

## 5 Ordinary Business

### 5.1 T220205 PA - Use of Land for a Place of Assembly at Lot 2, Manks Road, Koo Wee Rup

**Responsible GM:** Lili Rosic  
**Author:** Sam Andrews

#### Recommendation(s)

That Council refuses an application to grant a Planning Permit for the use of land for a place of assembly at lot 2, Manks Road, Koo Wee Rup VIC 3981 on the following grounds:

1. The proposal is inconsistent with the purpose, objectives and decision guidelines of the Special Use Zone – Schedule 1 that seek to discourage non-agricultural and non-soil-based uses that are established on soil of high agricultural valued land.
2. The proposal undermines and is inconsistent with the direction and purpose of Planning Policies (MPS, 13.07-1S Land Use Compatibility, 14.01-1S Protection of Agricultural Land, and 14.01-2S Sustainable Agricultural Land Use).
3. The proposal undermines and is inconsistent with the direction and purpose of Local Planning Policy (Clause 22.05, Western Port Green Wedge Policy, the Cardinia Shire Westernport Green Wedge Management Plan, and 21.08-3 Koo Wee Rup).
4. Insufficient information has been provided with respect to Clause 52.06 (Car Parking) and 44.04 (Land Subject to Inundation Overlay) to confirm whether additional permit triggers apply.
5. The proposed use is prohibited pursuant to Clause 51.02, Metropolitan Green Wedge Land: Core Planning Provisions, as the applicant is seeking to operate for more than 10 days within a calendar year.
6. The proposal does not represent the orderly planning of the area.

#### Attachments

1. Application Documentation [5.1.1 - 18 pages]

#### Executive Summary

<b>APPLICATION NO.:</b>	T220205 PA
<b>APPLICANT:</b>	Sonya Boloski, Lakeside Building Consultants
<b>LAND:</b>	L2 LP215438, Manks Road, Koo Wee Rup VIC 3981
<b>PROPOSAL:</b>	Use of land for a Place of Assembly
<b>PLANNING CONTROLS:</b>	<b>Zone:</b> Special Use Zone – Schedule 1

	<b>Overlays:</b> Land Subject to Inundation Overlay – Schedule 1
<b>NOTIFICATION &amp; OBJECTIONS:</b>	The application was advertised on 14 <sup>th</sup> October 2022 and concluded 3 <sup>rd</sup> November 2022. No objections were received.
<b>KEY PLANNING CONSIDERATIONS:</b>	<ul style="list-style-type: none"> <li>• Inconsistency with Clause 22.05 and Council’s Westernport Green Wedge Management Plan.</li> <li>• Inconsistency with the purpose and decision guidelines of the Special Use Zone – Schedule 1 which seeks to protect high quality horticultural soil from inappropriate land uses.</li> <li>• Failure to provide key application requirements surrounding a potential car parking reduction and impacts on the flooding inundation of the site.</li> <li>• Pursuant to Clause 51.02, Place of Assembly is a prohibited use when operating for more than 10 calendar days in a year.</li> </ul>
<b>RECOMMENDATION:</b>	Refusal

### Background

The site currently contains an agricultural building that was approved under Planning Permit T170573 for the ‘development of land for an agricultural building (store)’ on 21<sup>st</sup> November 2017.

No additional planning permits have been issued for the site to date

## Subject Site



*Fig 1: Aerial Image of the subject site*

An inspection of the site from Manks Road was undertaken.

The subject site is a 15.37ha irregular shaped parcel of land located approximately 1.9km north-west of the Koo Wee Rup Town centre. The site is on the southern side of Manks Road.

A crossover is located off Manks Road, along the north-western side of the site.

The topography of the site is flat throughout.

The site does not contain any easements, yet contains multiple agricultural buildings that vary in size, a water tank, and an array of crops recently planted within the north-western and central-western portions of the site.

The main characteristics of the surrounding area are:

- North: Two large Special Use Zone allotments at 1355 and 1345 Manks Road that contain a dwelling and outbuildings. They are used for crop raising
- South: A large Special Use Zone allotments at 405 Railway Avenue containing agricultural buildings and a dwelling.
- East: A large vacant Green Wedge Zone property 1370 Manks Road that is currently vacant.
- West: A large Special Use Zoned allotment at 1320 Manks Road

The entire surrounding area is subject to land within either the Special Use Zone, Schedule 1 or Green Wedge Zone and is used predominately for horticultural farming (crop raising). There are examples of land that is used and developed for residential purposes.



*Fig 2: Aerial imaging of the surrounding locality*

There are no restrictions, agreements or covenants listed on the title for the site.

### **Relevance to Council Plan**

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

### **Proposal**

An application has been received that is seeking approval for the use of land associated with a Place of Assembly at lot 2 Manks Road, Koo Wee Rup. The proposal is detailed below:

#### Use

The applicant is seeking to propose the use of land for a Place of Assembly that include gatherings that are for both social (outdoor sporting events and cooking) and religious run by and for people within the Sikh community. The gatherings will predominately be held within the existing large building on site located along the western property boundary. Social and sporting events will be carried out outdoors. No live music or loudspeakers are proposed. The proposed Site Plan is presented below:

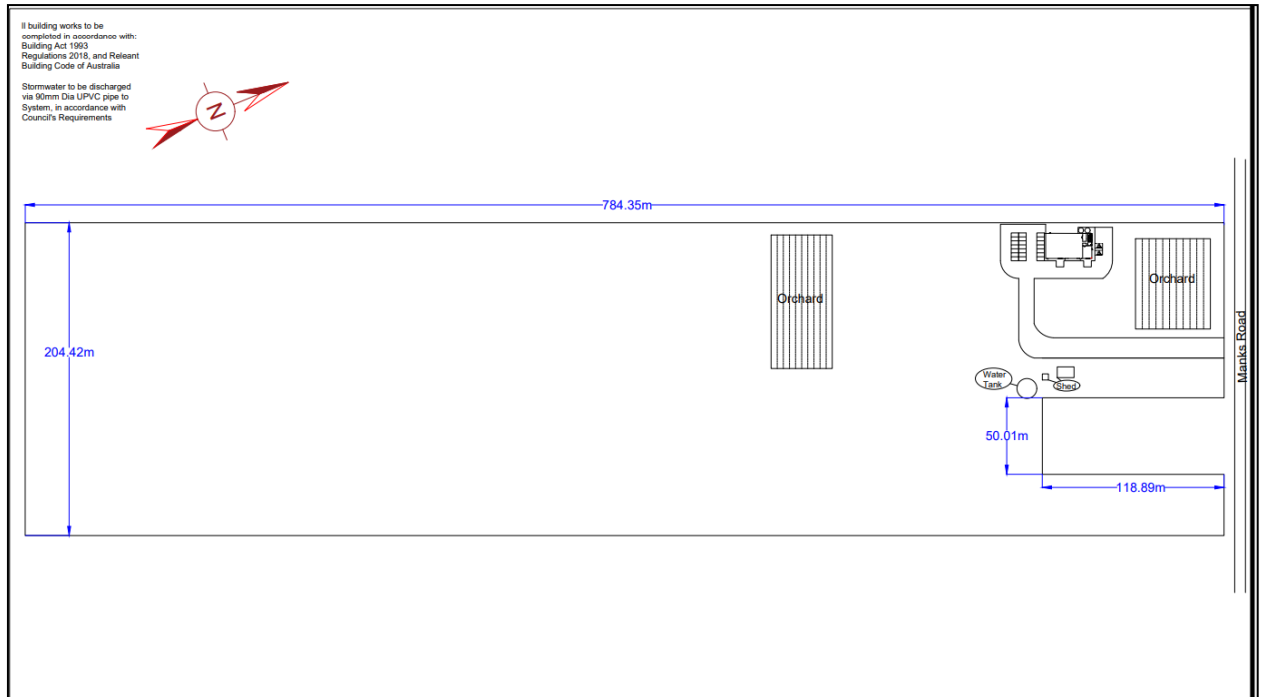


Fig 3: Proposed Site Plan

The use will accommodate a maximum of 100 people at any one time.

Proposed days of operation: The site will be used daily for gathering at the end of each day (after working hours during weekdays). Hours are to extend on weekends.

