

5.3 T230251 PA - 20 O'Sullivan Street, Pakenham - Use of the Land for a Restricted Recreation Facility (Martial Arts Club)

Responsible GM: Lili Rosic
Author: Ana Neiva

Recommendation

That Council having caused notice of Planning Application No. T230251 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Refuse to Grant a Permit in respect of the land known and described as L2 PS848711 V12390 F281, 20 O'Sullivan Street Pakenham, for the Use of the land for a Restricted Recreation Facility (Martial Arts Club) under the following grounds:

1. The proposal does not appropriately respond to the Planning Policy Framework and the Local Planning Policy Framework provisions of Clause 17.03-1S (Industrial Land Supply), Clause 17.03-3S (State Significant Industrial Land), Clause 21.01 (Cardinia Shire Key Issues and Strategic Vision), Clause 21.03-2 (Urban Established areas), Clause 21.04-1 (Employment), Clause 21.04-4 (Industry) as the proposal does not respond to various purposes, objectives or strategies associated with ensuring the availability of land for industry and the protection of industrial land of state significance. The proposal introduces an incompatible land use within an establishing industrial area.
2. The proposal does not meet the objectives or decision guidelines of the Industrial 1 Zone as the proposal does not appropriately provide for manufacturing industry or an associated use or respond to the Municipal Planning Strategy and Planning Policy Framework.

Attachments

1. T230251 PA Council Report Refusal [5.3.1 - 12 pages]
2. T 230251 PA - Plans - 20 O' Sullivan Street, Pakenham [5.3.2 - 5 pages]
3. T 230251 PA - Locality Aerial - 20 O' Sullivan Street, Pakenham.jpg [5.3.3 - 1 page]

Application Details

APPLICATION NO.:	T230251 PA
APPLICANT:	Veronica Lombard
LAND:	L2 PS848711 V12390 F281, 20 O'Sullivan Street, Pakenham VIC 3810
PROPOSAL:	Use of the land for a Restricted Recreation Facility (Martial Arts Club)
PLANNING CONTROLS:	Industrial 1 Zone

NOTIFICATION & OBJECTIONS:	<p>Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i>, the proposal was advertised by way of sending notices to the owners and occupied of adjoining land and placing a sign on the site.</p> <p>Council has received no objections to date (as of 07 May 2024).</p>
KEY PLANNING CONSIDERATIONS:	<p>State Significant Industrial Land Supply having regard to Clause 17.03-3S.</p> <p>Purpose of the Industrial 1 Zone.</p>
REASON FOR MEETING:	Recommendation for Refusal
RECOMMENDATION:	Refuse to Grant a Permit

Executive Summary

The purpose of this report is to consider an application to Use of the land for a Restricted Recreation Facility (Martial Arts Club). In detail:

- A maximum of 15 patrons are proposed to be on the premises at any one time (including staff).
- The use is proposed to operate Monday – Sunday (7 Days), with the ‘main’ classes being concentrated after hours (5pm-8:30pm) during the week (Monday-Friday) and mornings (10:00am-1:30pm) during weekends (Saturday-Sunday).
- The subject site is allocated six (6) car spaces within the warehouse complex. Council’s Traffic department are supportive that the 6 spaces on the site being provided can adequately provide for the 15 patrons subject to restricting patron numbers via conditions.
- The site is within a designated ‘State Significant Industrial Precinct’.
- An assessment against relevant policy concludes that the use is inconsistent with Planning Policy Framework and the purpose of the Industrial 1 Zone.

APPLICATION FOR CONSIDERATION
REFUSAL
OFFICER REPORT



Application Details:

Proposal	Use of the land for a Restricted Recreation Facility (Martial Arts Club)		
Applicant	Veronica Lombard		
Date Received:	23 May 2023		
Statutory Days:	209 (As of 29 April 2024)		
Section 50/50A/57A Amendment	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Yes, date: 03 October 2023	
Application Number	T230251		
Planner	Ana Neiva		
Land/Address	L2 PS848711 V12390 F281, 20 O'Sullivan Street, Pakenham VIC 3810		
Property No.	5000032913		
Zoning	Industrial 1 Zone		
Overlay/s	None		
Permit Trigger(s)	Pursuant to Clause 33.01-1 a planning permit is required to use the land for Restricted Recreation Facility. Note: Proposed signage is exempt from the considerations of Clause 52.05 as the proposed business identification sign does not exceed 8 square metres.		
Aboriginal Cultural Sensitivity	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes; a CHMP is:	
		<input type="checkbox"/> Not required	<input type="checkbox"/> Required
Section 55 Referrals	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Yes, list below:	
		▪ N/A	
Registered restrictions on Title	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Yes, list below:	
Recommendation	<input type="checkbox"/> Permit <input type="checkbox"/> NOD <input checked="" type="checkbox"/> Refusal		
Ward Councillor communications	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Yes, item in Councillor Bulletin <insertdate>	

Documents relied on	<ul style="list-style-type: none"> ▪ Development Plans prepared by P Designs ▪ Title Documents
Full plans and documents	T230251 PA - Assessed Plans.pdf
Plans to be endorsed?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, Ground for Refusal.

Proposal

The applicant has proposed the use of the land for a Restricted Reactional Facility (Martial Arts Club) within an existing warehouse at the subject site. A summary of the proposal is outlined below:

Use of the land

The proposed use (Restricted Recreational Facility) comprises a proposed Martial Art Club operated by Concept Jiu Jitsu. The activities proposed to be conducted include Brazilin Jiu Jitsu, Adult and Tean Kickboxing, and Mixed Martial Arts for age groups ranging from junior classes (ages 3-13) and Adult/Teenager classes.

The use is proposed to operate Monday – Sunday (7 Days), with the ‘main’ classes being concentrated after hours (5pm-8:30pm) during the week (Monday-Friday) and mornings (10:00am-1:30pm) during weekends (Saturday-Sunday).

Hours of operation and patronage are proposed as follows:

Day(s)	Hours of Operation	Patronage
Monday- Thursday	5:00pm-9:00pm	15
Friday	6:30pm- 9:00pm	15
Saturday	10:00am-1:30pm	15
Sunday	10:45am – 12:30pm	15

Additionally, the maximum number of employees on site at any time will be two (2).

