



# Metro Outer Joint Development Assessment Panel Agenda

**Meeting Date and Time:** Monday, 22 May 2023; 10:30am  
**Meeting Number:** MOJDAP/249  
**Meeting Venue:** Electronic Means

To connect to the meeting via your computer -  
<https://us06web.zoom.us/j/87012376098>

To connect to the meeting via teleconference dial the following phone number -  
**+61 8 6119 3900**  
Insert Meeting ID followed by the hash (#) key when prompted - **870 1237 6098**

*This DAP meeting will be conducted by electronic means (Zoom) open to the public rather than requiring attendance in person.*

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## **Attendance**

### **DAP Members**

Ms Karen Hyde (A/Presiding Member)  
Ms Lindsay Baxter (A/Deputy Presiding Member)

#### *Item 9.1*

Mayor Carol Adams (Local Government Member, City of Kwinana)  
Cr Matthew Rowse (Local Government Member, City of Kwinana)

#### *Item 10.1*

Cr Nige Jones (Local Government Member, City of Joondalup)  
Cr Tom McLean (Local Government Member, City of Joondalup)

### **Officers in attendance**

#### *Item 9.1*

Mr Paul Neilson (City of Kwinana)

#### *Item 10.1*

Ms Cathrine Temple (City of Joondalup)  
Mr Jeremy Thomson (City of Joondalup)

### **Minute Secretary**

Mr Stephen Haimes (DAP Secretariat)

### **Applicants and Submitters**

#### *Item 9.1*

Mr Nathan Stewart (Rowe Group)

#### *Item 10.1*

Mr Chris Harman (AGEM PG 33 PTY LTD)  
Mr Neil Teo (Dynamic Planning & Developments)

### **Members of the Public / Media**

Nil.

## **1. Opening of Meeting, Welcome and Acknowledgement**

The A/Presiding Member declares the meeting open and acknowledges the traditional owners and pay respects to Elders past and present of the land on which the meeting is being held.

This meeting is being conducted by electronic means (Zoom) open to the public. Members are reminded to announce their name and title prior to speaking.

## **2. Apologies**

Mr Eugene Koltasz (Presiding Member)  
Mr Jason Hick (Third Specialist Member)  
Mr John Taylor (Third Specialist Member)



Ms Diana Goldswain (Third Specialist Member)  
Ms Shelley Shephard (Third Specialist Member)

**3. Members on Leave of Absence**

DAP Member, Mr Eugene Koltasz has been granted leave of absence by the Director General for the period of 16 May 2023 to 24 May 2023 inclusive.

DAP Member, Mr Jason Hick has been granted leave of absence by the Director General for the period of 12 May 2023 to 24 May 2023 inclusive.

**4. Noting of Minutes**

Signed minutes of previous meetings are available on the [DAP website](#).

**5. Declarations of Due Consideration**

Any member who is not familiar with the substance of any report or other information provided for consideration at the DAP meeting must declare that fact before the meeting considers the matter.

**6. Disclosure of Interests**

Nil.

**7. Deputations and Presentations**

The City of Kwinana and City of Joondalup may be provided with the opportunity to respond to questions of the panel, as invited by the Presiding Member.

**8. Form 1 – Responsible Authority Reports – DAP Applications**

Nil.

**9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval**

**9.1 Lot 3 (No.46) Meares Ave, Kwinana**

Development Description:	Proposed Commercial Development
Proposed Amendments:	Change of use to 'Shop' and additions and alterations (bin store, service yard and carpark)
Applicant:	Rowe Group
Owner:	Santavae (Kwinana) Pty Ltd
Responsible Authority:	City of Kwinana
DAP File No:	DP/13/00855



## 10. State Administrative Tribunal Applications and Supreme Court Appeals

### 10.1 Lot 649 (98) O'Mara Boulevard, Iluka

Development Description: Commercial Development  
 Summary of Modifications: Amendment of development approval including:

- Modification to condition relating to hours of operation of the tavern use.
- Modification to condition relating to the use of the first-floor car park between 10.00pm and 5.30am.
- Modifications to the approved barrier above the car parking access from Calis Avenue.

Modification of advice note regarding the playing of live music at the tavern use.