With respect to the floor plan, the existing building to be utilised will comprise a main multipurpose area and amenities. The proposed floor plan is presented below:

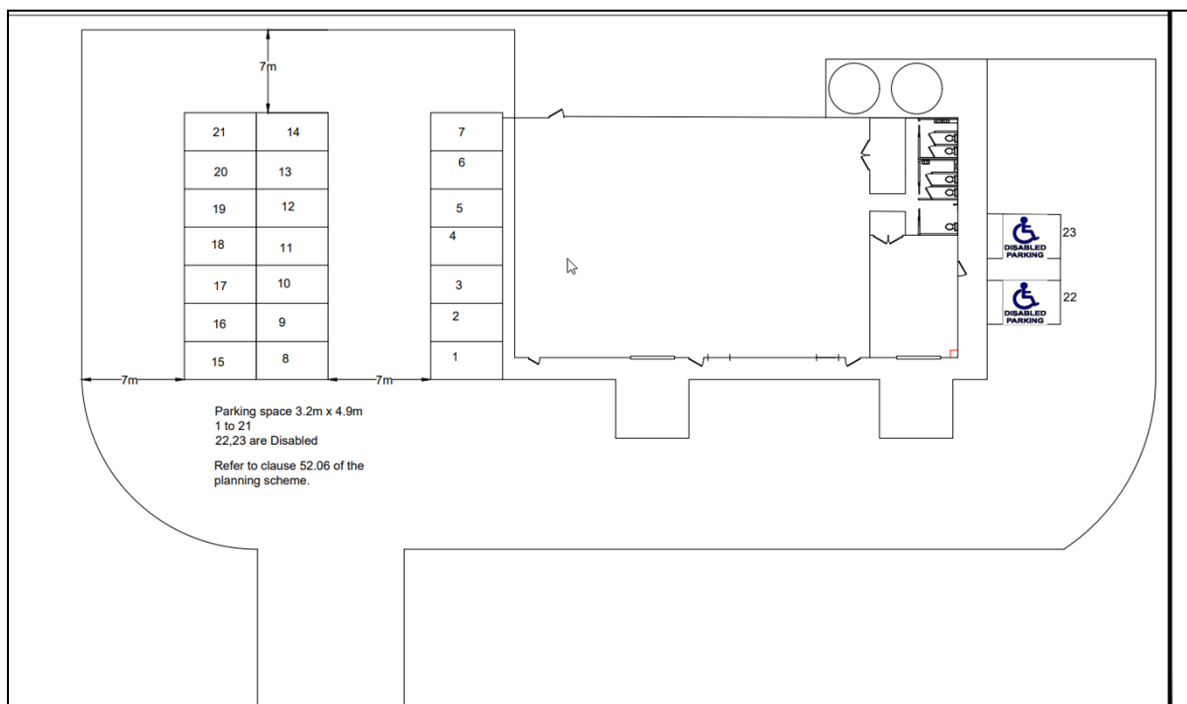


Fig 4: Proposed floor/layout plan

### Car Parking

The applicant has proposed 23 parking spaces (21 and 2 disability spaces). The parking bays will be located to the southern rear of the large building on site, with both of the disability spaces proposed to the north of the building. At 100 patrons, 30 spaces are required for the use meaning that the applicant will require a reduction of 7 spaces.

A request was sent to the applicant to recognise an amendment to the planning permit under section 50A of the *Planning and Environment Act 1987* to include an additional permit trigger pursuant to Clause 52.06 for a reduction in car parking spaces. To date this has not been acknowledged or met by the applicant and therefore the application will not recognise a formal reduction in parking space and will more broadly acknowledge the insufficiency to provide information requested by the Responsible Authority.

### Buildings and works

No external buildings and works have been proposed to the large building on site that the use will predominately operate out of, with any internal works exempt from planning consideration under Clause 62.02-2.

No signage has been proposed.

To date a request has been made by Council for amended architectural plans and a section 50A amendment to depict the materials used for the construction of the driveway and parking bays, which would result in a permit trigger under Clause 44.04-2 of the Land Subject to Inundation Overlay for the carrying out of works. To date this request has not been acknowledged or met by the applicant and therefore this will be treated as insufficient information within the report.

## **Planning Scheme Provisions**

### **Zone**

The land is subject to the:

- Special Use Zone – Schedule 1.

### **Overlays**

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

### **Planning Policy Framework (PPF)**

The relevant clauses of the PPF are:

- 13.03-1S – Floodplain Management
- 13.07-1S – Land Use Capability
- 14.01-1S – Protection of Agricultural Land
- 14.01-2S – Sustainable Agricultural Land Use

### **Local Planning Policy Framework (LPPF)**

The relevant clauses of the LPPF are:

- 21.01 - Cardinia Shire Key Issues and Strategic Vision
- 21.02-1 – Catchment and Coastal Management
- 21.08-3 – Koo Wee Rup
- 22.05 – Western Port Green Wedge Policy

### **Relevant Particular/ General Provisions and relevant incorporated or reference documents**

The relevant provisions/ documents are:

- 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions



- 52.06 – Car Parking
- 65 - Decision Guidelines
- 66 – Referral and Notice Provisions
- Cardinia Shire Western Port Green Wedge Management Plan (Incorporated Document)

### Planning Permit Triggers

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

- Planning Permit 37.01-1, Special Use Zone, a planning permit is required to use land for Place of Assembly.

### Planning Permit Site History

The planning permit history for the site includes:

- Planning permit T170573 for the ‘development of land for an agricultural building (store)’

### Public Notification

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

- Sending notices to the owners and occupiers of adjoining land; and
- Placing a sign on site facing Manks Road.

The notification has been carried out and Council have received no objections to date. The statutory declaration was submitted to Council 31<sup>st</sup> October 2022.

### Referrals

External Referrals/Notices:

Referrals/Notice	Referral Authority	Brief summary of response
Section 55 Referrals	None	None
Section 52 Notices	None	None

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Traffic	Concerns raised regarding the number parking spaces provided and car parking layout. This was raised by the applicant, yet to date a formal amendment to the permit under section 50A of the <i>Planning and Environment Act 1987</i> .
Strategic Planning Department	Unsupportive of the application (refer to discussion section)

### Discussion

The application for a planning permit has been assessed against the decision guidelines of all relevant Clauses of the Cardinia Planning Scheme, including Planning Policy Framework, where the proposed use application has been determined to be inconsistent with these requirements.

The planning scheme puts an emphasis on the facilitation and protection of both Special Use Land in particular when located in the Westernport Green Wedge Management Plan area. There is a specific need to maintain horticultural and agricultural parts of the shire to help and

encourage sustainable farming practices. The location of the proposed Place of Assembly, upon vital Special Use Zoned Land and within the Westernport Green Wedge area is not supported by the Cardinia Planning Scheme, due to its incompatibility with surrounding uses and the potential unreasonable conflicts the use may have on the preservation and enhancement of agricultural and horticultural land throughout the shire. The number of patrons proposed and days of operation results in the use being of a large scale. Pursuant to the scale of the proposed use, the predominate use of the site will be for a 'Place of Assembly,' rather than for horticulture (crop raising). The use of land for a 'Place of Assembly' is not compatible with the purpose and objectives of the zone, nor the preferred land use characteristics and purpose of the Westernport Green Wedge Policy.

Council is seeking a motion to refuse the application on the basis of the use being incompatible with the purpose, objectives, and decision guidelines of the Special Use Zone – Schedule 1 and Westernport Green Wedge Policy. Pursuant to Clause 51.02, the use of land for a Place of Assembly for more than 10 days of a Calendar year is prohibited, which the applicant is in breach of, resulting in the land use being prohibited on site.

Council is also putting a recommendation forward to refuse the application based on insufficient information surrounding a potential car parking reduction under Clause 52.06, and insufficient information regarding the materials used for the construction of the car parking bays and driveway access, which may result in a secondary permit trigger under the Land Subject to Inundation Overlay.

It is worth noting that a request was made by Council for the planning permit application to be amended pursuant to Section 50A of the *Planning and Environment Act 1987*, to include a potential permit trigger under Clause 52.06-3 for a reduction of seven (7) parking spaces, and include a potential permit trigger under 44.04-2, Land Subject to Inundation Overlay for the carrying out of works (driveway and car park bays). To date this request has not been met by the applicant, with no formal amendment under Section 50A of the act and submission of updated plans recognising the amendments received. Therefore, Council cannot confirm the potential permit triggers under Clauses 44.04-2 and 52.06-3.

Therefore, Council will recognise this as an insufficient information request and formally only assess a permit trigger under Clause 37.01-1 for the use of land for a 'Place of Assembly.'

### **Planning Policy Framework**

It is considered that the proposal does not comply with the relevant Planning Policies, including the Municipal Strategic Statement.

The development does not show compliance with the requirements and purposes of clauses 13.03-1, 13.07-1S, 14.01-1S, 14.01-2S, 21.01, 21.02-1, 21.08-3, and 22.05 that seek to protect horticultural, and agricultural land within the shire.

13.03-1S (Floodplain Management) seeks to protect life, property and community infrastructure from flood hazards, flood storage functionality and natural flood carrying and storage capacity.

13.07-1S (Land Use Capability) 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 developments are compatible with adjoining land uses, neighbourhood character and the protection of existing commercial, industrial and other uses from encroachment by uses or developments that would compromise the ability of existing uses to function safely and effectively.



14.01-1S (Protection of Agricultural Land) seeks to protect the state's agricultural base by preserving productive farmland, and productive agricultural land from unplanned loss due to permanent changes in land use and prevent inappropriate dispersed urban activities in rural areas of the state.

14.01-2S (Sustainable Agricultural Land Use) seeks to encourage land uses that support, enhance, grow, and protect sustainable agricultural land. It ensures that agricultural and productive rural land uses are managed to maintain the long-term sustainable use and management of existing natural resources.

