.
- 2.1.2. Buildings & works

RESPONSE: The proposed uses on the subject site now provide the required numbers of car parking spaces pursuant to Clause 52.06. As such, there is no longer a reduction required in the number of car parking spaces. This has been shown on the revised architectural plans provided dated the 26th of November 2021.



The application does not include any buildings as works, as the application will be utilising the existing building that is currently being constructed as part of planning permit T200765. Therefore, a permit trigger for buildings and works is not required.

3. Assessment against planning policy:

3.1. In addition to the information provided on TP1 Rev B, please provide a detailed written submission against the relevant PPF, LPPF, Industrial 1 Zone, Clause 52.06 and Clause 53.10 detailing why the use of the land for the following Section 2 (permit required uses) are appropriate given the controls that apply to the land:

- Food & Drink premises.
- Function Centre.
- Education Centre.
- Freezing & Cool Storage; and
- Office

RESPONSE: The proposed application has also been revised and will no longer incorporate a function centre or office. The revised proposal will now be comprised of; a food & drink premises, convenience shop, education centre and freezing & cool storage.

A detailed planning report prepared by Human Habitats (dated 14th of December 2021) has been prepared that provides a detailed review of the revised application against the Cardinia Shire Planning Scheme.

3.2. Please provide all the following details shown on the plan TP1 Rev B in a written submission, including:

- Operation hours for each individual use.
- Staff numbers for each individual use.
- Patron and student numbers for (function centre & training facility).
- Information on the types of items to be stored in the freezing and cool storage.
- Information on the use of the office space (i.e is it separated from the other uses or associated with the operation of other uses); and
- Information on how each use is to interact with each other (if at all).

RESPONSE: TP1 has been amended to address the above queries and is also discussed within the planning submission provided.

4. Sale and consumption of Liquor.

RESPONSE: This will be applied for in the future and will not be included in this application.

5. Amended plan:

5.1. Please provide amended plans that demonstrate:

- How car parking is to be proposed / distributed to each use; and
- Swept paths to demonstrate a B85 vehicle can safely and efficiently turnaround at the end of the aisle (spaces 12 – 21) if all spaces are occupied.

RESPONSE: The plans have been amended to show the allocation of car spaces for each use. The layout of the proposed building (which is currently under construction) which is to be utilised has been amended. Car spaces 12 – 21 have been removed and the building brought forward.



6. Car Parking Assessment

- 6.1. The plans provided suggest that 53 car parking spaces are required (based on the proposed uses), a reduction of 3 car parking spaces, however Council's assessment of the proposal suggests that the proposal will generate a need for 59 car parking spaces, a reduction of 9 car parking spaces.

RESPONSE: The application has been amended to no longer contain an education centre or office. The revised proposal will now provide the required number of car spaces for each use, pursuant to Clause 52.06. This is outlined further in the written planning submission and the amended plans.

2 Preliminary Assessment Comments

2.1 Concerns of lack of information

- Due to lack of information provided with this application a proper preliminary assessment of the application could not be carried out.
- As there is a lack of information which has limited the scope of this assessment, there is the potential for other issues to arise on receipt of this information. At this stage, it is envisioned that there could be issues with the proposed use of land and the car parking reduction required.
- Therefore, Council considers this application to be premature and suggest that the application should be withdrawn and resubmitted once the appropriate documentation (as requested above) has been prepared and can be provided.

RESPONSE: The requested information has been amended to address the information requested above. All revised plans, along with a detailed planning submission have been provided.

2.2 Concerns about land use compatibility

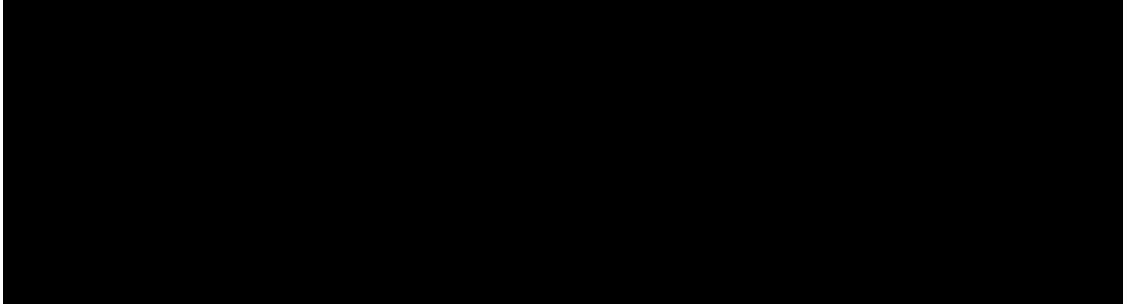
- The Industrial 1 zone is in place to implement the MPS and Planning Policy Framework. These policies seek to protect industrial land from the encroachment of sensitive uses, as well as provide suitable areas for manufacturing, industry, storage and distribution of goods and associated uses in a manner that does not affect the safety and amenity of local communities.
- South East Business Park is located within 'State Significant' industrial land.
- Although the uses of the land are proposed Section 2 (permit required uses) in the IN1Z, it does not necessarily mean that the land is compatible with the surrounding industrial activities.
- Some industrial uses require large buffer distances from sensitive uses in order to operate. Areas located in industrial zones are often strategically positioned to maximise buffer distances and minimise conflicts between these uses.
- Council must consider adequate strategic justification demonstrating that the proposed uses will not compromise existing and future uses in the IN1Z.
- Based on the limited information provided the proposal does not appear to be justified in this location and therefore the application, particularly the food and drink, function centre and education centre aspect of the proposal may not be supported due to potential land use conflicts that may arise.

RESPONSE: The concerns of Council and an assessment against the revised application against the MPS, PPF and the IN1Z have been addressed within the detailed planning submission provided.



3 Conclusion

Should the above or enclosed information not be sufficient for Council to proceed to permit issuance, we hereby request an extension of time to the lapse date along with written details as to any further information or changes required.



Senior Planner

TOWN PLANNING REPORT

ADDRESS: 55 SOUTHEAST BOULEVARD, PAKENHAM

PREPARED FOR: MODARC

DATE: 14 DECEMBER 2021





Document Information

Issue Date	14 December 2021	Prepared for	Modarc
Prepared by	BA	Reviewed by	JV
Project No.	12477	Project Name.	55 Southeast Boulevard, Pakenham

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1 Introduction

This planning report has been prepared by Human Habitats on behalf of Modarc (the permit applicant) to accompany a planning permit application for the proposed use of the land as Freezing & Cool Storage, Adult Training Facility, Food and Frink Premises and Convenience Shop at 55 Southeast Boulevard, Pakenham.

The proposed uses are to utilise the existing building that is being developed on the site under a separate planning permit application (T200765).

It is our assessment that the proposal provides an appropriate response to the objectives of State & Local Policy and the economic and industrial land use objectives of the Cardinia Planning Scheme. The proposal will facilitate the economic development of small-scale industrial and commercial industry in an establishing industrial precinct that is highly accessible and can cater for a range of different uses of differing scales. In coming to this conclusion, we have considered the following key questions:

- **Planning Policy** – Does the proposal demonstrate an appropriate outcome considering the strategic planning drivers of Cardinia City Council?
- **The appropriateness of the proposed uses** – Are the proposed uses compatible with the Industrial 1 Zone and the surrounding land uses?
- **Amenity** - Do the proposed uses address off-site amenity considerations and does it contribute to the public realm?
- **Access & Car Parking** – Does vehicle access and car parking arrangements satisfy the requirements of the Cardinia Planning Scheme.

1.1 Permit requirements

Pursuant to the Cardinia Planning Scheme, a planning permit is required for the following:

- The use of the land as a 'Food & Drink Premises' (Clause 33.01); and
- The use of the land as a 'Education Centre' (Clause 33.01); and

1.2 Supporting Documents

This report is supported by the following documents:

- RFI response Cover Letter.
- Amended Section 50 Amendment Form.
- Architectural plans prepared by Modarc dated 26th of November 2021.
- Planning Report prepared by Human Habitats.



2 Subject Site and Surrounding Context

2.1 The Site

The subject site is located on the western side of Southeast Boulevard, at the corner of Southeast Boulevard and Administration Drive, and is formally identified as:

- Lot 82 on Plan 827498B

The site is currently occupied by a large warehouse development that is currently being constructed under planning permit (T200765).