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
10.00am - 10.45am		5.30am Adults BJJ				Kids MMA 7-13	
10.45am - 11.30am						Kids BJJ 7-13	Adult/Teen KickBoxing
11.30am - 12.30pm						Adult/Teens BJJ	Adult/Teens BJJ 1hr
12.30pm - 1.30pm						Adult/Teen KickBoxing	
5.00pm - 5.30pm	Kinda Ninjas 3-4	Kinda Ninjas 3-4	Kinda Ninjas 3-4				
5.00pm - 5.40pm	Junior Kids BJJ 5-7	Kids BJJ 5-13	Junior Kids BJJ 5-7	Kids BJJ 5-13			
5.45pm - 6.25pm	Senior Kids BJJ 8+	Kids Kickboxing 8+	Senior Kids BJJ 8+	Kids Kickboxing 8+			
6.30pm - 7.30pm	Mixed Martial Arts (MMA)	Adult/Teen BJJ No Gi	Mixed Martial Arts (MMA)	Adult/Teen BJJ No Gi	BJJ Open Mat		
7.30pm - 8.15pm	Beginner Brazilian Jiu Jitsu	Beginner Adult/Teen KickBoxing	Beginner Brazilian Jiu Jitsu	Beginner Adult/Teen KickBoxing	Beginner Adult Kickboxing		
7.30pm - 8.30pm	Adult/Teen BJJ Gi	Advanced Adult/Teen KickBoxing	Adult/Teen BJJ Gi	Advanced Adult/Teen KickBoxing	Advanced Adult Kickboxing		

Figure 1 - Indicative Timetable

Internal Works

Although not requiring a planning permit (as the floor area is not proposed to increase), the internal layout of the building is proposed to be reconfigured (see Figure 2). The building is to comprise of a large 'Martial Arts Area', as well as a spectator area and two (2) change rooms.

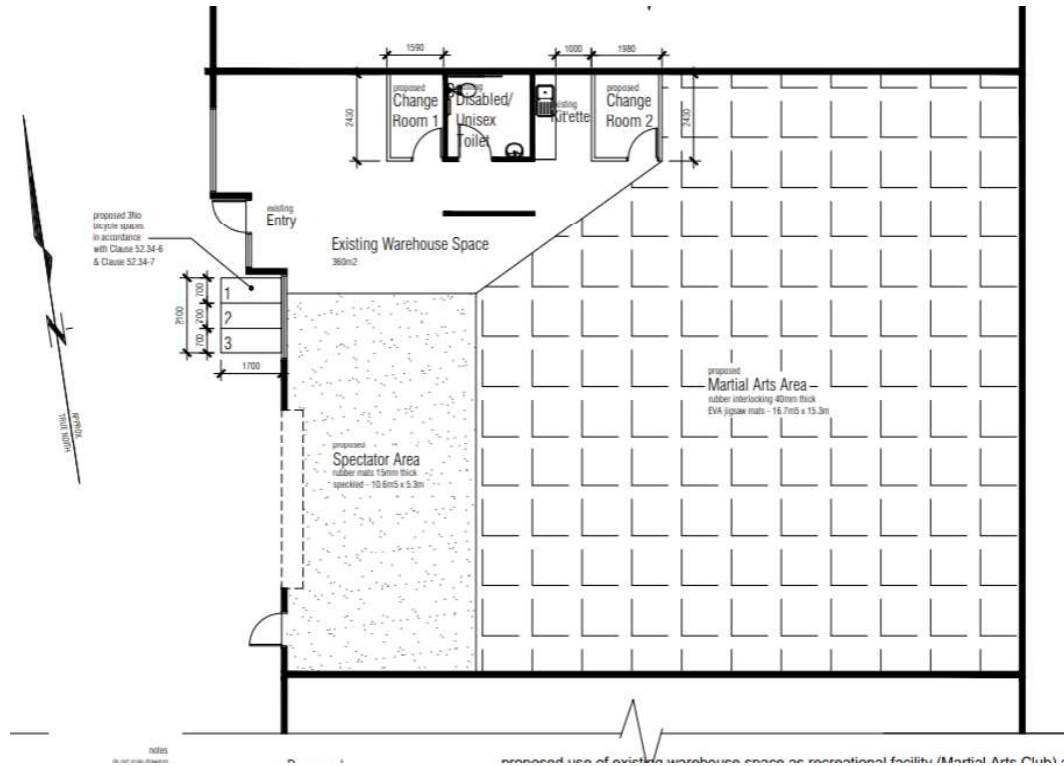


Figure 2 - Proposed Internal Layout

Parking and access

Vehicle access to the site is to be provided via two existing crossovers with bidirectional access from O'Sullivan Street.

The subject site is allocated six (6) car spaces within the warehouse complex as per Plan of Subdivision PS848711L.

As the use of the land for a 'Restricted Reactional Facility' is not included as part of Table 1 of Clause 52.06-5 (Car Parking), car parking spaces must be provided to the satisfaction of the Responsible Authority.

Councils Traffic department are supportive of the 6 spaces on the site being provided can adequately provide for the 15 patrons subject to restricting patron numbers via conditions. As such, there is no planning permit trigger sought pursuant to Clause 52.06 (Car Parking).



Figure 3 - Site Plan showing Car parking spaces

Bicycle Facilities

Three (3) bicycle spaces are provided in accordance with Clause 52.34-6 and Clause 52.34-7, with these to be provided to the west of the existing building.

Proposed Signage (No planning permit trigger)

It is noted that the applicant has provided details of signage. The total display area of all signs does not exceed 8 square metres and equates to 6.21 square metres.

The proposed business identification signage does not require a planning permit. Pursuant to Clause 52.05-12 (signs), the proposed sign is a Section 1 (permit not required) within Category 2 (office and industrial) as the total area of the proposed business identification sign does not exceed 8 square metres.



Figure 4 - Concept plan for Signage

Subject site & locality

An inspection of the site and surrounding area has been undertaken.

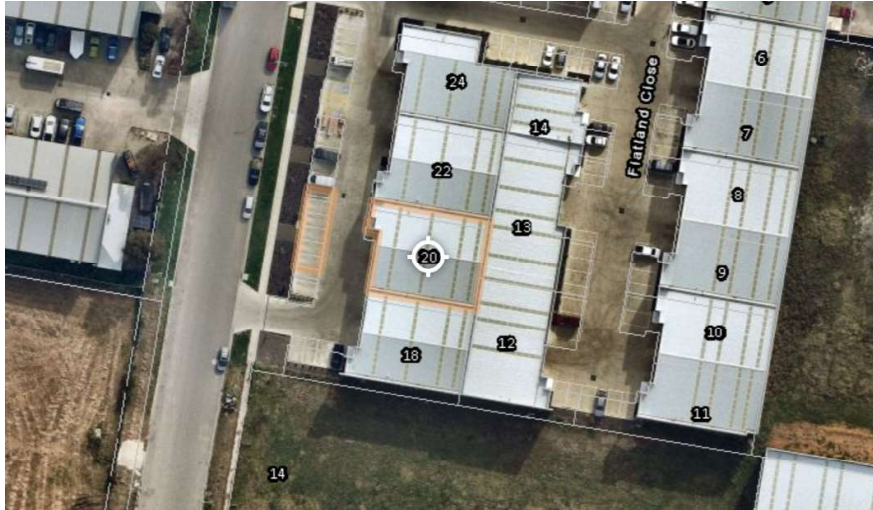


Figure 5 - Aerial of Site

The subject site forms part of a warehouse complex comprising of twenty (20) warehouses with associated car spaces. The subject site is a rectangular shaped allotment measuring approximately 360m² and is allocated six (6) car spaces. The site is currently developed with one (1) warehouse building which is not currently occupied. The building comprises the majority of the lot, with the six car parking spaces comprising a smaller portion to the west.