21.01 (Cardinia Shire Key Issues and Strategic Vision) outlines the key issues facing Cardinia including the appropriate management of growth, including urban pressures, on areas such as the Westernport Green Wedge, and the provision of infrastructure and uses that meet the needs of existing and future communities.

21.02-1 (Catchment and Coastal Management) seeks to protect the floodplain areas of the shire through appropriate land uses and developments.

21.08-3 (Koo Wee Rup) ensure that any proposed use or development within or around the Koo Wee Rup Township is generally consistent with the *Koo Wee Rup Township Strategy, October 2015*, including the Koo Wee Rup Framework Plan.

22.05 (Western Port Green Wedge Policy) seeks to recognise and protect the Westernport Green Wedge areas of the shire for its valuable agricultural and horticultural importance. It gives specific mention to discouraging sensitive land uses such as Places of Worship's, which is a land use nested under Place of Assembly, with both uses drawing similarities to one another according to the planning scheme definitions of Clause 73.03) from establishing in these areas.

The proposal is considered incompatible with the agricultural and horticultural character and the existing strategic location of uses and infrastructure of the immediate area. The applicants proposed use of land for a Place of Assembly within the Special Use Zone is considered a use that is sensitive to the existing makeup of the local area, incompatible with the use horticultural intentions of the site as stated in the Zone, and incompatible with the existing presence of uses in the local area.

The Westernport Green Wedge Management Plan also discourages these types of sensitive uses (along with schools and places of worship) from establishing within the area covered by the policy and suggests that they are better located adjoining the Urban Growth Boundary or within existing settlements areas. This site aligns with neither objective, with the site considered inappropriate for the large-scale land use being proposed.

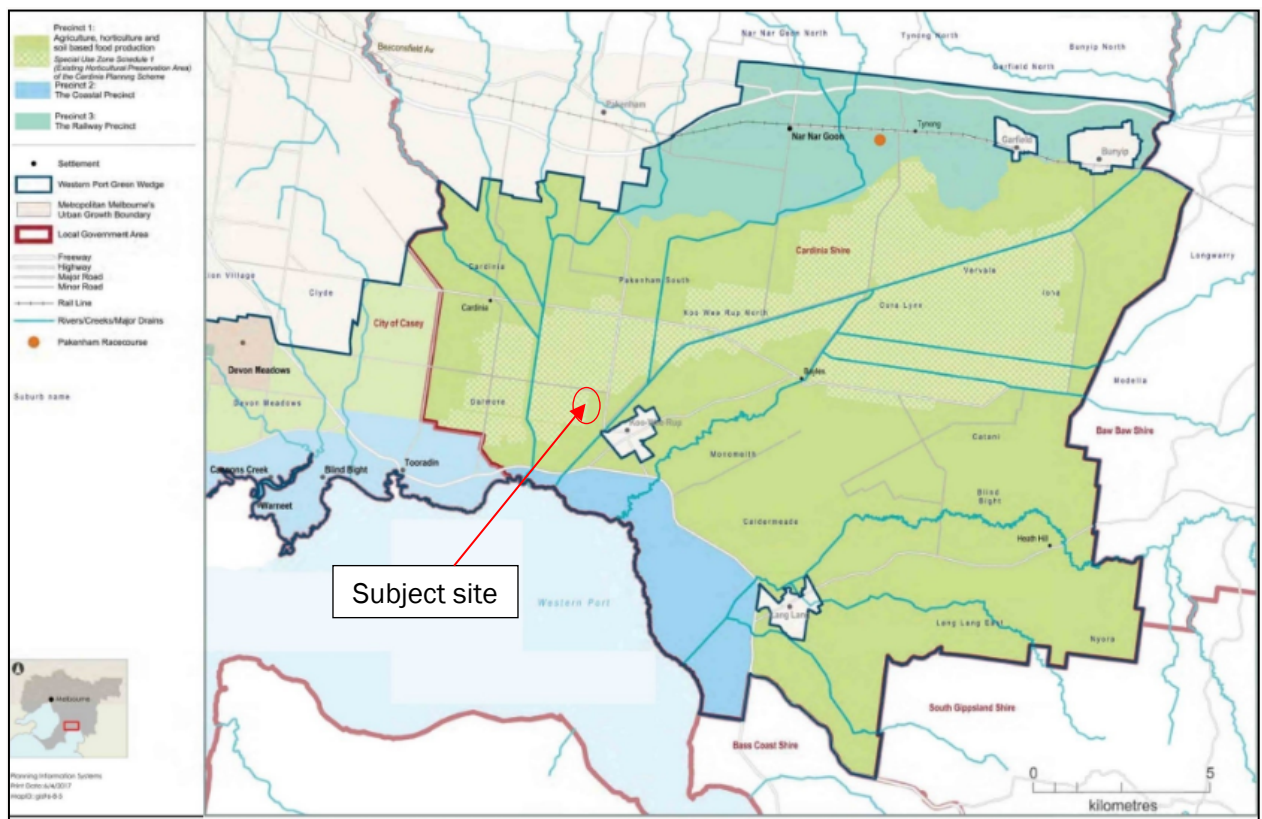
Furthermore, the Special Use Zone is primarily an agricultural and horticultural zone which should facilitate, above all else, the right to farm. Other compatible uses can be considered when located in appropriate locations. A Place of Assembly is not considered to be a use suitable for the site in which it is proposed.

The use itself does not aid in protecting or enhancing the horticultural use of the land and local area. The use may result in inappropriately dispersed urban activities in rural areas. The applicant has raised the need to consider the existing horticultural farming that is currently being undertaken on the site. The existing use of the site for crop raising does not trigger a planning permit or form part of the application. Therefore, Council is not required to assess the crop raising aspect of the site. The existing minor crop raising use being undertaken on site will not result in the application receiving a positive outcome as it is separate to the application being assessed by Council.

It is considered that the proposal does not adequately respond to the above, especially Clause 13.07-1S (Land use compatibility) when considering the Special Use Zoning of the land and surrounding land uses. Therefore, it is considered that the proposal is inconsistent with the PPF and MPS as it is likely to cause unreasonable and detrimental impacts to the established uses that are nearby to the site and does not present as a suitable land use compatible with the surrounding uses and the purpose of the Zone, PPF, MPS and LPPF therefore should not be supported.

### Clause 22.05-1 – Western Port Green Wedge Policy and Cardinia Western Port Green Wedge Management Plan

The Western Port Green Wedge Policy identifies an area of approximately 746 square kilometres of rural southern part of Cardinia Shire Council and the City of Casey, which are home to important assets to both municipalities. The Shire is a major producer of asparagus, celery, leeks, herbs, silver beet and beef and provides a majority of Victoria's produce of these vegetables. The area of Pakenham where lot 2 Manks Road, Koo Wee Rup is located is identified in this policy as Precinct 1 (Agriculture and horticultural soil-based food production).



**Fig 5:** Map 1 Cardinia Green Wedge Precincts – source: Clause 22.05 of the Cardinia Planning Scheme

Precinct 1 identifies land that is suitable for agriculture, horticulture and soil-based food production due to its highly versatile, fertile soils. The Subject Site is located within the Special Use Zone – Schedule 1 (SUZ1) and is noted as having high versatile soil.

The precinct as a whole has a strong focus on horticultural activities including crop raising, with a focus on discouraging non-soil-based uses and development from the area to aid in promoting and enhancing the significant soil and landscape qualities in the local area

One of the main objectives of the Westernport Green Wedge Management Plan is to maintain and develop a thriving agricultural and horticultural industry in the green wedge and special use areas with a focus on horticulture, agriculture, soil-based produce, food security and new and emerging agricultural practices to service the local and export markets.

The Plan seeks to achieve this objective by discouraging sensitive uses (including schools and places of worship) from establishing within the Green Wedge Management Plan area, without Strategic justification. With the Place of Assembly being nested under the land use of Place of Worship, the two land uses are closely aligned with one another, and both are not supported by the Westernport Green Wedge Management Plan and should not be located in land that contains high versatile soil suitable for crop raising and farming activities.

Whilst these uses are able to be applied for through a planning permit application (subject to approval) they are urban in nature and can have detrimental impacts on the rural environment, fragment agricultural land and affect the ability to farm. The Green Wedge Management Plan provides clear guidance on where these uses should be located (subject to strategic justification) within the green wedge, close to the Urban Growth Boundary (UGB), at the transition point from urban land to rural land, or within existing townships.

In order for the above objectives to be achieved, sensitive uses such as the Place of Assembly proposed by this application, must be discouraged from establishing at the Subject Site, due to the land use conflicts arising from its siting within a highly productive, sensitive and importance horticultural region of the shire.

Therefore, it is considered that this application does not appropriately respond or align with the objectives of the policy in terms of supporting existing agricultural industries, without causing detriment to surrounding land uses. The proposal is considered to be inconsistent with the Westernport Green Wedge Management Plan in supporting sustainable farming production. Pursuant to the above the application should not be supported.