Figure 1 – Aerial image of the subject site (highlighted in red)

2.2 Historical Planning Approvals

An application for 'building & works' for the development of the land for one (1) warehouse and associated works was approved by Cardinia Shire Council on the 19th of January 2021 under planning permit T200765.

2.3 Site Interfaces

2.3.1 North

On the northern side of Southeast Boulevard, directly opposite the subject site are several vacant blocks of land with some interspersed industrial developments.

2.3.2 South

To the south, the adjoining land is vacant, with Administration Drive currently being constructed.

2.3.3 East

Adjoining the site to the east, are several properties that are currently being developed. Further east along Southeast Boulevard are more examples of recent development that is in line with the employment corridor aspects of the area.

2.3.4 West

Directly opposite the, on the west side of Southeast Boulevard are several vacant properties. The land further west, over McGregor Road,



2.4 Surrounding Land Uses

The site is located within an area that is identified as a large employment corridor, as part of the *Casey-Cardinia Growth Area Framework Plan, 2006*.

The subject site and the surrounding area is part of the established 'SouthEast Business Park' which is an established industrial & commercial estate with the the primary land uses reflecting this. The closest residential land uses are primarily located to the east. The wider context of the site is illustrated in Figure 2 below.

The site is not part of any proposed or existing Precinct Structure Plans. However, areas to the west and south are to be included within future Precinct Structure Plans (Pakenham West Employment PSP and Pakenham South Employment PSP). These PSPs will continue to promote development in the surrounding area that will align with the industrial use of the subject site.



Figure 2 – Aerial image of the subject site in the wider context of the industrial area.



3 The Proposal

The proposal is for the use for the land as a; food & drink premises, convenience shop, freezing & cool storage, and an education centre. The proposed uses will utilise the building that has been approved under planning permit T200765.

The key features of the development are outlined further below:

- The food & drink premises will occupy the north-west area of the existing building. It will be double storey and have a total area of 388.16 square metres over the ground and first floor. Proposed operating hours will be between the hours of 6:00 am to 10:00pm Monday – Saturday and 8:00am to 10:00pm on Sunday.
- The convenience shop will be situated in the western portion of the existing building and will have a total floor area of 481.17 square metres. The proposed operating hours will be between 9:00am to 8:00pm Monday to Sunday.
- The Adult Trade Training Facility (education centre) will be situated at the western portion of the existing building at the ground and first floor levels. At ground floor the facility will contain equipment storage and training areas, while at the first floor it will comprise several classrooms, an office and toilet facilities.
- The operating hours of the training facility will between the hours of 8:00 am and 10:00pm Monday to Sunday and will be able to accommodate 5 staff and 24 students on-site at anyone time.
- The balance of the existing warehouse development will be used as a Freezing and Cool Storage area, comprising a total area of 903.16 square metres.
- The freezing and cool storage area is provided with an office, meeting room, a unisex ambulant and accessible toilet and two (2) loading bays.
- Vehicle access to the site is via both Southeast Boulevard and Administration Drive. Crossovers at both frontages lead to driveways that provide access to car parking and loading areas.

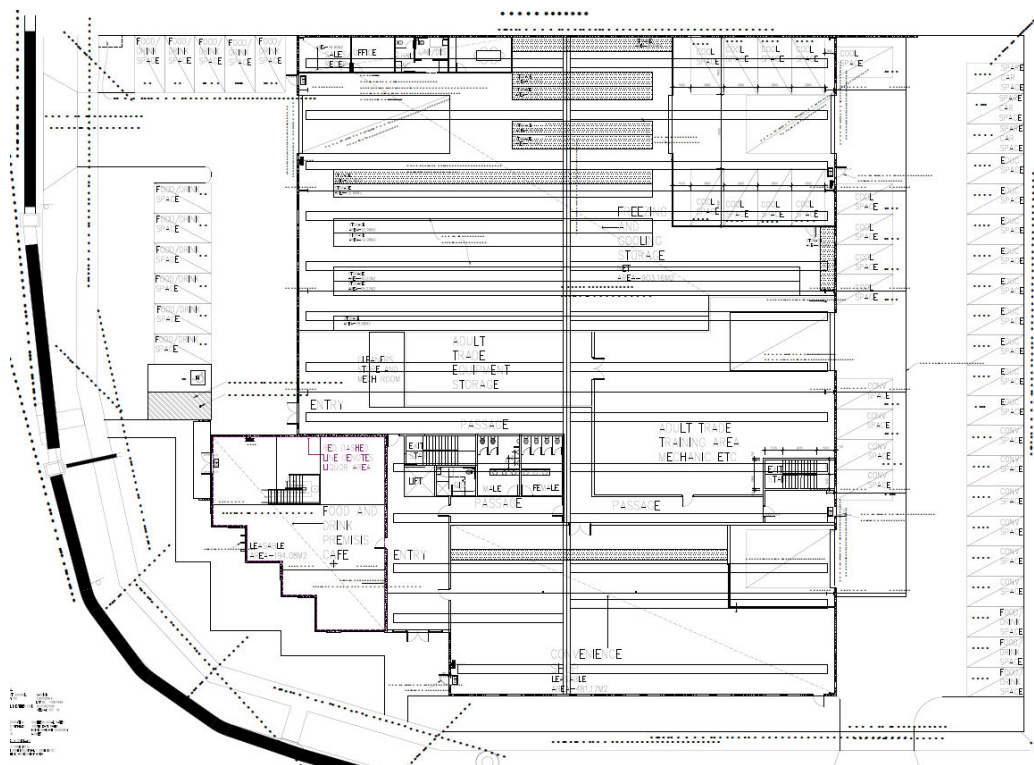


Figure 3 – Ground floor plan of proposed uses.

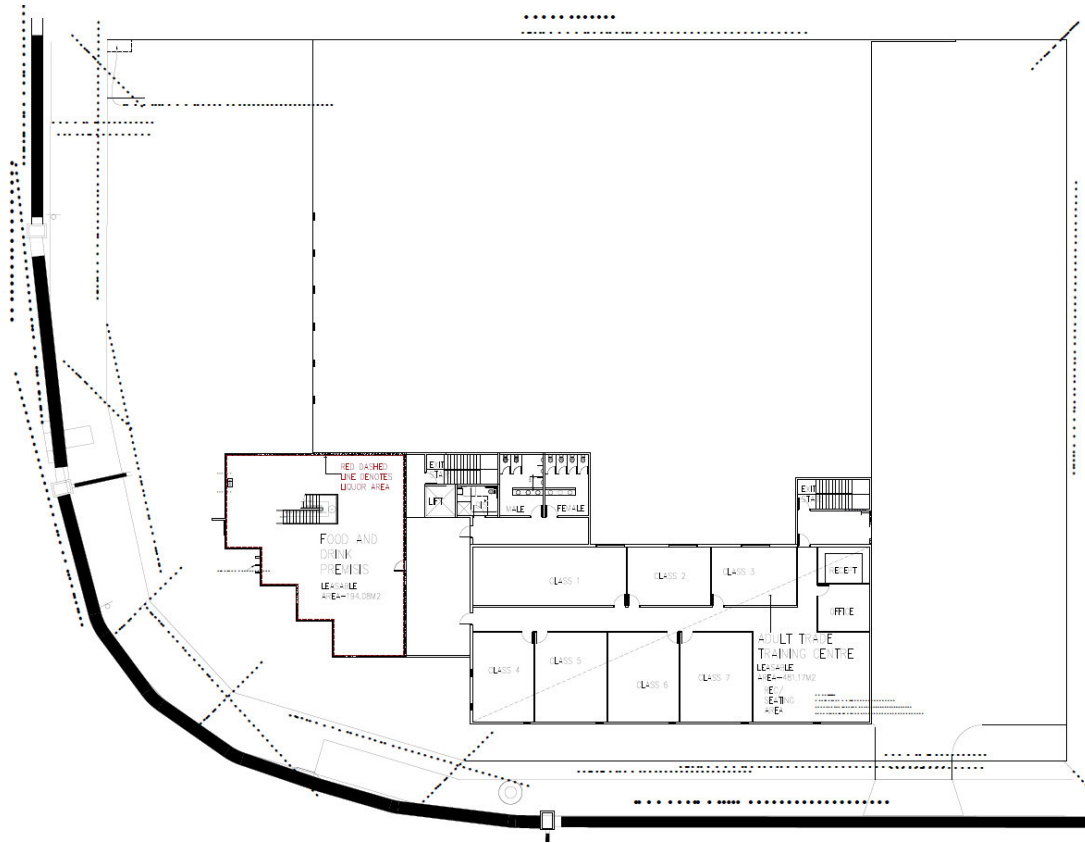


Figure 4 – First floor plan of proposed uses.