There are three (3) existing crossovers located along O'Sullivan Road providing vehicle access to and from the subject site. The three existing crossovers are shared between the twenty warehouses within the subdivision.

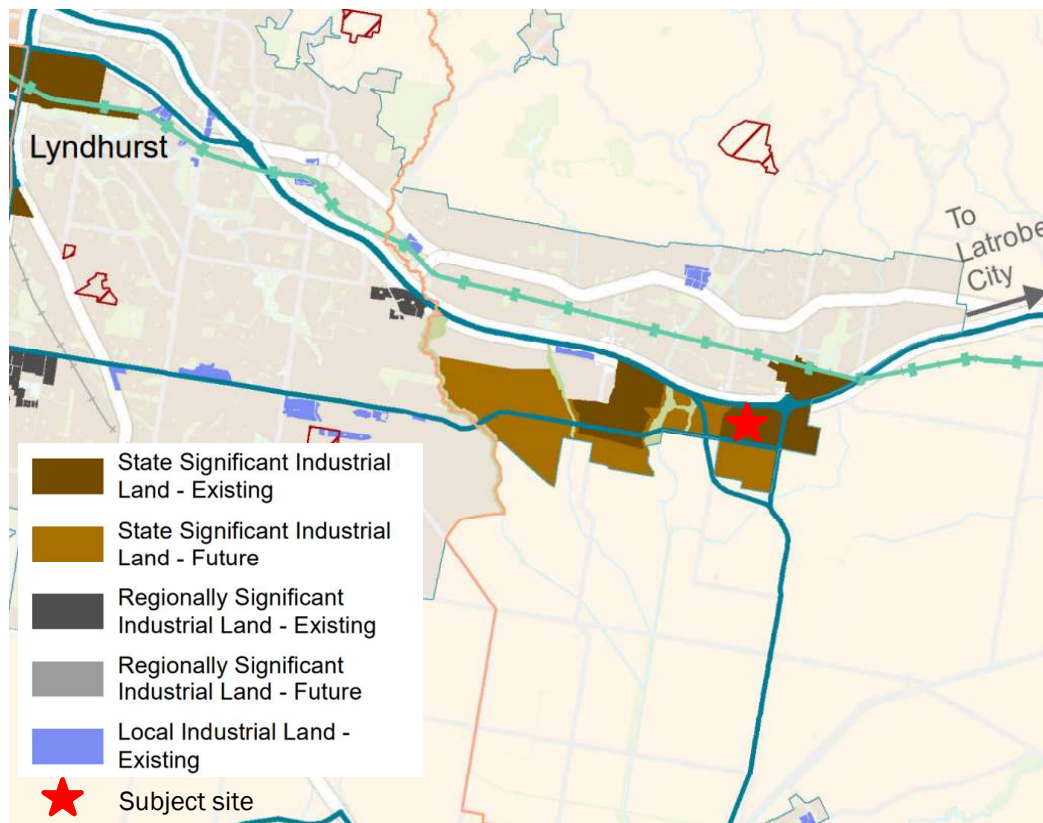
The site is not burdened by any easements and is flat.

The main characteristics of the surrounding area are:

- **NORTH:** Directly North of the subject site are two (2) other warehouses each containing the following businesses:
 - 22 Osullivan Street, Pakenham: 'Future Stairs' where the land is used to manufacture and sell Stairs (likely 'Manufacturing Sales')
 - 24 Osullivan Street, Pakenham: 'Falcon: Shutters, Blinds & Security Doors' where the land is used to manufacture and sell Shutters, blinds and security door (likely 'Manufacturing Sales')
- **EAST:** Directly East of the subject site are two (2) other warehouses each containing the following businesses:
 - 12 Flatland Close Pakenham: Unoccupied.
 - 13 Flatland Close Pakenham: 'Intaks: Scaffolding Hire Service' which supplies customers with equipment (scaffolding) for hire (Likely 'Trade Supplies')
- **SOUTH:** Directly south of the subject site is a warehouse containing:
 - 18 Osullivan Street, Pakenham: 'Rit Dye dye imports' used to manufacture and sell dye products at a whole sale level (likely 'Industry')
- **WEST:** To the west of the subject site is Osullivan Street. Adjacent to the road is 1265 Koo Wee Rup Rd which is developed with two large warehouses used for manufacturing purposes.

The subject site is located in an established industrial precinct bound by Koo Wee Rup Road to the west, Bald Hill Road to the north and Princes Freeway to the south. This precinct accommodates a range of development and land uses such as depots, self-storage facilities and warehousing, with a large portion of the land yet to be developed.

The subject site is located within a broader industrial precinct known as the Office-Pakenham State Significant Industrial Precinct, as identified within Plan Melbourne 2017-2050 and as shown below:



Permit/Site History

The history of the site includes:

- Planning Permit T180776 was issued on 4 March 2019 to allow for 'The development of 20 warehouse and associated works'. This Permit allowed the development of the building which is proposed to house the restricted recreation facility.
- Planning Permit T210200 was issued on 12 August 2021 to allow for the 'Subdivision of the land into twenty (20) lots'. This Permit resulted in the creation of the subject site in its current form.

Planning Scheme Provisions

Zones & Overlays

The land is within the Industrial 1 Zone – Schedule and is not subject to any overlays under the Cardinia Planning Scheme.

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 17.03 Industry
 - Clause 17.03-1S Industrial Land Supply
 - Clause 17.03-3S State-significant industrial land

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03-2 Urban Established Areas – Beaconsfield and Pakenham
- Clause 21.04 Economic Development
 - Clause 21.04-1 Employment
 - Clause 21.04-4 Industry

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.05 Signs
- Clause 52.06 Car parking
- Clause 52.34 Bicycle Facilities
- Clause 65 Decision Guidelines
- Clause 65.01 Approval of an Application or Plan
- *Melbourne Industrial and Commercial Land Use Plan (2020)*
- *Plan Melbourne 2017-2050*

Planning Permit Triggers

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

- Pursuant to Clause 33.01-1 (Industrial 1 Zone) a Permit is required to use land for a Restricted Recreation Facility.

Public Notification

Pursuant to Section 52 of the Planning and Environment Act 1987, the proposal was advertised by:

- Sending notices to the owners and occupied of adjoining land.
- Placing a sign on the site.