#### **Clause 37.01 - Special Use Zone – Schedule 1**

Some of the key purposes of the Special Use Zone – Schedule 1 are to implement the MPS and PPF, along with providing for and protecting the use of the land for high agriculture quality land for horticulture and other framing and soil-based activities. It also recognises, protects and conserves land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities and mineral and stone resources. The decision guidelines of the Zone require the Responsible Authority to consider the following when assessing whether the proposed use is compatible with the purpose of the Zone, in particular the following which are relevant to the application:

- The Land Capability Study for the Cardinia Shire (February 1997).
- Whether the land is liable to flooding and any advice received from Melbourne Water.
- Whether the use, building, works or subdivision will be detrimental to the horticultural significance of the area.
- Whether the use utilises the high-quality soils for horticultural or agricultural pursuits.
- The impact of the use, building, works or subdivision on the character and appearance of the area.
- Whether the site is suitable for the use, building, works or subdivision and the compatibility of the proposal with adjoining and nearby farming and other land uses.

In relation to compliance with the second decision guideline, the application was not referred to Melbourne Water as the permit application was only for the use of land and didn't trigger the Land Subject to Inundation Overlay. Whilst the land is liable to flooding no advice was required from Melbourne Water. The use is not expected to add to the flooding inundation on site.

The purpose of Clause 37.01, Special Use Zone – Schedule 1, is to ‘discourage non-agricultural and non-soil-based uses establishing on soil of high agricultural value’ and ‘preserve land of high agricultural quality for horticulture and other farming activities,’ which the application is not in support of. The scale of the use, seeking to have 100 people at the site at any one time, further emphasises the potential for the use to pose unreasonable amenity impacts on the local area, and the uses incompatibility with the overall purpose and intention that the zone.

The decision guidelines of 37.01, Special Use Zone – Schedule 1, require Council to consider the impact of the use on the character and appearance of the area, and whether the use will be detrimental to the horticultural significance of the area. The proposed use has the potential to pose a significant impact on the horticultural significance and preservation of the local area that Council is not supportive of. The use is not considered to be an ancillary component of the existing crop raising undertaken on site due to the scale of operation and number of proposed patrons at any one time.

The proposed use is seeking to be the primary use of the site, which Council does not support as it minimises productive agricultural/horticultural land. The use will not enhance and promote sustainable management of the high-quality soils seen throughout special use land and may intern diminish sustainable agricultural pursuits from being undertaken on the site in the future.

The use is not consistent with the character and appearance of the local area. The surrounding area (E.G., 1345, 1310, and 1260 Manks Road) is characterised by uses, developments, and allotments used predominately for horticultural production (crop raising) that the proposed land use for a Place of Assembly is not consistent with (see image below).



Given this, it is considered that the proposed use cannot be considered to achieve compliance with the decision guideline assessing whether a use is compatible with adjoining land uses, nor can it align with Clause 15.01-5S (Neighbourhood Character). Therefore, the proposed use is inconsistent with the purpose, intention, and decision guidelines of the zone and should be refused.

#### **Clause 44.-04 - Land Subject to Inundation Overlay**



The Land Subject to Inundation Overlay (LSIO) identifies areas where a 1 in 100 Year flood or floodplain area determined by a floodplain management authority warrants protection from flood hazards. These measures ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

Pursuant to the above, a request was made by the Responsible Authority to the applicant to provide additional information to formally recognise a potential permit trigger under 44.04. No information has been provided by the applicant. Therefore, an assessment against the scheme is not required.

#### **Clause 51.02 – Metropolitan Green Wedge Land: Core Provisions**

Clause 51.02 seeks to protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values. It ensures that the scale of the proposed use is compatible with the non-urban characteristics of metropolitan green wedge land.

The Clause applies to the application as the subject site is within land within Metropolitan Melbourne outside an Urban Growth Boundary and within the Special Use Zone – Schedule 1. Within Clause 51.02-2 of the scheme, any land used as a Place of Assembly must not operate for more than 10 days in a calendar year. The applicant is seeking to operate for multiple hours a day (end of each day) for most if not all days of the week.

Pursuant to Clause 51.02 and the number of days the applicant is seeking operate throughout the Calendar year, the use of land for a Place of Assembly is prohibited on site.

#### **Clause 52.06 Car Parking**

Pursuant to Clause 52.06-5 and proposed use for a 'Place of Assembly,' the applicant is required to provided 0.3 spaces for each patron permitted on site at any one time. As the proposal seeks to accommodate a maximum 100 persons at any one time, 30 car parking spaces are required. 23 spaces have been provided therefore a reduction in 7 spaces is required.

A request was sent to the applicant to recognise the need for a section 50A amendment to formally recognise the car parking reduction as part of the permit application as a potential new permit trigger, to receive amended plans and justify the need for reduction. To date the request by the Responsible Authority has not been satisfied by the applicant and cannot be considered formally as part of the application and assessed by the Council. Further to this, this, the application was internally referred to Council's traffic engineers who raised concerns with the design and number of spaces provided, which was raised with the applicant.

#### **Clause 65 Decision Guidelines**

The application has been assessed against the Clause 65 – Decision Guidelines. It is considered that the application, as discussed above, does not provide appropriate application documents to enable Council to fully assess compliance with the relevant state and local policies and the purpose of the zone overlays and particular provisions that apply to the site. The information submitted thus far has allowed Council to determine that the proposed use would not meet car parking regulation of Clause 52.06. Notwithstanding, assessing the application on what we do have, the use of land for a Place of Assembly is not considered appropriate with the zone and planning policies and should be refused. The use of land and number of days of operation proposed by the applicant within the Calendar year are prohibited pursuant to Clause 51.02 for a Place of Assembly.

## Conclusion

Given the above discussion, it is considered that there are adequate grounds to refuse to grant a planning permit based on the inconsistencies and failure of the proposal to adequately meet objectives of the relevant MPS, PPF, LPPF, the Special Use Zone, Schedule 1, Clause 22.05 and the Westernport Green Wedge Management Plan and the inability to provide required documents requested by the Responsible Authority to conduct an assessment against Clause 52.06, Car Parking, and Clause 44.04, Land Subject to Inundation Overlay.

It is important to consider that just because the planning scheme identifies that a permit can be issued for a certain land use, it does not mean that it should. The proposal must have regard for the purpose of the relevant policy and Zone and demonstrate that by allowing it by way of a permit, that it does not inhibit or adversely impact established and 'as of right' uses in the surrounding area.

Cardinia Shire Council must abide by these requirements when assessing the suitability of applications given the site, the surrounding uses and applicable planning controls and upon assessment, these controls have not been adequately addressed or adhered to in order to allow for this application to progress.

Therefore, based on the above assessment it is recommended that the application for a planning permit for the use of the land for a Place of Assembly, at L2 LP215438, Manks Road, Koo Wee Rup VIC 3981, be refused on the following grounds:

1. The proposal is inconsistent with the purpose, objectives, and decision guidelines of the Special Use Zone – Schedule 1 that seek to discourage non-agricultural and non-soil-based uses that are established on soil of high agricultural valued land.
2. The proposal undermines and is inconsistent with the direction and purpose of Planning Policies (MPS, 13.07-1S Land Use Compatibility, 14.01-1S Protection of Agricultural Land, and 14.01-2S Sustainable Agricultural Land Use).
3. The proposal undermines and is inconsistent with the direction and purpose of Local Planning Policy (Clause 22.05, Western Port Green Wedge Policy, the Cardinia Shire Westernport Green Wedge Management Plan, and 21.08-3 Koo Wee Rup).
4. Insufficient information has been provided with respect to Clause 52.06 (Car Parking) and 44.04 (Land Subject to Inundation Overlay) to confirm whether additional permit triggers apply.
5. The proposed use is prohibited pursuant to Clause 51.02, Metropolitan Green Wedge Land: Core Planning Provisions, as the applicant is seeking to operate for more than 10 days within a calendar year.
6. The proposal does not represent the orderly planning of the area.