Applicant: Dynamic Planning and Developments  
 Owner: AGEM PG33 PTY LTD  
 Responsible Authority: City of Joondalup  
 DAP File No: DAP/18/01543

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/21/02036 DR236/2022	City of Swan	Lot 97 (31) & 817 (47) Lakes Road, Hazelmere	Proposed Construction of a Logistics Depot with Ancillary Office Area	23/12/2022
DAP/22/02346 DR47/2023	City of Joondalup	8 Elcar Lane, Joondalup	Two Storey Mixed Used Development	17/03/2022
DAP/22/02394 DR69/2023	City of Mandurah	Lot 9124 Cobaki Brace, Lakelands	Proposed Bulky Goods Showroom	28/04/2023

## 11. General Business

In accordance with Section 7.3 of the DAP Standing Orders 2020 only the A/Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

## 12. Meeting Closure



# MEARES AVENUE, LOT 3 (46) KWINANA TOWN CENTRE – CHANGE OF USE TO SHOP AND ADDITIONS AND ALTERATIONS TO APPROVED DEVELOPMENT

## Form 2 – Responsible Authority Report (Regulation 17)

<b>DAP Name:</b>	Metro Outer	
<b>Local Government Area:</b>	City of Kwinana	
<b>Proposed Amendments:</b>	Change of use to 'Shop' and additions and alterations (bin store, service yard and carpark)	
<b>Applicant:</b>	Rowe Group	
<b>Owner:</b>	Santavae (Kwinana) Pty Ltd	
<b>Value of Amendment:</b>	\$200,000	
<b>Responsible Authority:</b>	City of Kwinana	
<b>Authorising Officer:</b>	Manager Planning and Development	
<b>LG Reference:</b>	DA7888.5	
<b>DAP File No:</b>	DP/13/00855	
<b>Date of Original DAP decision:</b>	11 February 2014 / 13 August 2014 / 24 May 2022	
<b>Application Received Date:</b>	9 March 2023	
<b>Application Statutory Process Timeframe:</b>	60 Days	
<b>Attachment(s):</b>	<ol style="list-style-type: none"> <li>1. Location Plan</li> <li>2. Site Plan &amp; Proposed Works</li> <li>3. Elevation Plans – Building A</li> <li>4. Floor Plan</li> <li>5. Bin store enlargement</li> <li>6. Car parking calculation and land use survey</li> </ol>	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b> <i>This section to be completed after Council Resolution.</i>	<input checked="" type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> N/A  <input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

### Responsible Authority Recommendation

That the Metro-Outer JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/13/00855 as detailed on the DAP Form 2 dated 17 February 2023 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/13/00855 and accompanying plans (Attachment 1 - 4: Location Plan, Site Plan & Proposed Works, Elevation Plans – Building A, Floor Plan) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning*

*Schemes) Regulations 2015*, and the provisions of the City of Kwinana Local Planning Scheme No.3 (LPS3), for the proposed change of use to Shop and additions and alterations to the approved commercial development at Lot 3 (46) Meares Avenue, Kwinana Town Centre, subject to the following conditions:

**New Condition**

39. Prior to the occupation or use of the subject ‘Shop’ Tenancy 2 in Building A, the owner/operator must submit a Waste Management Plan showing the detailed design and operation of the bin storage and parking area in accordance with the specifications and requirements of the City of Kwinana, including but not limited to:

- a. design of bin enclosure size, screening, openings and access to adequately contain waste and odour;
- b. specify operating hours for waste collection not to conflict with shopping/ business hours;
- c. swept path and internal circulation of the waste vehicle expected to service the development, including where the vehicle will be parked during waste collection; and,
- d. demonstrate clear driver/ vehicle sightlines for parking bays on either side of the enclosure;

to the satisfaction of the City of Kwinana

**New Advice Note**

19. With respect to Condition 39, the owner/operator is advised to contact the City’s Health Services for specifications for the bin store area, including any local laws and requirements under any other legislation and associated regulations. The owner/operator is advised to liaise with the City’s Engineering Services to demonstrate sightlines and, in the event safe access cannot be achieved, necessary vehicle exclusion area(s) (eg. deletion of vehicle parking bays, addition of traffic bollards).

All other conditions and requirements detailed on the previous approval dated 11 February 2014 shall remain unless altered by this application.