Council has received no objections to date (as of 30 April 2024).

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	None	▪ N.A
Section 52 Notices	None	▪ N/A

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Traffic Engineering	▪ No objection (subject to conditions)

Assessment

Planning Policy Framework (PPF) & Local Planning Policy Framework (LPPF)

It is submitted that the proposal is not consistent with the objectives of the PPF and LPPF. Various state and local planning policies are relevant to the proposal, with an assessment provided below.

Clause 13.07-1S Land use compatibility

Cl. 13.07-1S seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse offsite impacts. The policy includes the following relevant strategies:

“Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses”

“Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.”

It is considered that Cl. 13.07-1S is to be regarded as relevant policy in the exercise of discretion when a responsible authority is considering a non-industrial use application under the IN1Z.

The proposed land use is not compatible with future industrial land uses in proximity, could encroach on these uses and their ability to function safely and effectively. Possible amenity impacts (on the proposed Restricted Recreation Facility) include noise, dust, traffic and emissions (on the proposed land use), as well as frequent pedestrian movements. While these amenity, human health and safety impacts may not be apparent now, they could arise in the future as the industrial area is further developed, and as these industrial uses are as-of-right, it is not considered appropriate to create this potential through approval of a non-industrial land use.

Clause 17.01-1S Diversified economy, Clause 17.01 (Employment), Clause 17.02-1S Business and Clause 21.04-1 (Employment)

In the above Clauses, it is emphasised that employment opportunities should be provided closer to where people live. It is noted that allowing the use of the land for a restricted recreation facility in an ‘out-of-centre’ development or planned activity centre reduced the net-community benefit in relation to their accessibility. The subject site is not easily accessible by foot or public transport and is therefore considered to be an inappropriate location for such a use. It is recognised that the proposed use could be adequately sited in one of the Shire’s commercial areas, with the proposed use being a Section 2 Use

within the Commercial 1 Zone, Mixed Use Zone, multiple precincts within the Pakenham Major Activity Centre (Activity Centre Zone – Schedule 1), with the use better meeting the decision guidelines of these zones.

Cl. 17.01 (Employment) has the objective to strengthen and diversify the economy by protecting and strengthening employment areas. This is mirrored and given local importance in Cl. 21.04-1 (Employment) which identifies the area as an employment corridor that will be a ‘major provider of employment and business opportunities for residents of Cardinia Shire and Melbourne’s south-east region.’

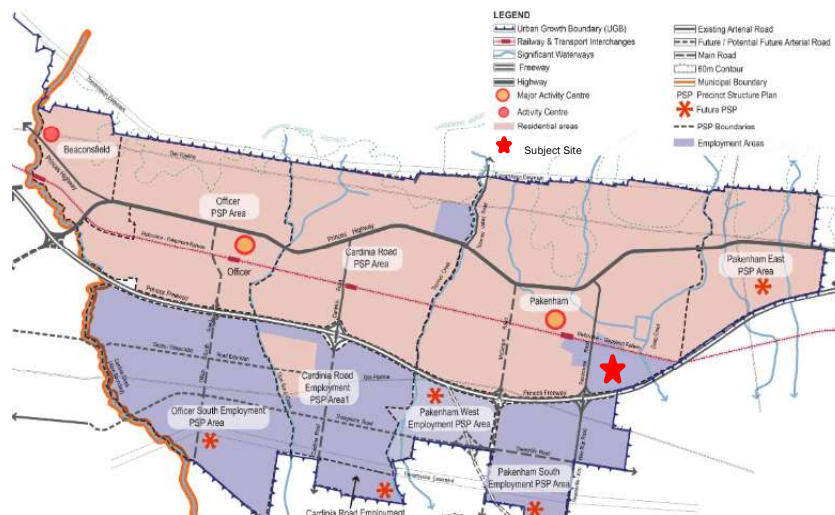


Figure 6 - Cardinia Employment Areas

While the use is not expected to necessarily negatively impact the employment and business opportunities of Cardinia Shire, it is considered that the proposed use will not generate the level or scale of employment that would otherwise be expected with a ‘normal’ industrial or adjacent use.

Clause 17.03-1S (Industrial Land Supply), Clause 17.03-3S (State Significant industrial land) and Clause 21.04-4 (Industry)

Planning Scheme Amendment VC215 was gazetted on 03 March 2023 and implemented the Melbourne Industrial and Commercial Land Use Plan (‘MICLUP’). Amendment VC215 further elevates the importance of SSIP’s through the inclusion of MICLUP as a policy document in Cl. 17.03-2S providing a hierarchical framework which identifies industrial land through tiered precincts: ‘state significant’, ‘regionally significant’ and ‘local industrial precincts’. As mentioned above, the subject site and surrounding area forms part of the Officer-Pakenham State Significant Industrial Precinct.

As State-level policy, Cl. 17.06-1S highlights the importance of ensuring the availability of land for industry. Cl. 17.03-3S identifies the subject site as industrial land of State significance within the ‘Officer/Pakenham Industrial Precinct’. At a local level, Cl. 21.04-4 seeks to ‘develop manufacturing and service industries that provide services to local residents and businesses’. Read holistically, these policies are in place to ensure a sufficient supply of industrial land, and specifically to protect State Significant Industrial Precincts from incompatible land uses.

The proposed use is considered to present an unacceptable response to Cl. 17.03-1S, Cl. 17.03-3 and Cl. 21.04-4. The intent of the PPF is also mirrored by Plan Melbourne 2017-2050 which highlighted that ‘State-Significant Industrial Precincts will be protected from incompatible land uses to allow for their future growth’ (page 35).

The subject site has been identified as not only being suitable for industrial use (by being located within the core of an industrial precinct with direct access to major roads and the freeway while being suitably buffered from residential areas to the west) but also as the highest of three-tiered industrial precincts

designated within MICALUP; State-Significant. Therefore, it is recognised that it should be preserved for industrial uses and not prejudiced by non-industrial uses. Specifically, the inclusion of a 'non-industrial use' within areas identified as a State Significant Industrial Precinct is contrary to the outcomes sought in the aforementioned policies (Cl. 17.03-1S, Cl. 17.03-3 and Cl. 21.04-4) and MICALUP (further discussed below), as it is considered to quash availability of industrial land and impair availability of land designated for industrial or employment generating uses.

It is noted the use of the word 'incompatible' in strategies of Cl. 17.03-3S and Plan Melbourne 2017-2050 when discussing the protection of State Significant Industrial Land. It is submitted that what is contemplated to be 'compatible' and 'non-compatible' is the discretion afforded in the consideration of Section 2 land uses within the IN1Z (further discussed below). And that, in applying the three-tiered framework by MICALUP, a non-industrial land use within the core of a State Significant Industrial Precinct should either directly support or otherwise be associated with industrial land uses. In other words, Section 2 uses which have no industrial association or are not considered to be complimentary should not be located within the core of a State Significant Industrial Precinct. Whilst there are instances where this land use can be considered acceptable within an IN1Z, it should be located outside the State significant areas and in closer proximity to residential zoned land where there are a range of established non-industrial uses.