4 Planning Policy Framework/Controls

The following planning policy is considered relevant to the assessment of the proposed development.

4.1 State and Local Planning Policy Framework

- Clause 17.01-1S – Diversified Economy
- Clause 17.01-1R – Diversified Economy – Metropolitan Melbourne
- Clause 17.03-3S – State Significant Industrial Land
- Clause 18.02-4S – Car Parking
- Clause 21.01-4 – Strategic Vision
- Clause 21.08 – Economic Development

4.2 State and Local Planning Policy Summary

- Clause 17.01-1S – Diversified Economy - Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.
- Clause 17.01-1R – Diversified Economy – Metropolitan Melbourne – Provide for industrial development to support employment and investment opportunities and increase local access to employment.
- Clause 17.03-3S – State Significant Industrial Land – Seeks to protect industrial land of state significance from inappropriate land uses.
- Clause 18.02-4S – Car Parking – Seeks to ensure that developments are supplied with adequate car parking spaces and appropriately located to provide for safe and efficient vehicle movements on site.
- Clause 21.01- Strategic Vision – This policy identifies the key issues facing the Cardinia Shire Council and outlines the strategic vision and framework plan that is to be implemented, with regard to developing a strong economic base.
- Clause 21.04-1 – Economic Development – Implements objectives to promote the development of diverse employment opportunities for the growing population of Cardinia Shire Council. One key aspect of the policy is to implement strategies to advocate for access to education and training.

4.3 Particular Provisions

The following provisions are considered relevant to the proposal:

- Clause 52.06 – Car Parking; and
- Clause 65 – Decision Guidelines.



5 Zones & Overlays

5.1 Zone

5.1.1 Industrial 1 Zone (IN1Z)

The subject site is located within an Industrial 1 Zone.



Figure 5 – Zoning map showing the subject site (highlighted in blue) within the Industrial 1 Zone.

The purpose of the Industrial 1 Zone is to:

- 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.

Under Clause 33.01-1 a permit is not required for the following uses of the land:

- Convenience Shop – Section 1 (Permit Not Required Use); and
- Warehouse (Freezing & Cool Storage) – Section 1 (Permit Not Required Use).

However, pursuant to Clause 33.01-1 a permit is required for the following uses within an Industrial 1 Zone:

- Food & Drink Premises – Section 2 (Permit Required Use); and
- Education Centre – Section 2 (permit Required Use).

5.2 Overlays

No overlays affect the site.



6 Planning Considerations

The proposal is considered to provide an excellent response to the State and Local Planning Policy Framework of the Cardinia Planning Scheme. The proposal also provides an adequate response to the employment corridor identified in *Casey-Cardinia Growth Area Framework Plan, 2006*. In coming to this conclusion, we have considered the following key questions:

- **Planning Policy** – Does the proposal demonstrate an appropriate outcome considering the strategic State and Local planning drivers of Cardinia Shire Council?
- **The appropriateness of the proposed uses** – Are the proposed uses compatible with the Industrial 1 Zone and the surrounding land uses?
- **Amenity** - Do the proposed uses address off-site amenity considerations and does it contribute to the public realm?
- **Access & Car Parking** – Does vehicle access and car parking arrangements satisfy the requirements of the Cardinia Planning Scheme.

6.1 Planning Policy

We submit that the proposal responds well to the key policy drivers of the Cardinia Planning Scheme as follows:

- Clause 17.01-1S (Diversified economy) seeks to protect and strengthen existing employment areas. The provision of multiple uses on the site within an emerging industrial area, will increase employment opportunities in the area. The varied uses will further add to diversifying the economy and employment opportunities.
- Clause 17.03-3S (State Significant Industrial Land) seeks to protect industrial land of state significance from inappropriate land uses. The site is located within the 'South East Business Park' which is identified as State significant land. The proposed uses are all permissible uses under Clause 33.01 and are compatible with the land. As such, it is considered that the proposed uses will not detract from the industrial significance of the land.
- Clause 18.02-4S (Car Parking) this policy seeks to ensure that developments are provided with appropriately designed and located car spaces. The proposed uses have all been provided with the required number of car spaces, located and designed to ensure safe and efficient vehicle movement throughout the site. This is further detailed in Section 6.4 of this report.
- Clause 21.01 (Strategic Vision) and Clause 21.04 (Economic development) support continued growth and development of industrial uses in the Cardinia Shire Council. Together these policies seek to further develop the employment corridor identified in the *Casey-Cardinia Growth Area Framework Plan, 2006*. The site is located within this corridor and the proposed uses will attract new businesses, investment, and employment opportunities.

From the above the proposal responds appropriately to the relevant State and Local policy context of the Cardinia Planning Scheme.

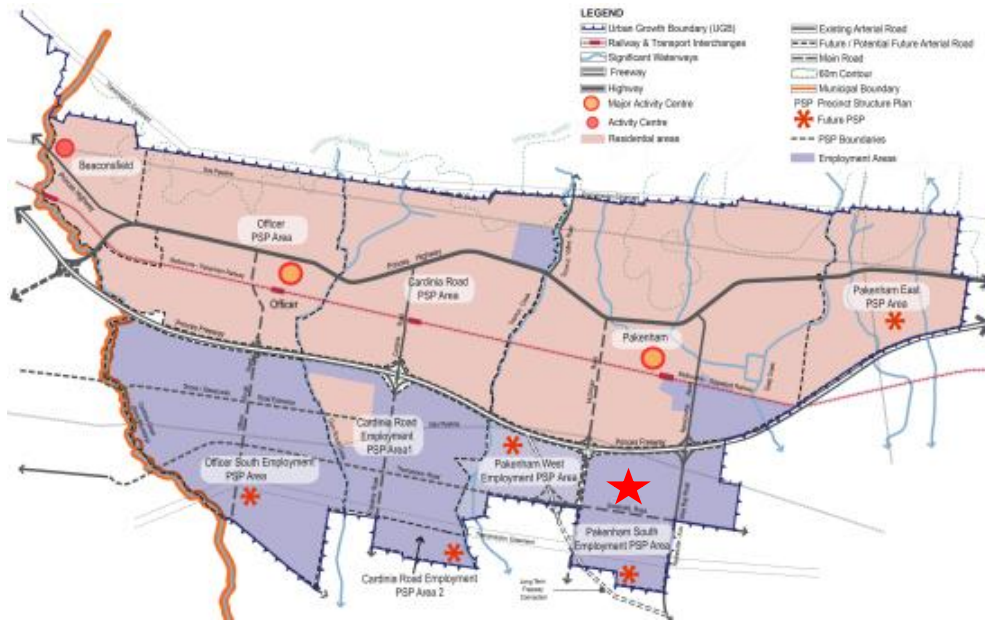


Figure 6 - Casey-Cardinia Growth Area Framework Plan, 2006 with location of subject site starred in red

6.1.1 Industrial 1 Zone Decision Guidelines

The proposal is an appropriate response to the Decision Guidelines of the Industrial 1 Zone. An assessment is provided in the below table.

Decision Guideline	Response
The Municipal Planning Strategy and the Planning Policy Framework.	<p>The proposal seeks to use the existing building for the following land uses:</p> <ul style="list-style-type: none"> ▪ Food & drink premises. ▪ Convenience shop. ▪ Education centre; and ▪ Freezing & cool storage area. <p>The uses that are proposed for the site are considered to align with the Municipal Planning Strategy and Planning Policy Framework.</p> <p>Please refer to Section 6 of this report for a further response on the appropriateness of the uses against the Planning Framework of the Cardinia Shire Planning Scheme.</p>
The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.	The site is located within an emerging industrial area and the proposal would comply with any threshold requirements from non-residential uses.