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## Application Summary

Portal Reference	A1224CJ
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## Basic Information

Proposed Use	Change of use from Farm shed to Public building
Current Use	farm land containing a farm shed
Site Address	Manks Rd Koo Wee Rup Council number 5000019726

## Covenant Disclaimer

Does the proposal breach, in any way, an encumbrance on title such as restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?	Not Applicable, no such encumbrances apply.
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## Contacts

Type	Name	Address	Contact Details
Applicant	Sonya Boloski Lakeside Building Consultants	PO BOX 49, Pakenham VIC 3810	M: 0447-443-618 E: sonya@lakesidebuilding.com.au
Owner	Namdhari Sikh Soc of Australia	C/- 23 Renam St, Pakenham VIC 3810	M: 0430-127-244 E: jatinder.johal13@yahoo.com
Preferred Contact	Sonya Boloski Lakeside Building Consultants	PO BOX 49, Pakenham VIC 3810	M: 0447-443-618 E: sonya@lakesidebuilding.com.au

## Fees

Regulation Fee Condition	Amount	Modifier	Payable
9 - Class 1 Change of use only	\$1,337.70	100%	\$1,337.70
<b>Total</b>			<b>\$1,337.70</b>

## Meetings

Meeting Type	Officer Name	Date of Meeting
Pre Application	Jennifer	28 Jan 2022



**Civic Centre**  
20 Siding Avenue, Officer, Victoria

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

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

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



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## Documents Uploaded

Date	Type	Filename
24-03-2022	A Copy of Title	2 title docs.pdf
24-03-2022	Site plans	4 site plan.pdf
24-03-2022	A proposed floor plan	5 Floorplan.pdf
24-03-2022	Written Explanation	1 Cover Letter.docx
24-03-2022	Additional Document	3 Planning permit Original.pdf

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

## Lodged By

Site User	Sonya Boloski Lakeside Building Consultants	PO BOX 49, Pakenham VIC 3810	M: 0447-443-618 E: sonya@lakesidebuilding.com.au
Submission Date	24 March 2022 - 08:08:PM		

## Declaration

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



**Civic Centre**  
20 Siding Avenue, Officer, Victoria

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



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

**Email:** mail@cardinia.vic.gov.au



**Monday to Friday 8.30am–5pm**

**Phone:** 1300 787 624

**After Hours:** 1300 787 624

**Fax:** 03 5941 3784



Lakeside Building Consultants

Lakeside Building Consultants

P.O. Box 49  
Pakenham, Vic 3810  
[sonya@lakesidebuilding.com.au](mailto:sonya@lakesidebuilding.com.au)  
Phone: 0447 443 618

01 February 2022

Statutory Planning Office  
Cardinia Shire Council  
P.O. Box 7  
Pakenham 3810

Dear Who it may concern

**REF: Change of use – 1350 Manks Rd – Koo Wee Rup  
Farm shed to public building  
Place of assembly (sec 2 use)**

I refer to the above property which consists an farm located in the SUZ area of Cardinia shire

Several years ago consent was given by Town Planning for the construction of a farm shed.

Since this time the land has had an orchard planted to the front and the owners are working with the neighbour to the west to allow him to use the rear part of the land to extend his market garden operations.

The land is owned by the Sheik community and used in part for recreation and social gatherings (to which the neighbours are often invited to)

They are now seeking to change the use of the farm shed to that of a Class 8/9 public building where the can gather and enjoy the company of others

Cars will be parked as they are currently to the rear of the building.

This approval will allow works to be done and the arrangement on site to be formalised. At times this facility will host gatherings for worship and other times for the enjoyment of the community and the locals who live nearby

A ramp for disable access is already in place.

If you have any queries, please do not hesitate to contact this office.

Yours Faithfully

SM Boloski  
Director

TO WHOM THIS MAY CONCERN

Date – 20/05/2022

This is to inform that we have made an application with the local Council for a change of status, for our property situated at **1350a Manks Road Koo Wee Rup Vic**, to a place of gathering so that community members can assemble when required to carry out the voluntary work of horticulture related activities.

As you are aware that this land is owned by a Not for Profit. Our mission is to carry out agricultural related activities on this land, whilst providing a place for Community members to get together and have some fun while doing it.

We would like to seek our neighbours support for this application. By signing below, you confirm that you have no objection to this application.

We need the following information along with your signatures-

Signature *David Cunningham*  
Name- DAVID CUNNINGHAM  
Address- 1320 MANKS RD KOO WEBB RUP  
Phone # 0432 409 560  
Email: bear1064.sc@gmail.com

Signature  
Name-  
Address-  
Phone #  
Email:

TO WHOM THIS MAY CONCERN


Date - 20/05/2022

This is to inform that we have made an application with the local Council for a change of status, for our property situated at **1350a Manks Road Koo Wee Rup Vic**, to a place of gathering so that community members can assemble when required to carry out the voluntary work of horticulture related activities.

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We would like to seek our neighbours support for this application. By signing below, you confirm that you have no objection to this application.

We need the following information along with your signatures-

Signature   
Name- **Scott Battams**  
Address- **1350 Manks Rd**  
Phone # **0432 273 204**  
Email: **s.battams@iinet.net.au.**

Signature  
Name-  
Address-  
Phone #  
Email:





Lakeside Building Consultants

Lakeside Building Consultants

P.O. Box 49

Pakenham, Vic 3810

[sonya@lakesidebuilding.com.au](mailto:sonya@lakesidebuilding.com.au)

Phone: 0447 443 618

5 September 2022

Statutory Planning Office  
Cardinia Shire Council  
P.O. Box 7  
Pakenham 3810

Dear Sam

**REF: T220205**  
**Change of use – 1350 Manks Rd – Koo Wee Rup**  
**Farm shed to public building**  
**Place of assembly (sec 2 use)**

I refer to the above property and your RFI dated 20 April 2022 and wish to make the following comments.

The land is owned by the Sikh community and is approx. 38Acres in size overall. The land is rectangular with a bite missing in the North boundary (which is the road boundary). To the front of the land is a large shed which was constructed under Planning Approval T150573 in 2017. Connected to the shed is 2 large water tanks and a further large tank of 400K litres which comes from the roof of the shed.

At the time the owners planted an orchard of approx. 200 fruit trees which are providing a lovely buffer to the view of the shed from the road. Over the last 2 years during COVID the community planted another 200 fig trees to the rear of the building.

Another 7HA is currently being used by the neighbour as he increases the output from his development.



200 figs planted over the last 2 years



orchard at the road frontage

The community of their life and associates also sees the two neighbours often joining in the celebrations held onsite which can include some social sport and other activities, both religious and social.

No one is paid to work on the site, and during COVID the site was active on a daily basis as those that could use the facility to get outdoors (this was when the figs were planted).



The building will be used community gatherings and a good cook up at the end of the day with update floor plans now provided to better reflect the proposal.

Proposal – to update the building to that of a community.

The land is zoned SUZ 1 (Clause 37.01) and is also covered by the LSIO (which was addressed in the earlier approval)

The proposed use comes under Sec 2 of the SUZ as a place of assembly) and the bulk of the land complies with the Horticultural Preservation aims of the Schedule being the use of the land for horticultural use being inground

*To encourage sustainable farming activities based on whole farm and catchment planning principles on an individual and community basis.*

The community who owns the land are mostly migrants to the land coming mostly from India over many years. In the main province of their younger years, they were farmers and mostly horticulture (market gardening) and their elders (and others) have brought this skill and love with them to Australia (Pakenham). It is some of these Elders who are providing the guidance on the plantings and timings of the crop planting. Whilst the ownership is young the neighbour has asked, and the owners consented to him using the rear of the land for his market gardening endeavour. This is a mutual agreement which benefits all.

Adjacent land consists of the small allotment which has 3 sides within the title boundary of the land (located to the East of the shed). This appears to be the smallest allotment in the immediate area but there appears to be some others mostly to the east. Across the road to the north was occupied till the owners recent passing for many years and she was a good friend to this community.

To the east for the most part to the Pakenham Koo Wee Rup road is mostly pasture and does not appear to be market garden in layout at this time. This could be expected to the amount of roadworks carried out to install the roundabout and now with the road widening proposed.

To the west is a similar size allotment currently used for market gardening and he is using the rear of the subject size. Further to the west is many asparagus farms and some general market gardens. It is noted that some at this time are in grass but this may be to 'rest' the land which is needed to ensure the quality of the soil is retained.

If you have any queries, please do not hesitate to contact this office.

Yours Faithfully



SM Boloski  
Director



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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

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

Page 1 of 1

VOLUME 09876 FOLIO 189

Security no : 124095207157N  
Produced 02/02/2022 09:20 AM

**LAND DESCRIPTION**

Lot 2 on Plan of Subdivision 215438Y.  
PARENT TITLE Volume 04621 Folio 078

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Sole Proprietor

NAMDHARI SIKH SOCIETY OF AUSTRALIA INC of 13 REUBEN CLOSE FOREST LAKE QLD  
4078  
AT103034X 25/03/2020

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AT103035V 25/03/2020  
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

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 or imaged folio set out under DIAGRAM LOCATION below.