The grounds of refusal are predicated on the principles of the application, and it is asserted that a Restricted Recreational Facility (Martial Arts Club) is not an appropriate use to locate within an industrial precinct designated as State Significant. It is considered the proposed use would represent an outcome that is at odds with the strategic intent for the area. As such, it is considered the proposal represents an unacceptable outcome regarding the relevant policies of the PPF and LPPF.

Clause 33.01 Industrial 1 Zone

The proposed use is one of several non-industrial uses that is contemplated in the zone subject to the grant of a permit.

The purpose of Clause 33.01 is as follows:

"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."

While non-industrial uses are contemplated and it is not considered that every lot zoned Industrial 1 must be exclusively used for industrial purposes, this proposal is not considered to be in line with the purpose of the zone. In that, it does not provide for 'manufacturing industry, the store and distribution of goods' nor is it considered to be an 'associated use'. In applying the three-tiered framework by MICALUP, a non-industrial land use within the core of a state significant industrial precinct should either directly support or otherwise be associated with industrial land uses.

As the use of the land for a Restricted Recreation Facility is not the primary function of industrial zones, the application has been assessed against the decision guidelines for uses in an industrial zone.

The application is considered to be incompatible with the neighbouring industrial uses. Similarly to the principle of 'right-to-farm' in the Shire's Green Wedge and agricultural areas, a 'right' to undertake industrial uses on land designated for industrial purposes should be protected as much as possible. A future conflict could arise by allowing non-industrial uses on new industrial land whereby future industrial land uses that are as of right are now limited in their parameters to operate due to their potential amenity impact on the patrons of the Martial Arts Club. The proposal is therefore deemed to be inconsistent with the purpose of the zone.

Clause 52.05 Signs

This signage is exempt from a Planning Permit pursuant to Clause 52.05-8 Advertising Signs as it is less than 8sqm in size, and therefore, has not been assessed under this application.

Clause 52.06 Car Parking

The key purpose of this clause is to ensure that adequate car parking is available when considering new uses and their demand for car parking spaces and promote the efficient use of car parking spaces. Since 'Restricted Recreation Facility' does not have a car parking rate specified within Table 1 to Clause 52.06-5, the determination that an adequate number of spaces can be provided is determined by Council.

20 O'Sullivan Street is allocated a total of 6 spaces as per Plan of Subdivision PS848711L and approximately nine on-street car parking spaces are available along the frontage of O'Sullivan Street.

Council's Traffic Engineering Department is satisfied that the 6 spaces provided on site (and additional 9 off-site) are adequate to service the maximum number of patrons at any one time. The design of the car parking has previously been considered therefore does not require consideration under this proposal. Having regard to the above, it is considered that the application satisfies the requirements of Clause 52.06.

Noting the application is being recommended for refusal based on the Planning Policy Framework and IN1Z, the grounds of refusal will not be based on Clause 52.06.

Clause 52.34 Bicycle Facilities

Clause 52.34 provides that a new use must not commence until the required bicycle facilities (and signage) are provided on the land. 'Restricted Recreational Facility' is not listed within Table 1 to Clause 52.34-5, therefore the rate for the 'parent term' (Minor sports and recreational facility) is used. Table 1 requires one (1) bicycle space be provided for every four (4) employees and one (1) visitor space must be provided for each 200m² of floor area.

As there are only two (2) employees proposed and the premises floor area equates to 360m², the statutory requirement for bicycle facilities is one (1). The applicant has provided three (3) spaces which exceeds the requirements of Clause 52.34. As no spaces are required for employees, no showers or change rooms are required to be provided.

Noting the application is being recommended for refusal based on the Planning Policy Framework and IN1Z, the grounds of refusal will not be based on Clause 52.34.

Plan Melbourne 2017-2050 and Melbourne Industrial and Commercial Use Plan (2020)

Plan Melbourne identifies this industrial area as being part of a State-significant industrial precinct. State-significant industrial precincts are specifically cited as providing strategically located land for major industrial development linked to the Principal Freight Network and transport gateways. It is identified that these will be protected from incompatible land uses to allow continual growth in freight, logistics and manufacturing investment. This site specifically is well located a short distance from the Princes Freeway.

The Melbourne Industrial and Commercial Use Plan further elaborates on this policy. It recognises that there are significant constraints in the supply of industrial land, along with strong demand especially in the Southern Region. The need for commercial land is also recognised. Council recognises that there may be a distinct undersupply of suitable commercial land for uses such as this proposed, which would be well suited for Commercial 2 Zone or Industrial 3 Zone. This however does not justify the erosion of important, underdeveloped industrial land.

Further to this, the supply and consumption data found in MICALUP shows that there is approximately in total 33,300ha of existing and future industrial land. Of this, just under 13,500ha is available and unoccupied and only approximately 6,560ha is within an Industrial zone. Over two-thirds of the available industrial land is located within Melbourne's five state-significant industrial precincts. Further highlighting the importance of preserving the balance of supply and demand for industrial land.

Read holistically, the combination of zoning, policy and policy documents it is considered that the subject site does not meet the industrial and economic development policies in the scheme as well as the strategic intent for the area.

Clause 65 – Decision Guidelines & Section 60 of the *Planning and Environment Act (1987)*

The matters listed within Clause 65.01 (Approval of an Application or Plan) and contained within Section 60 of the Act have been considered throughout this report. On balance, the proposed use of land for a Restricted Reaction Facility (Martial Arts Club) is not considered to represent an acceptable response to these considerations, nor does it represent an orderly planning outcome in this instance.

Conclusion

Pursuant to Clause 65 and 71.03-2 an 'acceptable outcome' must be produced for a planning permit to be granted. In accordance with the reasons and grounds of refusal listed below, it is submitted that the Planning Policy Framework, the purpose of the Industrial 1 Zone and Incorporated Documents do not afford the proposed land use strong support. As such, it is recommended the proposed use of the land represents an unacceptable outcome, and the application should be refused.