Decision Guideline	Response
The effect that nearby industries may have on the proposed use	The site is located within an emerging industrial precinct and will be surrounded by similar uses. As such, it is considered that the proposal will be adversely impacted by nearby industries. Furthermore, the inclusion of a convenience shop and food and drink premises will complement the industrial uses located within the surrounding area.
The drainage of the land.	The site will be appropriately drained.
The availability of and connection to services.	The site will be appropriately serviced by essential utilities.
The effect of traffic to be generated on roads	The proposed uses are provided with the required number of car parking spaces. As such, the use will provide adequate parking on site and will have a minimal impact on the surrounding road network.
The interim use of those parts of the land not required for the proposed use.	N/A

6.2 The Appropriateness of the Proposed Uses

The uses proposed on the land are considered to align with the purpose of the Industrial 1 Zone. It is further noted that the nominated uses will compliment nearby industries within this emerging industrial precinct.

The Industrial 1 Zone seeks to protect industrial land from the encroachment of sensitive land uses, as well as providing suitable areas for industrial uses such as manufacturing, storage and distribution of goods in a manner that does not have an adverse impact on the surrounding area.

Pursuant to Clause 33.01, all the proposed uses are either a Section 1 - permit not required (Freezing/Cool Storage & Convenience Shop) or Section 2 - permit required use (Food & Drink Premises and Education Centre). As such, they are considered to be as of right and thus expected within the Industrial 1 Zone.

The proposed 'Freezing & Cool Storage' area, which will utilise most of the existing Warehouse on the site, is in line with the purpose of the Industrial 1 Zone. The use is similar to that of nearby industries and will not have any adverse impacts on the surrounding land. Vehicle access is via both Southeast Boulevard and Administration Drive, which allows for safe and efficient vehicle movement to and from the site.

The 'Freezing & Cool Storage' area will mainly be used for the storage of processed and pre-packaged food items. With deliveries and distribution to and from the site to be made during the hours of operation (Monday to Sunday - 24 hours to suit delivery of storage items).

Both the proposed 'Food & Drink Premises' and the 'Convenience Shop' will compliment the industrial 1 zone by providing uses that will support the emerging industrial precinct. As the precinct is further developed in the future, these uses will provide employees with adequate places for food services, and other necessities.

The proposed education centre (Adult Training Facility) will be used to provide courses in several trades. The centre will utilise the existing building, with storage and training areas at the ground floor and classrooms and



staff offices at first floor. The use of the land as an education centre is also in line with both the State and Local Planning Framework.

Pursuant to Clause 33.01 an 'education centre' is a Section 2 – Permit Required Use and meets the conditions outlined in the table of uses. Further to this, Clause 21.04-1 (Economic Development) of the Cardinia Shire Council aims to improve employment opportunities within the municipality. One of the strategies of this policy is to encourage access to education and training (with an emphasis on vocational) with links to the local economy. As such, it is considered that the use of the land as an 'education centre' is an appropriate use of the land.

Overall, it is considered that the propose uses of the land are compatible with the Industrial 1 Zone. They are in line with both State and Local Planning Policy Framework, the emerging industrial precinct and are located away from sensitive interfaces.

6.3 Amenity

As the site is located within a developing industrial area, there are no sensitive interfaces to which the proposed uses may cause adverse amenity impacts. The proposed uses are compatible with the industrial 1 zone and would limit any adverse amenity impacts to existing and/or future land uses, with particular regard to the below:

- Noise levels.
- Air-borne emissions.
- Emissions to land or water.
- Traffic, including hours of delivery and despatch.
- Light spill or glare.

6.3.1 Noise Levels

Noise generated by the proposed uses will be minimal given the types of uses on site, with noise levels to be similar to that of the surrounding industrial uses. The site is located well within the centre of an emerging industrial precinct, well away from any sensitive uses.

6.3.2 Air-borne emissions

Air-borne emissions will be limited to vehicle movements and exhaust systems typical to Food & Drink Premises. As there is no manufacturing taking place on site, there are no excessive or potentially dangerous air-borne emissions expected from the site.

6.3.3 Emissions to Land or Water

There are no emissions to land or water generated by either use.

6.3.4 Traffic, including hours of delivery and despatch

Traffic generated by the site mainly be during the hours of operation and the proposed uses are all provided with the required number of car spaces.

6.3.5 Light spill or glare

The type of proposed uses and the hours of operation mean that light spill (in the evenings) or glare from the site will not spill out past the road frontage or boundaries.

It is acknowledged that none of the uses are included within Clause 53.10 of the Cardinia Shire Planning Scheme. The proposed uses are located an adequate distance from sensitive interfaces, with the closest sensitive use approximately 750 metres north of the subject site.



6.4 Traffic and Access

The traffic and access arrangements are appropriate.

Vehicle access to the site is via crossovers at both the Southeast Boulevard and Administration Drive frontages, with driveways leading to car parking areas along the north & south sides of the existing building. This will allow vehicles to safely enter and exit, and splay areas will ensure driver and pedestrian safety.

6.4.1 Clause 52.06 – Car Parking

Pursuant to Clause 52.06, The proposed car parking provisions for each of the proposed uses is listed in the below table.

Use	Area	Statutory Requirement	Total Required	Total Provided
Food & Drink Premises	388.16 sqm	4 spaces to each 100 sqm of net floor area.	15	15
Convenience Shop	481.17 Sqm	If the Convenience shops exceeds 80 sqm 10 spaces to each premises	10	10
Education Centre	24 Students	0.4 spaces to each student that is part of the maximum number of students on the site at any time.	9	9
Freezing and Cool Storage	903.16 sqm	1.5 spaces to each 100 sqm of net floor area.	13	13
		Total	47	47

As shown in the above table, the proposed uses are provided with the required number of car spaces under Clause 52.06 (Car Parking). The proposed plan shows the allocation of spaces for each use, as requested in Council's Request for Further Information.

6.4.2 Loading Considerations

Due to Amendment VC142 no specific loading requirements for the subject site are identified. The relevant decision guideline to respond to is *whether the proposal provides adequate vehicle loading and unloading facilities* (Clause 59.04-2 Decision Guidelines).

Considering the above, the proposed development provides the Freezing & Cool Storage with two loading bay areas. Both loading bay areas are accessed via crossovers from either Southeast Boulevard or Administration Drive. Each loading bay is considered to be in an appropriate location and size to be utilised by the proposed use.

Given the size of the Freezing & Cooling Storage area it is expected that it will typically be serviced by standard vehicles such as a B99 as defined within AS/NZS 2890.1:2004. Some larger vehicles may access the site such as a 6.4m long Small Rigid Vehicle and an 8.8-metre-long Medium Rigid Vehicle. These will likely reverse from Southeast Boulevard which is permitted for occasional access from a local road within AS 2890.2:2018.