**DIAGRAM LOCATION**

SEE LP215438Y FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

Street Address: MANKS ROAD KOO WEE RUP VIC 3981

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
Effective from 25/03/2020

DOCUMENT END



## Imaged Document Cover Sheet

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Document Assembled	<b>02/02/2022 09:21</b>

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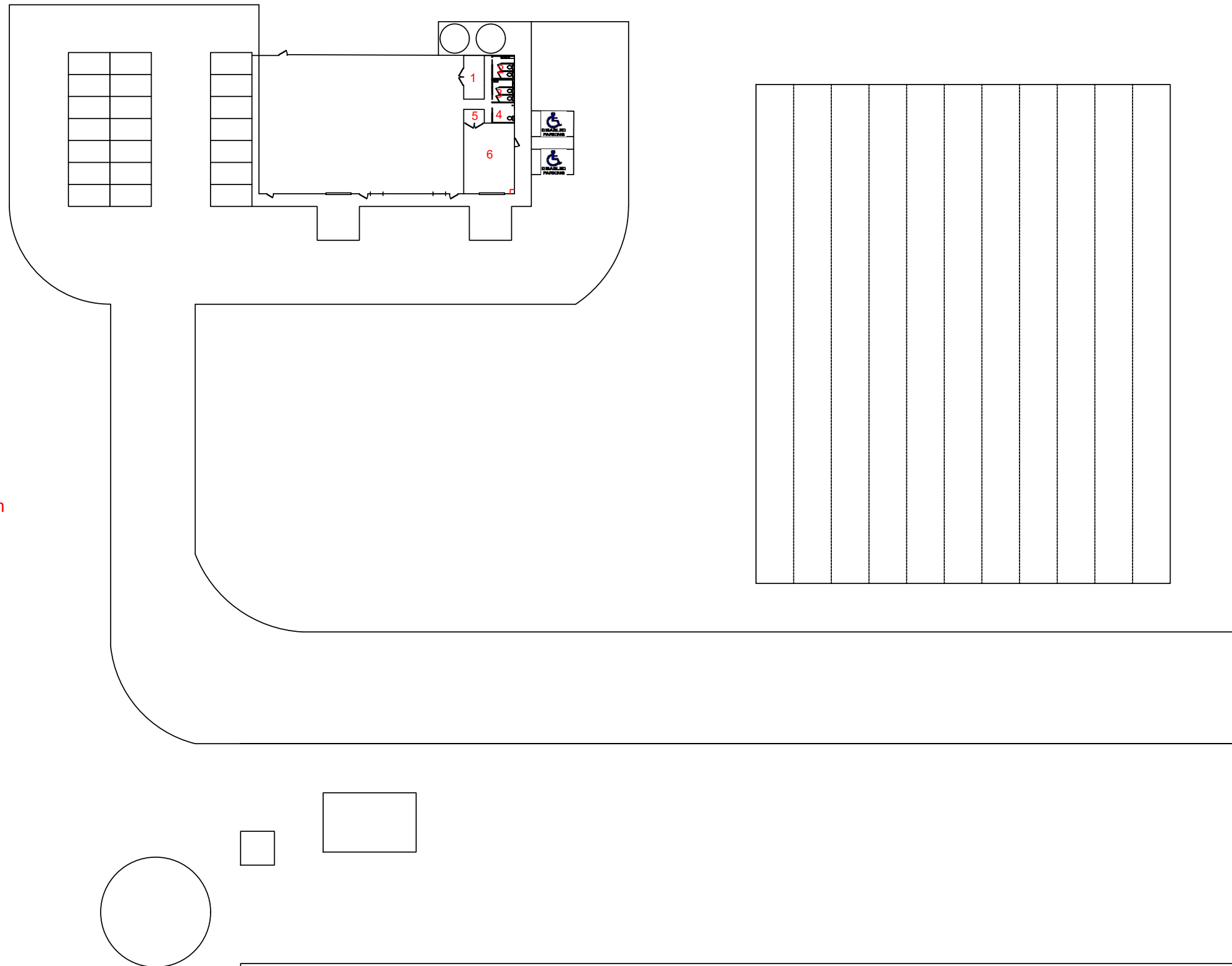
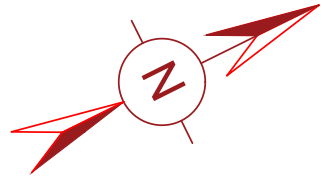
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OFFICE USE ONLY	7	8	9	10	11	12	13	14	15	16	17	18											
<p style="font-size: 24pt; margin: 0;"><b>LP 215438Y</b></p> <p style="font-size: 18pt; margin: 0;"><b>EDITION 1</b></p> <div style="border: 1px solid black; display: inline-block; padding: 2px; margin-top: 5px;">FINISH 2</div>			<p style="font-size: 10pt; margin: 0;">NOTATIONS</p> <p style="font-size: 8pt; margin: 0;">LAND SUBJECT TO EASEMENT</p> <p style="font-size: 8pt; margin: 0;">E-1 DRAINAGE VIDE L.P. 5597</p> <p style="font-size: 8pt; margin: 0;">A-1 DRAINAGE VIDE L.P. 5597 AFFECTING SEE C/7 4621/PTB</p> <p style="font-size: 8pt; margin: 0;">APPURTENANCES</p> <p style="font-size: 8pt; margin: 0;">A-1 DRAINAGE VIDE L.P. 5597.</p>			<p style="font-size: 8pt; margin: 0;">TO BE COMPLETED WHERE APPLICABLE</p> <p style="font-size: 8pt; margin: 0;">THIS SURVEY HAS BEEN CONNECTED TO PERMANENT</p> <p style="font-size: 8pt; margin: 0;">MARKS NOS: M 63 &amp; M 136</p> <p style="font-size: 8pt; margin: 0;">IN PROCLAIMED SURVEY AREA NO. 71</p> <p style="font-size: 8pt; margin: 0;">THE LAND TO BE SUBDIVIDED IS SHOWN ENCLOSED</p> <p style="font-size: 8pt; margin: 0;">BY THICK LINES</p> <p style="font-size: 8pt; margin: 0;">TITLE REF: VOL. 4621 FOL. 078</p> <p style="font-size: 8pt; margin: 0;">LAST PLAN REF: L.P. 5597 (LOT 9)</p>			<p style="font-size: 12pt; margin: 0;"><b>PLAN OF SUBDIVISION</b></p>			<p style="font-size: 8pt; margin: 0;">COUNTY MORNINGTON</p> <p style="font-size: 8pt; margin: 0;">PARISH KOO WEE RUP</p> <p style="font-size: 8pt; margin: 0;">PART OF CROWN ALLOTMENT 22</p>			<p style="font-size: 8pt; margin: 0;">NUMBER OF SHEETS IN PLAN 1</p> <p style="font-size: 8pt; margin: 0;">NUMBER OF THIS SHEET 1</p>			<p style="font-size: 8pt; margin: 0;">SCALE</p> <p style="font-size: 8pt; margin: 0;">100 50 0 100 200</p> <p style="font-size: 8pt; margin: 0;">LENGTHS ARE IN METRES</p> <p style="font-size: 8pt; margin: 0;">ORIGINAL SHEET SIZE A3</p>			<p style="font-size: 24pt; margin: 0;"><b>LP 215438Y</b></p>		
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<p style="font-size: 12pt; margin: 0;"><b>215438Y</b></p>			<p style="font-size: 8pt; margin: 0;">CERTIFICATION BY SURVEYOR</p> <p style="font-size: 8pt; margin: 0;">I, _____ of _____</p> <p style="font-size: 8pt; margin: 0;">do hereby certify that this plan has been prepared</p> <p style="font-size: 8pt; margin: 0;">from a survey made under my immediate direction and supervision, in</p> <p style="font-size: 8pt; margin: 0;">accordance with the Surveyors Act 1978 and completed on</p> <p style="font-size: 8pt; margin: 0;">the _____ day of _____ 2022</p> <p style="font-size: 8pt; margin: 0;">that this plan is accurate and correctly represents the adopted boundaries and</p> <p style="font-size: 8pt; margin: 0;">the classification of the survey is _____</p> <p style="font-size: 8pt; margin: 0;">Date: _____</p> <p style="font-size: 8pt; margin: 0;">Licensed Surveyor,</p> <p style="font-size: 8pt; margin: 0;">Surveyors Act 1978.</p>			<p style="font-size: 8pt; margin: 0;">CERTIFICATE OF MUNICIPAL CLERK</p> <p style="font-size: 8pt; margin: 0;">MUNICIPALITY CRANBOURNE COUNCIL REF. 3407</p> <p style="font-size: 8pt; margin: 0;">CERTIFICATE A</p> <p style="font-size: 8pt; margin: 0;">THIS PLAN ACCORDS WITH A PLAN</p> <p style="font-size: 8pt; margin: 0;">SEALD BY THE COUNCIL UNDER SECTION 568B OF THE LOCAL</p> <p style="font-size: 8pt; margin: 0;">GOVERNMENT ACT 1958 ON</p> <p style="font-size: 8pt; margin: 0;">CONFIRMED BY THE PLANNING APPEALS BOARD ON</p> <p style="font-size: 8pt; margin: 0;">AND A REQUIREMENT/NO. REQUIREMENT PURSUANT TO SECTION</p> <p style="font-size: 8pt; margin: 0;">568E OF THE LOCAL GOVERNMENT ACT 1958 HAS BEEN MADE</p> <p style="font-size: 8pt; margin: 0;">DATE _____ MUNICIPAL CLERK</p>			<p style="font-size: 8pt; margin: 0;">CERTIFICATE B</p> <p style="font-size: 8pt; margin: 0;">THIS PLAN ACCORDS WITH A PLAN EXEMPTED FROM SUBDIVISION (3)</p> <p style="font-size: 8pt; margin: 0;">OF DIVISION (9) OF PART XIX OF THE LOCAL GOVERNMENT ACT 1958 BY</p> <p style="font-size: 8pt; margin: 0;">THE COUNCIL ON</p> <p style="font-size: 8pt; margin: 0;">THE PLANNING APPEALS BOARD ON</p> <p style="font-size: 8pt; margin: 0;">DATE _____ MUNICIPAL CLERK</p>			<p style="font-size: 8pt; margin: 0;">AMENDMENTS</p> <p style="font-size: 8pt; margin: 0;">SURVEYORS REF.</p> <p style="font-size: 8pt; margin: 0;">B 1173</p>			<p style="font-size: 8pt; margin: 0;">PLAN APPROVED</p> <p style="font-size: 8pt; margin: 0;">AT _____</p> <p style="font-size: 8pt; margin: 0;">ON 8-5-89</p> <p style="font-size: 8pt; margin: 0;">(ASSISTANT) REGISTRAR OF TITLES</p>								
<p style="font-size: 8pt; margin: 0;">ONLY CERTIFICATE A OR CERTIFICATE B TO BE COMPLETED</p> <p style="font-size: 8pt; margin: 0;">DELETED WORDS NOT APPLICABLE</p>			<p style="font-size: 8pt; margin: 0;">100 20 30 40 50 60 70 80 90 100 110 120 130 140 150mm</p>			<p style="font-size: 8pt; margin: 0;">VICTORIA</p>																	