Recommendation

Refusal to Grant a Planning Permit

That Council having caused notice of Planning Application No. T230251 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit in respect of the land known and described as L2 PS848711 V12390 F281, 20 O'Sullivan Street Pakenham, for the Use of the land for a Restricted Recreation Facility (Martial Arts Club) under the following grounds:

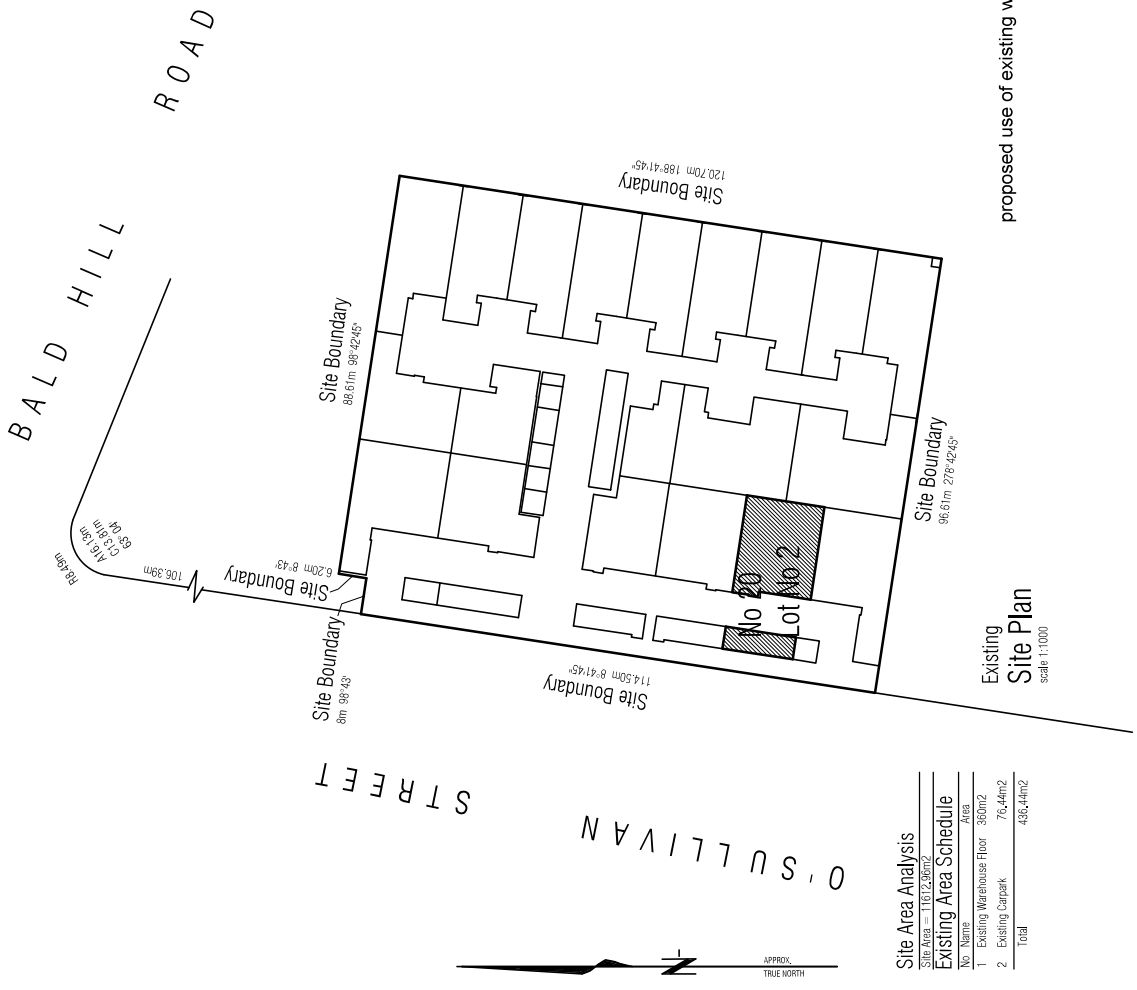
Reasons for Refusal:

1. The proposal does not appropriately respond to the Planning Policy Framework and the Local Planning Policy Framework provisions of Clause 17.03-1S (Industrial Land Supply), Clause 17.03-3S (State Significant Industrial Land), Clause 21.01 (Cardinia Shire Key Issues and Strategic Vision), Clause 21.03-2 (Urban Established areas), Clause 21.04-1 (Employment), Clause 21.04-4 (Industry) as the proposal does not respond to various purposes, objectives or strategies associated with ensuring the availability of land for industry and the protection of industrial land of state significance. The proposal introduces an incompatible land use within an establishing industrial area.
2. The proposal does not meet the objectives or decision guidelines of the Industrial 1 Zone as the proposal does not appropriately provide for manufacturing industry or an associated use or respond to the Municipal Planning Strategy and Planning Policy Framework.

Town Planning Drawings for Council Approval

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which must be stamped and signed by a registered
surveyor or a suitably qualified person. Any
any areas stippled in work shown on this drawing
must be obtained and approved before proceeding

P Designs
abn 57 101 189 406
11 Bragg Road, Beaconsfield
Victoria 3007
mobile 0419 500 638
email capcomp@bigpond.net.au

proposed use of existing warehouse space as recreational facility (Marital Arts Club) at
20 O'Sullivan Street, Pakenham, Vic. 3810
for Mr & Mrs Lombard
Existing Site Plan