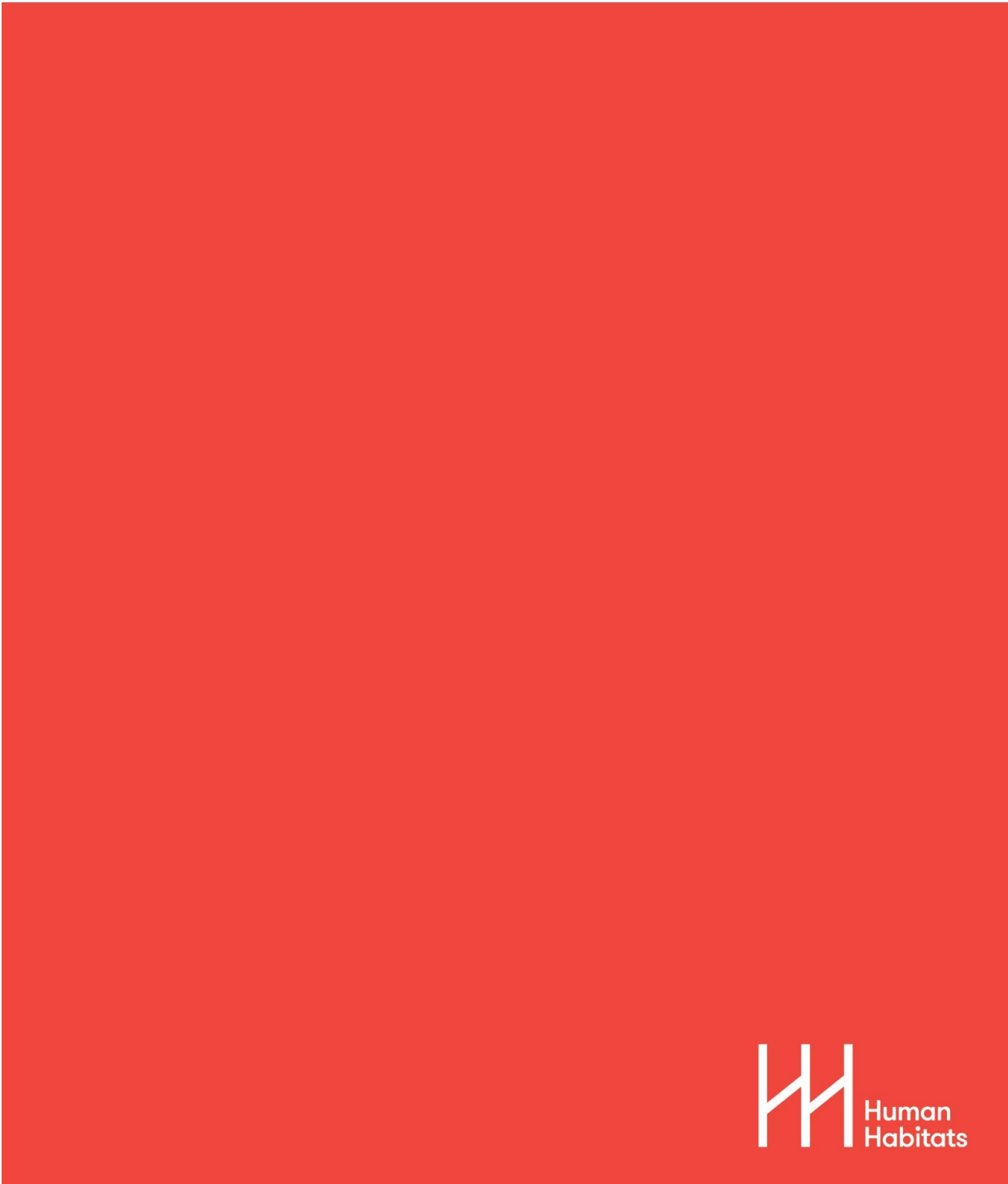
7 Conclusion

The proposed uses that will utilise the existing building on the site, will deliver a positive planning outcome for the following reasons:

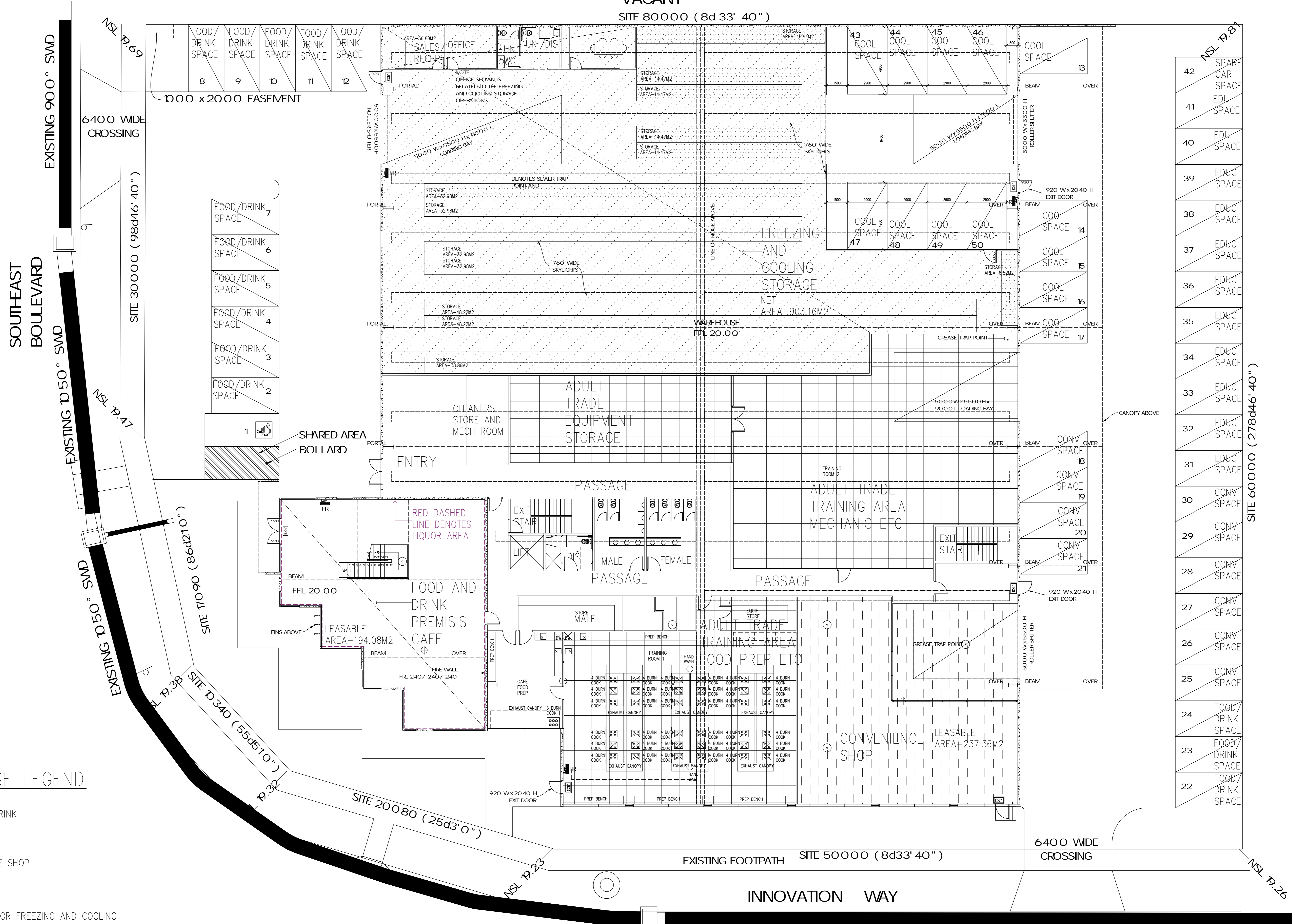
- The proposed uses are consistent with both the State and Local Planning Policy Framework and the Cardinia Shire Planning Scheme.
- The subject site is considered an appropriate location for proposed uses given the emerging and established surrounding industrial land uses.
- The uses are provided with the required number of car spaces under the requirements of Clause 52.06 Car Parking.

For the reasons outlined in this report, we believe the proposal is worthy of Council support, subject to standard conditions.

Human Habitats Pty Ltd



VACANT
SITE 80000 (8d 33' 40")