All building works to be completed in accordance with:  
 Building Act 1993  
 Regulations 2018, and Relevant  
 Building Code of Australia

Stormwater to be discharged via 90mm Dia UPVC pipe to System, in accordance with Council's Requirements



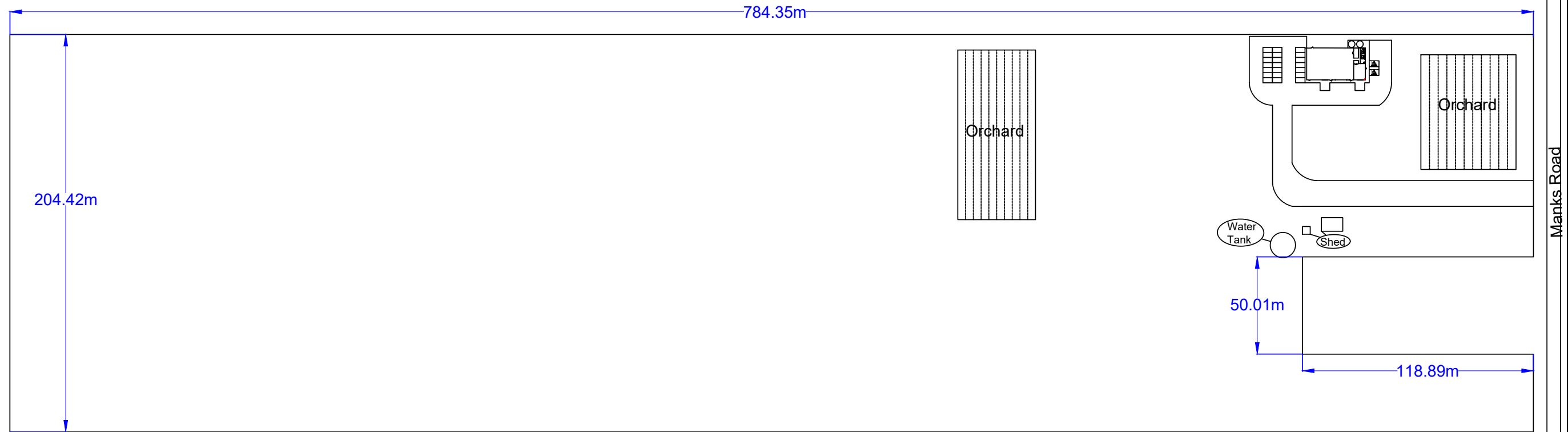
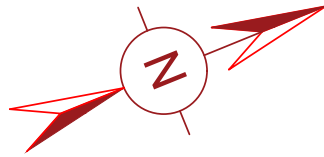
- 1, Store area
- 2, Female Toilets
- 3, Male Toilets
- 4, Disable Toilets
- 5, Boom Cupboard
- 6, Kitchen area / lunch room

Manks Road

OWNER Namdhari Sikh Society of Australia inc	PROJECT ADDRESS 1350 Manks Road Koo Wee Rup	VOL 04621	FOL 078	PROPOSAL Change of use (Carparking) to Class 8 or 9	SITING m to North Boundary m to East Boundary m to South Boundary m to West Boundary	PLANNING LSIO SUZ1	SCALE 1:500
		LOT 2	PS 215438Y				DATE 11/2/2022

All building works to be completed in accordance with:  
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Stormwater to be discharged via 90mm Dia UPVC pipe to System, in accordance with Council's Requirements

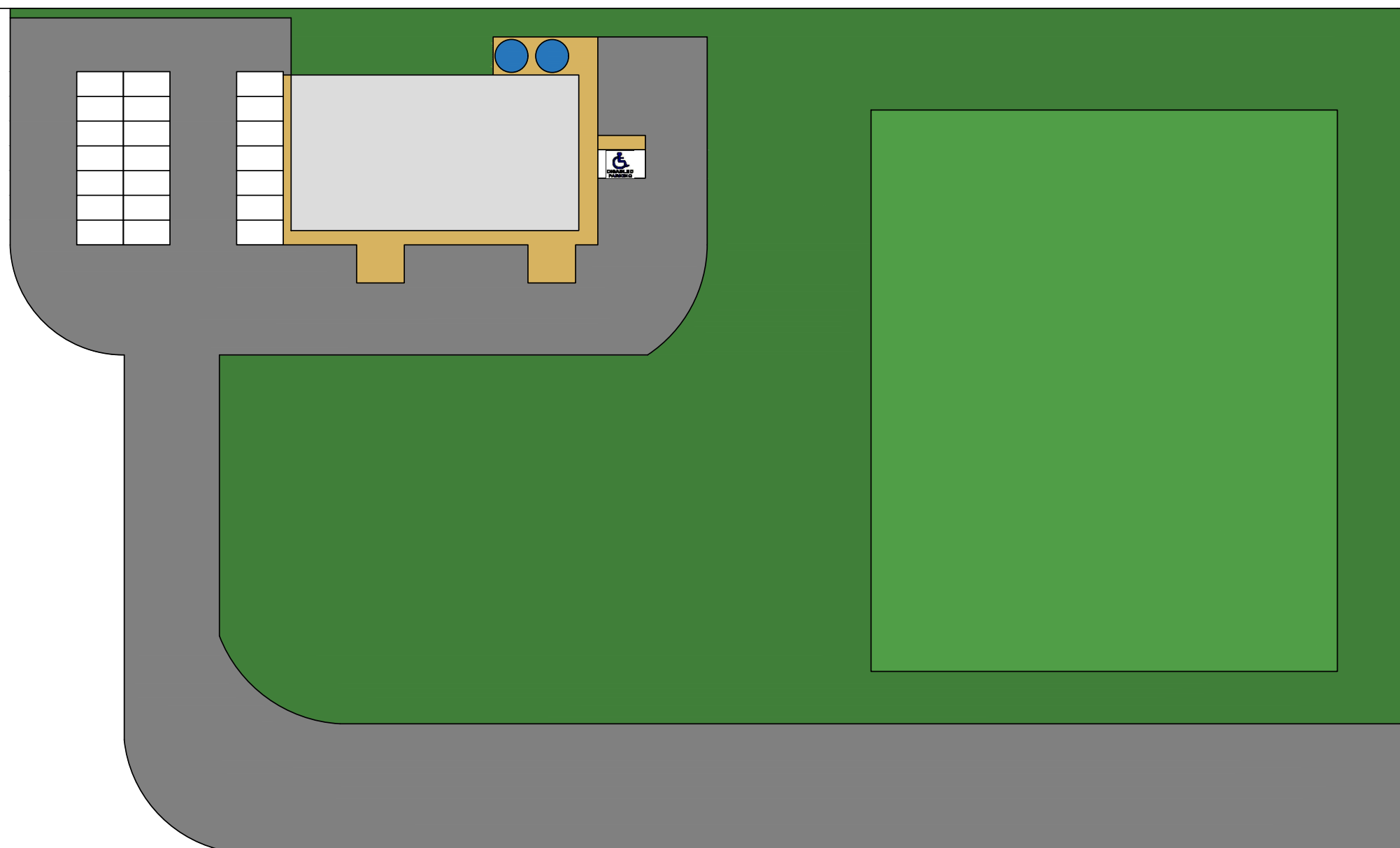
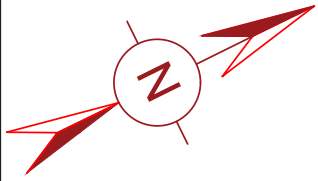


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		LOT 2	PS 215438Y				DATE 11/2/2022