Site Area Analysis
Site Area = 1167.236m²

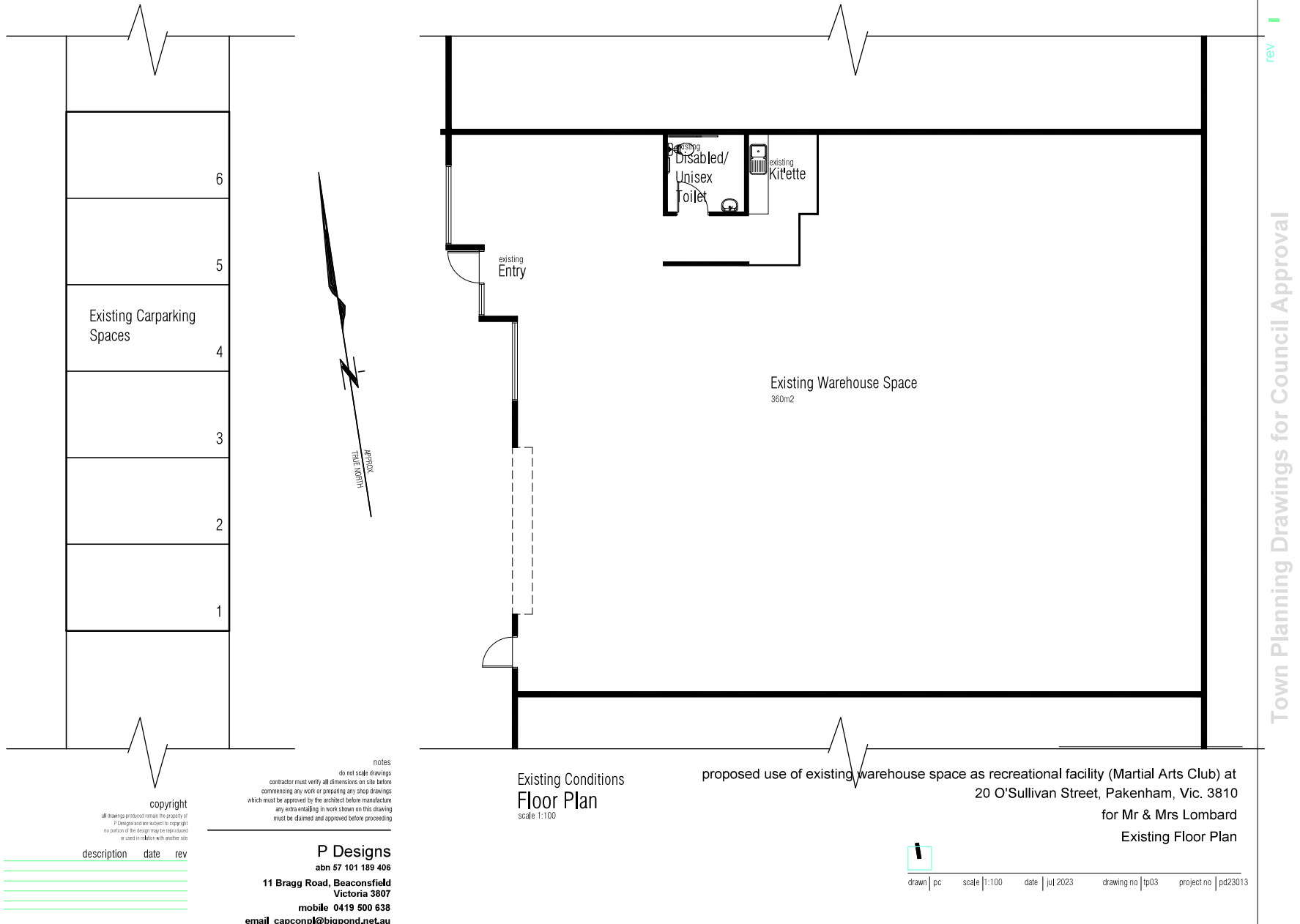
Existing Area Schedule

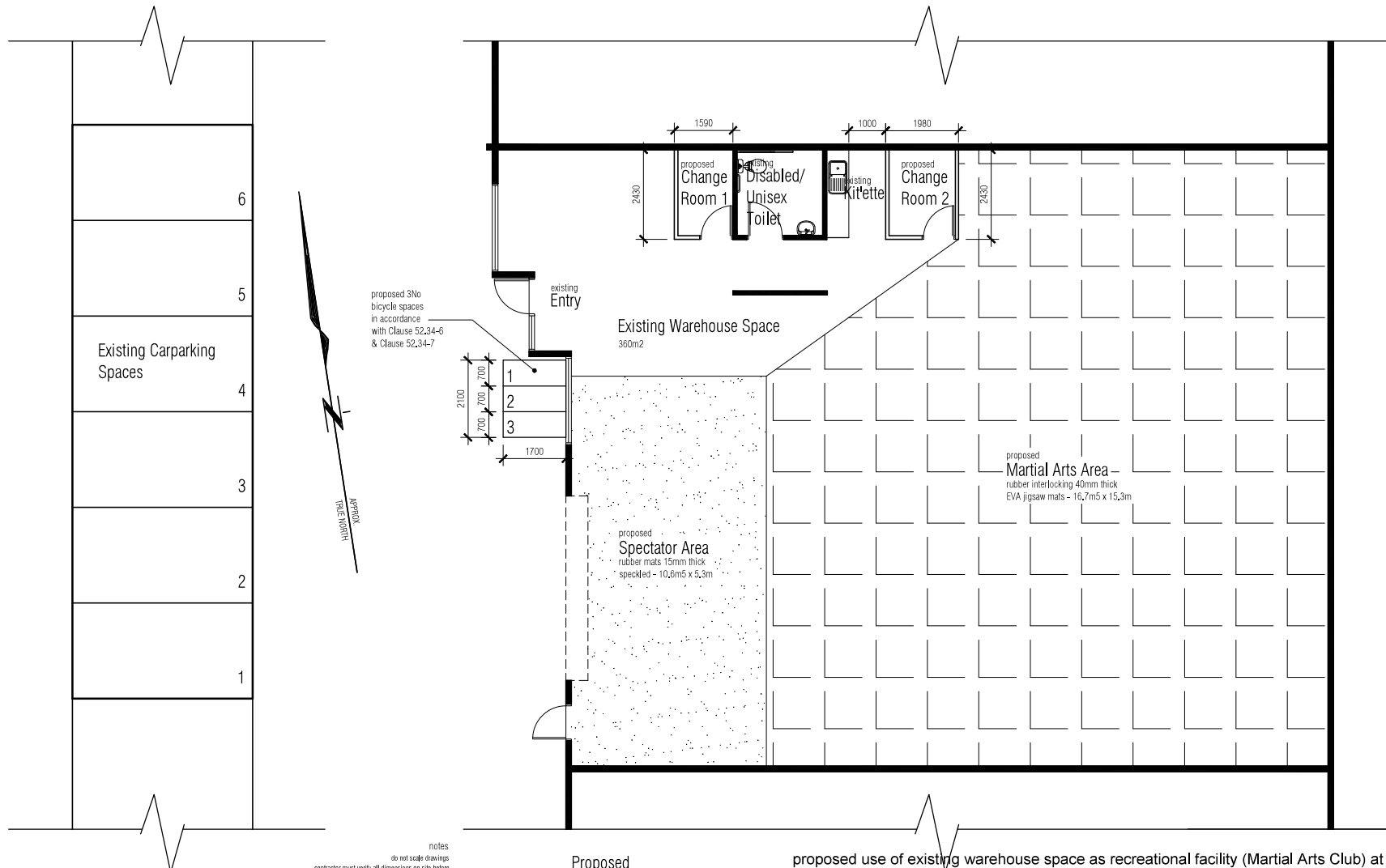
No.	Name	Area
1	Existing Warehouse Floor	360m ²
2	Existing Carpark	76.44m ²
Total		436.44m²

drawn | pc | scale | 1:1000 | date | jul 2023 | drawing no | tp01 | project no | p0223013



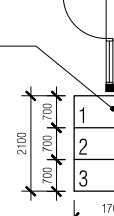
Town Planning Drawings for Council Approval





6
5
Existing Carparking Spaces
4
3
2
1

proposed 3 No bicycle spaces in accordance with Clause 52.34-6 & Clause 52.34-7



Proposed Floor Plan
scale 1:100

proposed use of existing warehouse space as recreational facility (Martial Arts Club) at
20 O'Sullivan Street, Pakenham, Vic. 3810
for Mr & Mrs Lombard
Proposed Floor Plan