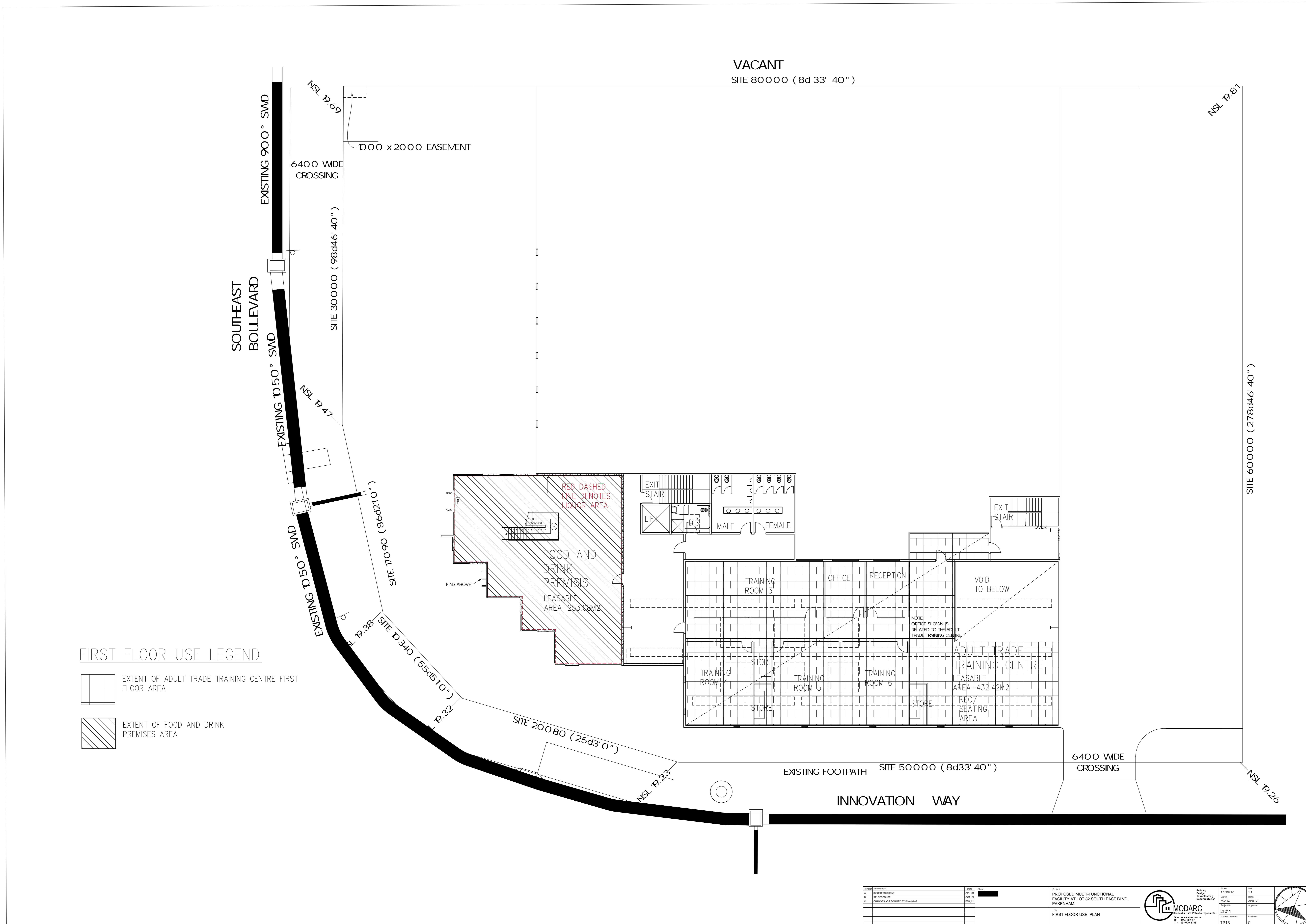
GROUND FLOOR USE LEGEND

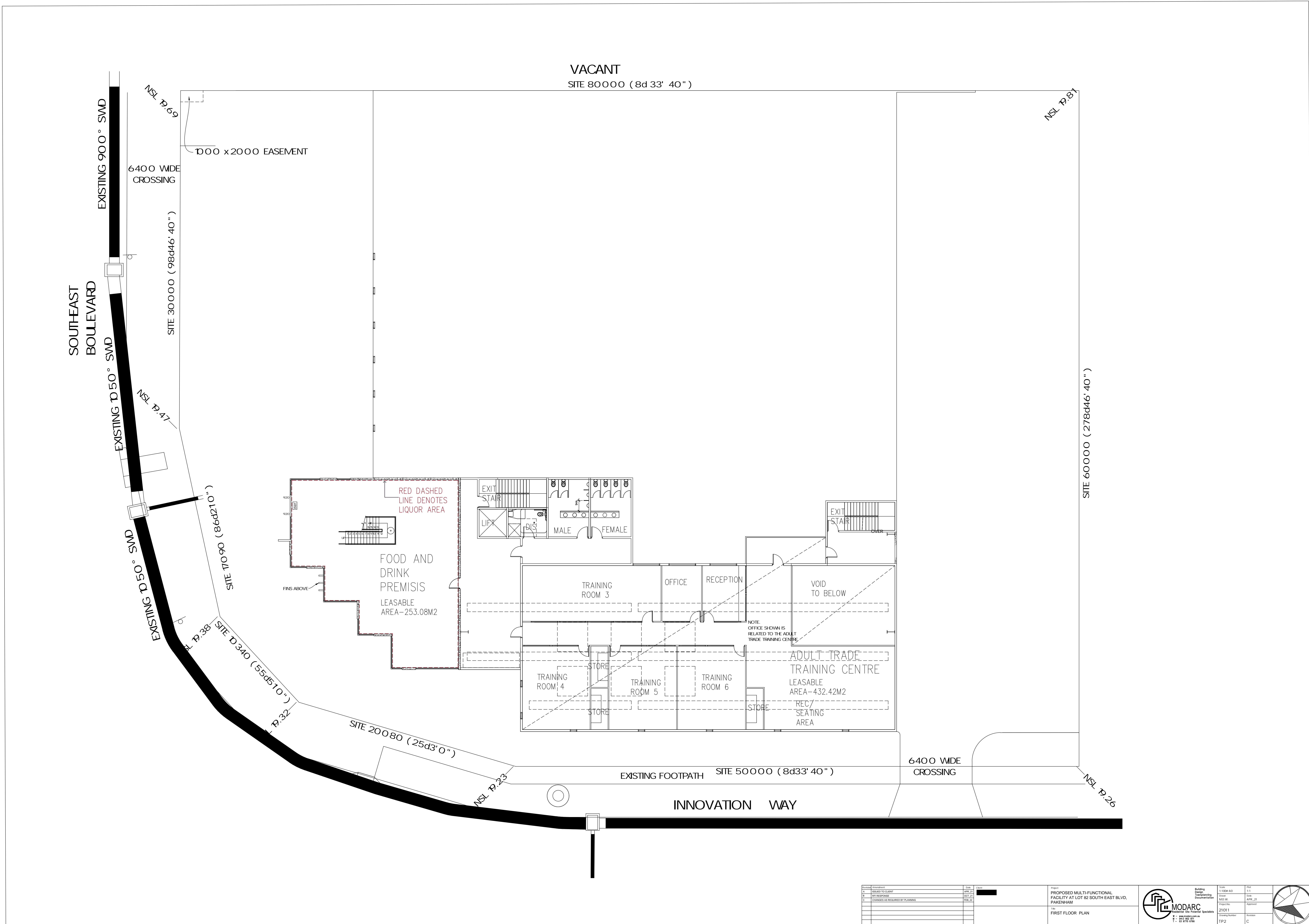
- EXTENT OF FOOD AND DRINK PREMISES AREA
- EXTENT OF CONVENIENCE SHOP
- EXTENT OF GROUND FLOOR FREEZING AND COOLING AREA
- EXTENT OF ADULT TRADE TRAINING CENTRE FIRST FLOOR AREA

Rev	Description	Date
1	ISSUED TO CLIENT	APR 21 2022
2	FOR RESPONSE	OCT 27 2022
3	CHANGES AS REQUIRED BY PLANNING	FEB 03 2023

PROPOSED MULTI-FUNCTIONAL FACILITY AT LOT 82 SOUTH EAST BLVD, PANENHAM
GROUND FLOOR USE PLAN

Client: 1106W AG	Scale: 1:1
Drawn: MCD W.	Drawn: APR 21
Project: 21011	Project: TPIA
Author:	C





Revised	Consent	Date	By
A	PRELIMINARY	APR 21	[REDACTED]
B	APR RESPONSE	OCT 21	[REDACTED]
C	CONSENT AS REQUIRED BY PLANNING	MAR 22	[REDACTED]