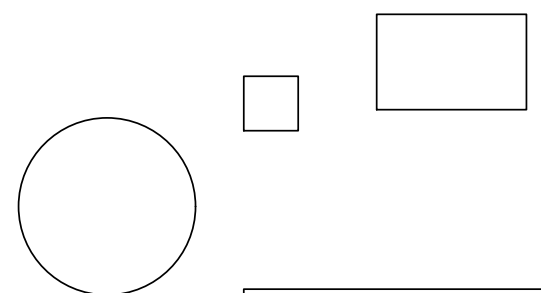


All building works to be completed in accordance with:  
 Building Act 1993  
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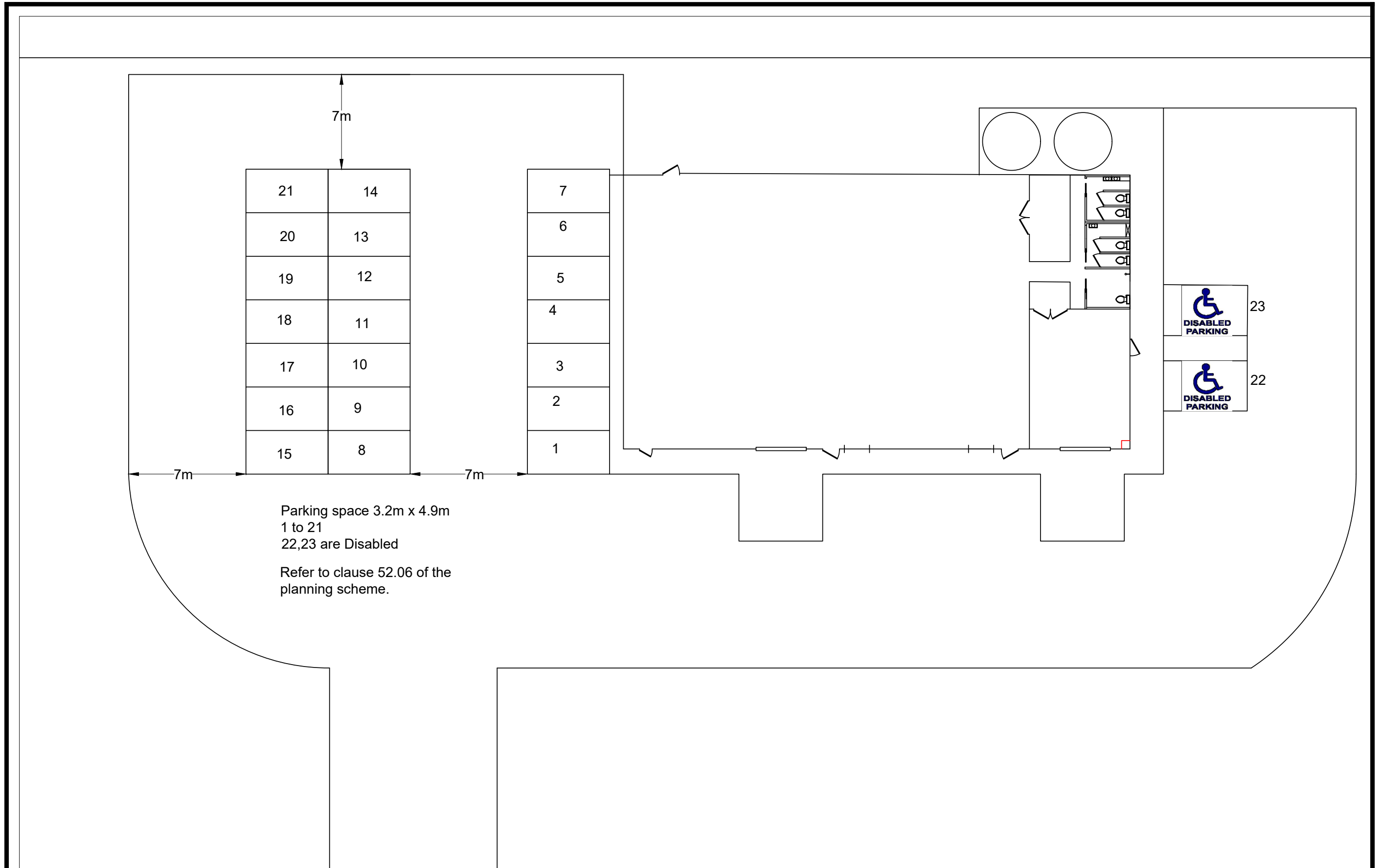
Stormwater to be discharged via 90mm Dia UPVC pipe to System, in accordance with Council's Requirements



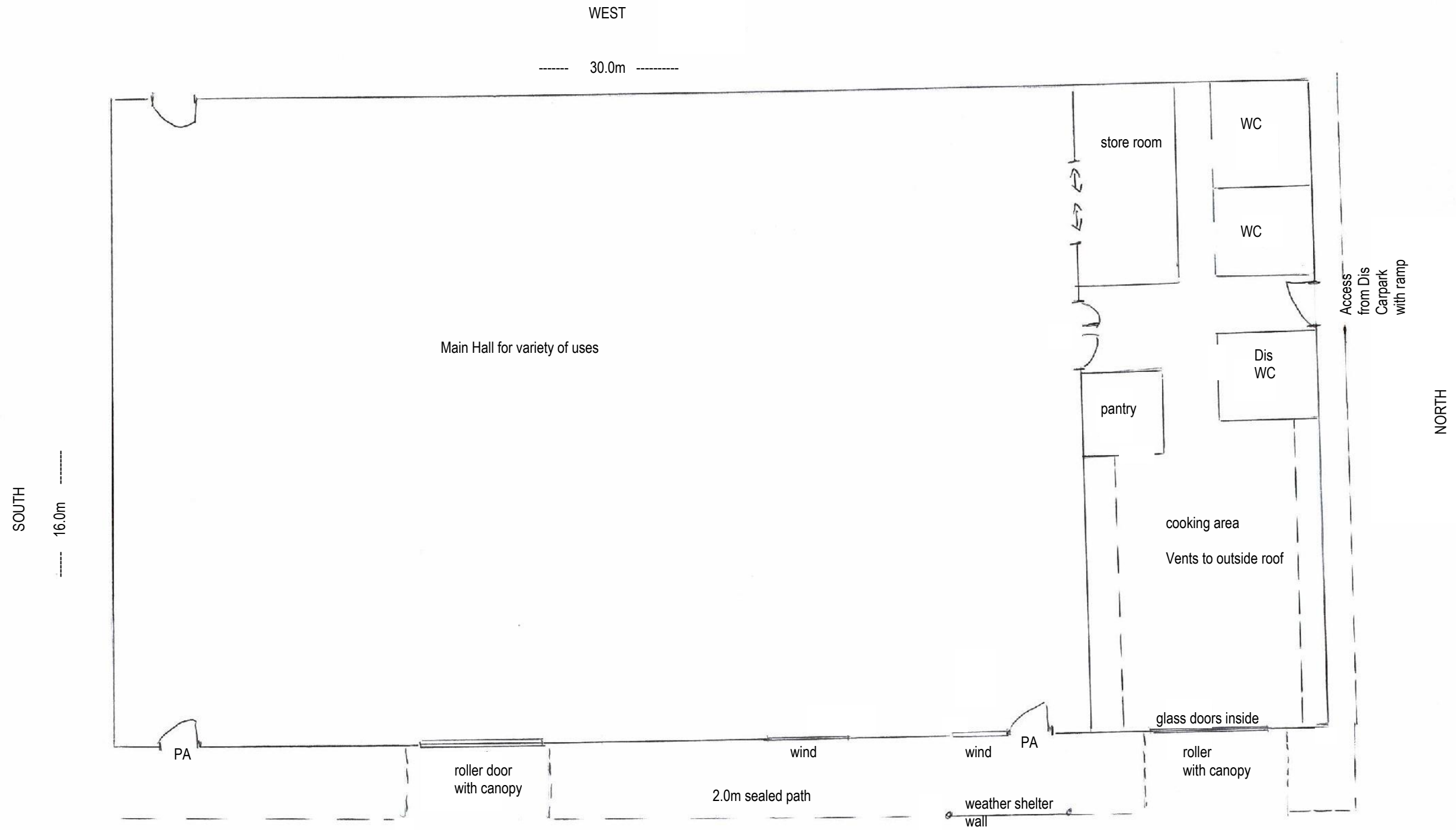
Manks Road



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		LOT 2	PS 215438Y				DATE 11/2/2022



Owner\_Namdhar Sikh Soc. Queensland

Vol 9876 Fol 189

Proposal: change of use

Siting

Planning

Lot 2 PS 215438

16 x 30 x 5.0m

87.0m to North

SUZ (1)

12.0m to West

LSIO

88.0m to East

656.0m to South

Project address  
Manks Rd  
Koo Wee Rup 3981

Change from farm shed to public place

SCALE 1:100 A3



1350 Manks Rd  
Koo Wee Rup

Change of use (and carparking) to Class 8 (or 9)

29/11/2021





1350 Manks Rd  
Koo Wee Rup

Change of use (and carparking) to Class 8 (or 9)





1350 Manks Rd  
Koo Wee Rup

Change of use (and carparking) to Class 8 (or 9)

- Carpark
- Existing plantings
- Being used for market garden currently

08/04/2022