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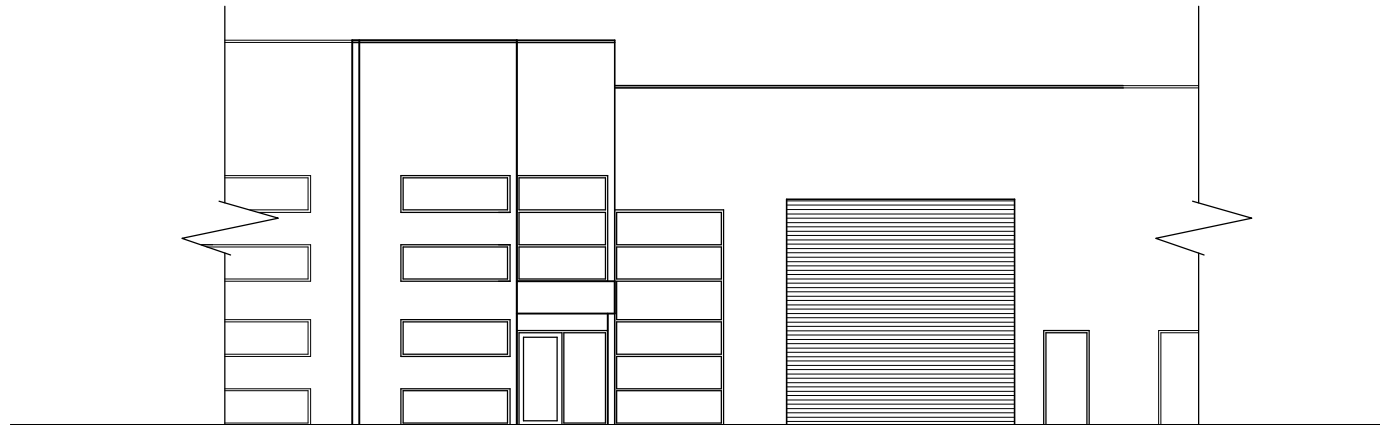
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do not scale drawings
contractor must verify all dimensions on site before commencing any work or preparing any shop drawings which must be approved by the architect before manufacture any extra entailing in work shown on this drawing must be claimed and approved before proceeding

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rev ■
Town Planning Drawings for Council Approval



Existing
West Elevation
scale 1:100



Proposed
West Elevation
scale 1:100

refer to artwork for
working & colours

proposed use of existing warehouse space as recreational facility (Martial Arts Club) at
20 O'Sullivan Street, Pakenham, Vic. 3810
for Mr & Mrs Lombard
Existing & Proposed Elevations

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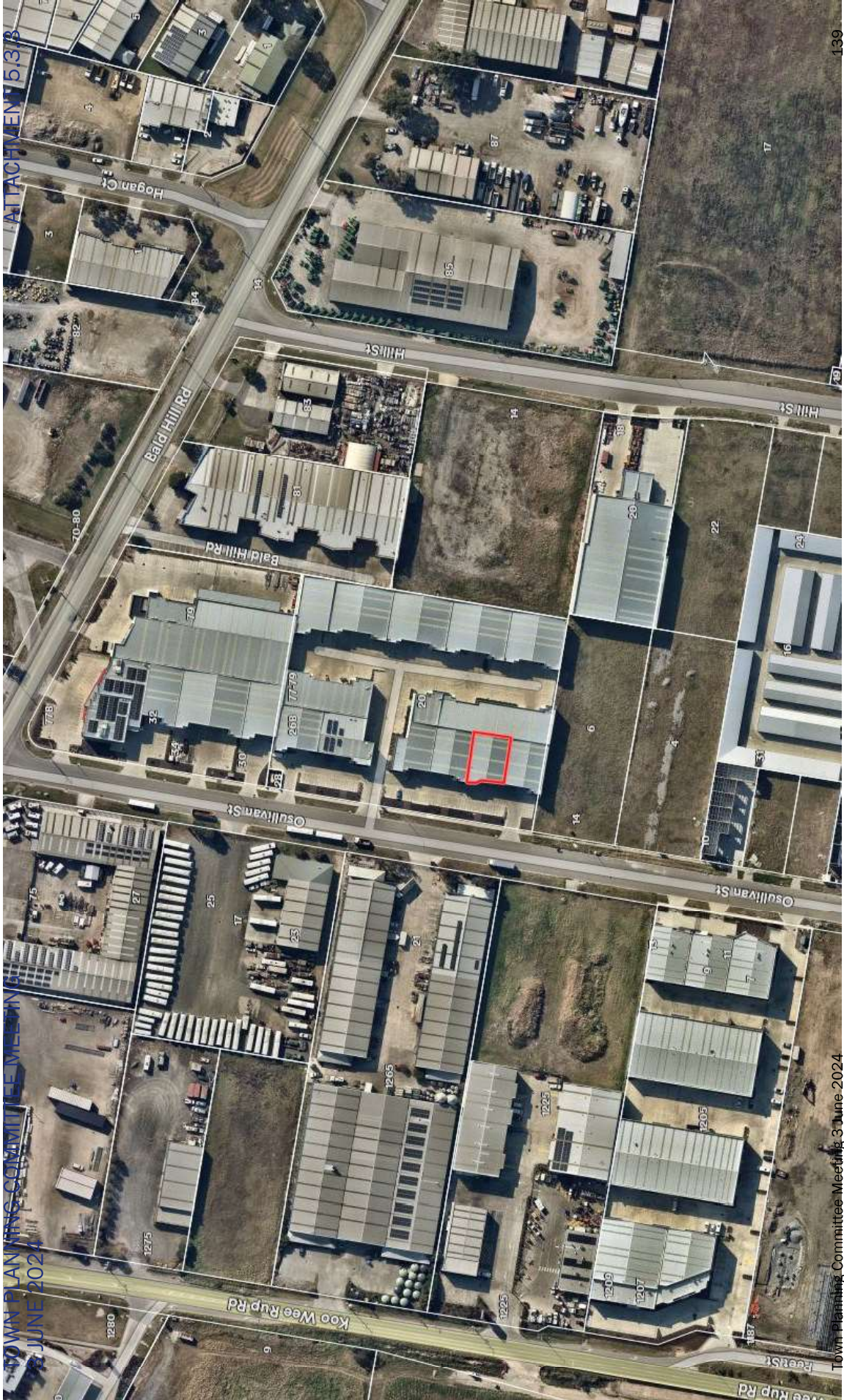
description	date	rev

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drawn | pc scale | 1:100 date | jul 2023 drawing no | tp05 project no | pd23013

Town Planning Drawings for Council Approval



TOWN PLANNING COMMITTEE MEETING
30 JUNE 2024

ATTACHMENT 53/8