PROPOSED MULTI-FUNCTIONAL FACILITY AT LOT 82 SOUTH EAST BLVD, PANMURE

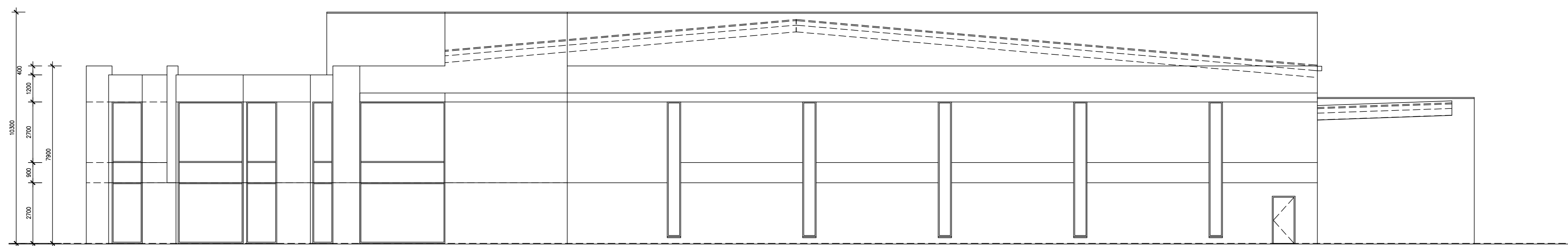
21011

FIRST FLOOR PLAN

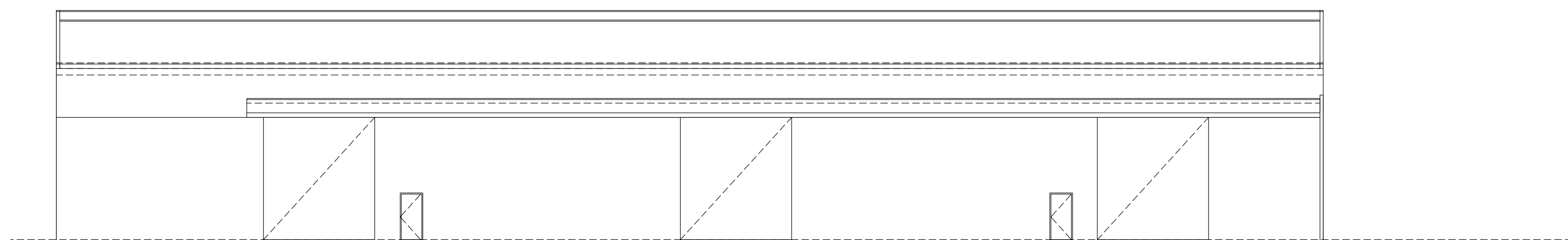
MODARC
Registered Site Planning Specialist

Scale: 1:1000 A3
Date: APR 21

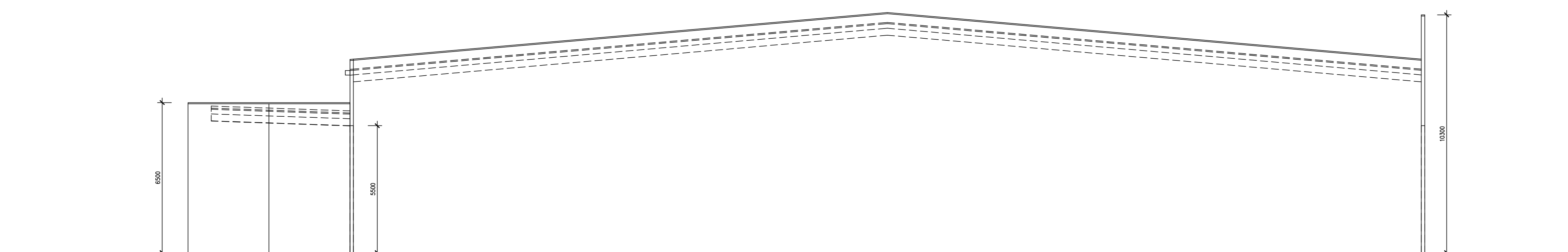
Project No: 21011
Drawing: C



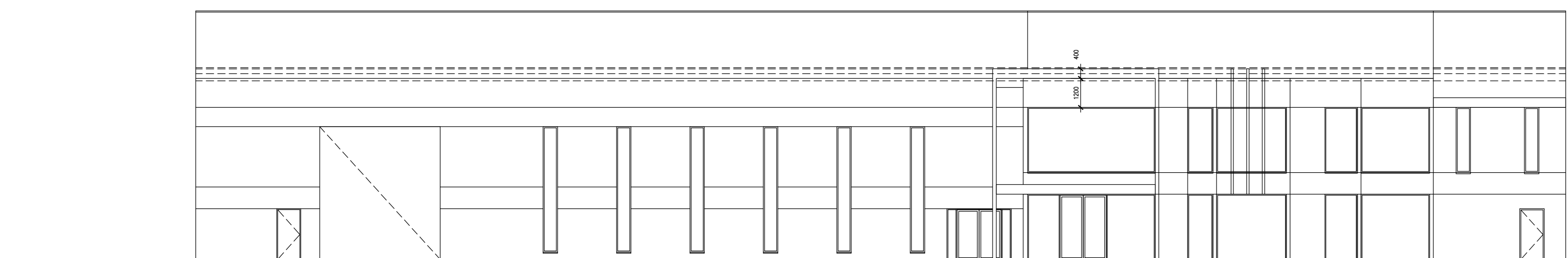
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

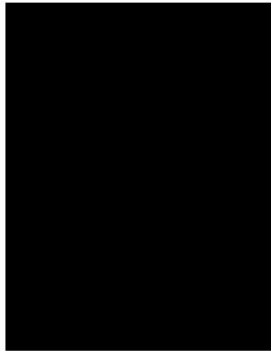


NORTH ELEVATION

Revised	Amendment	Date	Drawn	Checked	Project	Building	Scale	Plot
A	ISSUED TO CLIENT	APR 21			PROPOSED MULTI-FUNCTIONAL FACILITY AT LOT 82 SOUTH EAST BLVD, PAKENHAM	1:1000 RD 1:1000 1:1000 W 1:1000	1:1	
B	FOR PERMITTING	APR 21					1:1	
C	CHANGES AS REQUIRED BY PLANNING	MAY 22					1:1	
							21011	
							1:1000	
							1:1000	

Project	PROPOSED MULTI-FUNCTIONAL FACILITY AT LOT 82 SOUTH EAST BLVD, PAKENHAM
Drawn	
Checked	
Scale	1:1000 RD 1:1000 1:1000 W 1:1000
Plot	1:1 1:1 1:1 1:1
Revision	21011
Revision Number	
Revision	
Revision	

Logo	MODARC	Architectural & Engineering Solutions
Address	1/1000 South East Blvd	
Phone	03 9488 4444	
Website	www.modarc.com.au	



25 March 2022



APPLICATION NO: T210346

ADDRESS: 55 SOUTHEAST BOULEVARD, PAKENHAM

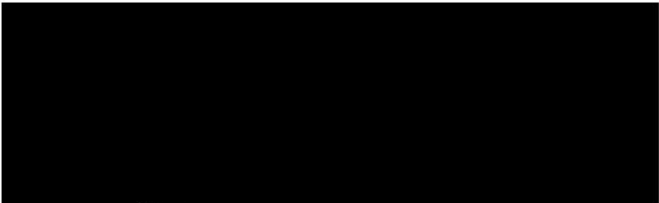
PURPOSE: EDUCATION CENTRE JUSTIFICATION

We refer to the above matter and confirm we continue to act on behalf of the permit applicant 

We refer to Council's correspondence dated 4th and 8th of February 2022, advising of a likely refusal of the current application for an 'Education Centre, Food & Drink Premises and Convenience Shop' at the abovementioned site.

In response to the said correspondence, we provide a response to each of the concerns raised by Council below.

By way of background, we note that a pre-application meeting was held with Council officers on 17th of March 2021, in which, as advised by our client, the proposal was discussed at length with little or no opposition from Council. In attendance were the following parties:

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1 Council's Concerns

In correspondence dated 8th of February 2022, Council advised that they had concerns regarding land use conflicts arising from the use of the land for an Education Centre and Food & Drink Premises, on the basis that these two uses were not compatible with the **purposes of the Industrial 1 Zone**.

Their main concern was the potential for the **Education Centre and Food & Drink Premises to have a negative impact on the future uses and buildings** surrounding the subject site. For example, the use of the subject site as an Education Centre may prohibit the surrounding sites from establishing 'as of right' industrial uses without requiring planning permission (i.e., use of the land for a warehouse or industry if it meets the Conditions of Table 1 to the IN1Z).

If the Education Centre were to establish on the site, any future industrial uses within 30 metres (or any separation distances in Clause 53.10) would require planning permission to use their site for what would be an 'as of right' use.

Council also referenced Clause 13.07-1S (Land Use Compatibility) and Clause 21.04-4 (Economic Development) of the Cardinia Shire Planning Scheme and that these policies seek to protect commercial and industrial uses and safeguard them from any development that would compromise their function.

2 Response to Council's Concerns

2.1 Purpose of The Industrial 1 Zone

2.1.1 How does the proposal align with the purpose of the zone and decision guidelines?

Clause 33.01 outlines the purpose of the Industrial 1 Zone as follows:

- *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.*

It is submitted that the proposed uses align with the purposes of the zone given that the development aligns with the State and Local planning policy framework, which underpins the Industrial 1 Zone, particularly Clause 13.07 (land use compatibility) and clauses 21.04-1 (Economic Development) and 21.04-4 (Economic Development).

The proposed uses align with the objectives of Clause 13.07, namely they will *"ensure[s] that the use or development of land is compatible with adjoining and nearby land uses."* The use of the land for an Education Centre and Food & Drink Premises is considered compatible with the surrounding area, as they will provide a mutually reliant land use that will provide support to the emerging worker populations of the industrial precinct.

Food & Drink Premises

With regards to Food & Drink, there are several examples of existing Food & Drink Premises that comfortably co-exist within this Industrial precinct. These can be found at [REDACTED]

Further, the design of the Food & Drink Premises is such that it does not encourage internal dining or patrons to dwell in and around the building. Instead, the facility will likely service workers from the area who will order a coffee/food to 'grab and go', rather than dine-in. Thus reducing the extent of edge effects or amenity impacts of industrial land uses on the Food and Drink Premises.

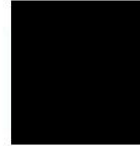
Education Centre

As for the Education Centre, we submit that said land use will aid in achieving the objectives and strategies of Clauses 21.04-1 (employment) and 21.04-4 (industry). The Education Centre will implement key strategies of Clause 21.04-1 regarding skills and education by providing a centre that will *"advocate for access to education and training, especially for young people"* and *"support the establishment of tertiary and vocational facilities with links to the local economy."*

Providing an Education Centre within the precinct will also aid in achieving the following strategy at Clause 21.04-4 (industry) *"enhancing the appearance and functionality of existing industrial areas and the design of future industrial development to create an attractive, functional and safe business environment."*

The partial use of the land as an Education Centre, with a focus on vocational training (trades), will provide a complimentary use that will aid in the development of the industrial area as well as support residents, employment and the further development of local businesses.

Of importance is the fact that the proposed uses are either Section 1 - Permit Not Required (take away shop and convenience shop) or Section 2 Permit Required Uses (Education Centre). Given that these uses are not prohibited under the zone, it can be assumed that if the proposed uses align with the Decision Guidelines of the zone and are appropriately designed, Council approval should be considered/forthcoming.



For the reasons mentioned above, and with reference to Appendix A – Industrial 1 Zone Decision Guidelines (Also within the original planning report), it is considered that the proposed uses align with the Decision Guidelines of the Industrial 1 Zone and are an appropriate use of the land.

2.2 Education Centre/Food Premises would have a negative impact on future uses

2.2.1 What impacts? Consideration of Clause 53.10 & Threshold distances

In response to Council's concerns, it is submitted that the proposed Education Centre /Food & Drink Premises would not have a negative impact on the development of future surrounding land uses.

As previously highlighted, the use of the land as a Food & Drink Premises (take away food premises) and a Convenience Store are both Section 1 – Permit Not Required Uses and are not restricted by any specific conditions. Both proposed uses are 'as of right' and are inherently acceptable within the industrial precinct.

Pursuant to Clause 33.01, the use of the land as an Education Centre is a Section 2 – Permit Required Use, with the only condition being that it is not a primary or secondary school. It is acknowledged that the use of the land for an Education Centre will require any future Industrial uses that surround the site to adhere to the required threshold distances listed in Clause 33.01 (30 metres at a minimum) or within Clause 53.10.

Understanding that this is one of Council's main concerns, we submit that this position is questionable as the existing industrial area is already infiltrated by similar land uses that will otherwise have an impact on surrounding uses. For example, the subject site sits within proximity to existing residential land and other training/education centres, all of which would trigger consideration of the threshold requirements of 53.10 for any new land uses/built form proposal. Examples include:

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We also note that the mere fact a future use on adjoining land needs to adhere to the threshold requirements of 53.10 does not in itself prohibit the use of land for either 'industry' or a 'Warehouse', rather sets a higher benchmark for its consideration, noting it simply becomes a permit required use and subject to Council approval.

2.2.2 What policies if any discourage the introduction of these uses in an industrial setting

There are no State or Local Planning Policies that discourage the introduction of these uses within an industrial setting. As discussed in section 3.1 above, it is considered that the proposed uses align with the purpose and decision guidelines of the Industrial 1 zone, as well as the State and Local Planning Policy Framework.

Further to the above, it is considered that the proposed uses will provide a complimentary and supporting role in the emerging industrial precinct.

The Australian Vocational Education & Training Academy (Education Centre) will focus on vocational courses including carpentry, mechanical trades, commercial cookery, and others. The key objective of the facility is to provide access to industry specific training that will upskill workers in the local and surrounding areas.

2.2.3 How does the introduction of these uses preclude future uses/development in the area and is this position justified?

The assertion that the proposed uses will preclude or inhibit future uses and development within the area is not a justified position.

As previously highlighted, there are several education centres / training centres already established within the industrial precinct. These uses have not had any adverse impact on the development of the industrial precinct. As such, it is considered that Council has already acknowledged the suitability of said land uses in the area and by default considered such land uses to align with the purpose and the Decision Guidelines of the zone.



3 Conclusion

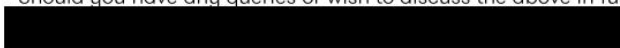
We believe that the above information, along with the architectural plans and other supporting information addresses the concerns raised by Council.

The proposed development will deliver a positive planning and economic outcome for the surrounding area based on the following reasons:

- The proposed uses are consistent with both the State and Local Planning Policy Framework, particularly Clause 13.07-1S (Land Compatibility), Clause 21.04-1 (Employment), Clause 21.04-4 (Industry) and Clause 33.01 (Industrial 1 Zone).
- Given the subject site's location within an emerging Industrial precinct, the proposed Education Centre will provide a positive planning and economic outcome, through providing access to skills and training that will directly benefit the surrounding industrial land uses in the area and will provide,; and
- The proposed Food & Drink Premises and Convenience shop will also provide positive supporting uses to the surrounding industrial precinct.

Overall, it is considered that the proposed uses are not only compatible with the Industrial 1 Zone but will also provide supporting functions and services to the establishing industrial precinct.

Should you have any queries or wish to discuss the above in further detail, please contact myself on



Yours sincerely





4 Appendix A – Industrial 1 Zone Decision Guidelines

Decision Guideline	Response
<p>The Municipal Planning Strategy and the Planning Policy Framework.</p>	<p>The proposal seeks to use the existing building for the following land uses:</p> <ul style="list-style-type: none"> ▪ Food & drink premises. ▪ Convenience shop. ▪ Education centre; and ▪ Freezing & cool storage area. <p>The uses that are proposed for the site are considered to align with the Municipal Planning Strategy and Planning Policy Framework that underpin the decision guidelines for Clause 33.01 (Industrial 1 Zone).</p> <p>The proposal also addresses the objectives and strategies of Clauses 21.04-1 and 21.04-4, which provide further guidance on development within the IN1Z.</p> <p>The proposal will provide uses that are compatible with the adjoining land by facilitating appropriate commercial / industrial uses within the industrial 1 zone.</p> <p>As such, it is considered that if the proposed uses align with the planning framework.</p>
<p>The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.</p>	<p>The site is located within an emerging industrial area and the proposal would comply with any threshold requirements from residential uses or other sensitive uses.</p> <p>The proposed uses will also not have any adverse impacts on the surrounding industrial</p>
<p>The effect that nearby industries may have on the proposed use</p>	<p>The site is located within an emerging industrial precinct and will be surrounded by similar uses.</p> <p>The inclusion of a convenience shop and food and drink premises will complement the industrial uses located within the surrounding area.</p> <p>The proposed education centre will provide vocational training for a number of trades, with operations that will align with the surrounding industrial uses.</p> <p>As such, it is considered that the proposal will not be adversely impacted by nearby industries.</p>



Decision Guideline	Response
The drainage of the land.	The site will be appropriately drained.
The availability of and connection to services.	The site will be appropriately serviced by essential utilities.
The effect of traffic to be generated on roads	<p>The proposed uses are provided with the required number of car parking spaces.</p> <p>As such, the use will provide adequate parking on site and will have a minimal impact on the surrounding road network.</p>
The interim use of those parts of the land not required for the proposed use.	N/A