**Reasons for Responsible Authority Recommendation**

**Details: outline of development application**

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Urban
Local Planning Scheme	City of Kwinana Local Planning Scheme No.3 (Town Centre)
Local Planning Scheme Zone	Shopping / Business
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan Land Use Designation	N/A
Use Class (proposed) and permissibility:	‘Shop’ (P)
Lot Size:	2.6ha

Net Lettable Area (NLA):	9544m <sup>2</sup>
Number of Dwellings:	N/A
Existing Land Use:	'Showroom'
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

### Proposal:

The application is for a change of land use from 'Showroom' to 'Shop' for Tenancy 2 on the subject site (Salvation Army Store). Additionally, the existing service yard (e.g. delivery / loading area) for Tenancy 2 is proposed to be decommissioned and enclosed resulting in an 84m<sup>2</sup> increase in floor area. The existing area of Tenancy 2 is 683m<sup>2</sup>, and so the proposed increase will result in a total floor area of 767m<sup>2</sup>.

A new 26m<sup>2</sup> enclosed bin store is also proposed to be installed in the onsite shared car parking area in place of two existing car parking bays. Two new replacement car parking bays are proposed in the redundant vehicle access driveway adjoining Tenancy 2, and so the overall quantity of parking remains unchanged.

The applicant has provided the following information describing the extent of proposed changes to the existing development approval:

*"The proposed modifications to the approved development that require planning approval are related to external built form changes only. These are summarised as follows:*

- *Removal of existing service yard including gates, doors, columns, bollards and concrete tilt panel wall;*
- *Addition of concrete slab infill in the new service area;*
- *Relocation of service yard amenities including roller doors and fire hose reel to new loading area;*
- *Cut portion of existing balustrade and concrete ramp and removal of concrete slab for loading area;*
- *Removal of existing pedestrian crossing and concrete ramp; and*
- *Relocation of two (2) ACROD bays."*

### Background:

The subject site is located on the periphery of the Kwinana City Centre area and comprises of a bulky goods commercial development and a range of other uses. The site is bound by Meares Avenue to the east and Challenger Avenue to the south, and with the Kwinana Marketplace shopping centre to the west. The residential area of Parmelia is located directly opposite the site on the eastern side of Meares Avenue. Further to the south is the Cassia Glades residential estate.

The proposed development relates to Tenancy 2, which is currently 683m<sup>2</sup> in floor area and located within Building 'A' at the south-western portion of the site, accessible from Challenger Avenue.

On 11 February 2014, the Metro South West JDAP approved the proposed commercial development on the site comprising of Showrooms, Recreational Facilities, a Motor Repair Station and Drive-In Takeaway Food Shop. Minor amendments to the application were subsequently approved on 13 August 2014, and a second set of amendments on 24 May 2022.

### **Legislation and Policy:**

#### Legislation

*Planning and Development Act, 2005*

*Planning and Development (Local Planning Schemes) Regulations 2015*

Metropolitan Region Scheme

Local Planning Scheme No.2 (LPS2)

Local Planning Scheme No.3 (LPS3)

#### Local Policies and Strategic Plans

Kwinana Town Centre Master Plan and Design Guidelines

Kwinana City Centre Master Plan

### **Consultation:**

#### Public Consultation

N/A

#### Referrals/consultation with Government/Service Agencies

N/A

#### Design Review Panel Advice

N/A

### **Planning Assessment:**

The City has two planning schemes: Local Planning Scheme No.3 (LPS3) applies to the subject site within the Kwinana City Centre, whereas Local Planning Scheme No.2 (LPS2) applies to the remainder of land within the Kwinana municipal area.

LPS3 sets out the zones, land use permissibility, and precincts applicable within the Kwinana City Centre area. Under Clause 1.7 of LPS3, the provisions of LPS2 apply where these would not conflict with the specific provisions of LPS3. In this case, the provisions of LPS2 apply with respect to the minimum car parking requirements only.

#### Use Class Permissibility

The development site is located in the 'Shopping / Business' zone of LPS3. The proposed use of Tenancy 2 for a Salvation Army store is assessed as a 'Shop', which is a permitted (P) use within the 'Shopping / Business' zone.

City Officers are satisfied that the proposed Shop use is consistent with the objective of the 'Shopping / Business' zone, as set out in LPS3, which is:

*'To accommodate retail and commercial use and development necessary to meet the district level shopping needs of the community.'*

This zone is further divided into three precincts – Retail, Commercial and Mixed Use – and the site is located within the 'Commercial Precinct' of the zone. A 'Shop' is not a Predominant Use in the Commercial Precinct.

Whilst LPS3 lists Predominant Uses for each precinct (the main uses encouraged within that precinct), this should not be taken to mean that other uses are inconsistent with the intent of that precinct. Instead, the City is required to use discretion in considering whether to support other uses in the precinct.

Accordingly, the proposal has been assessed against the provisions of LPS3, cl. 4.5.8 - Commercial Precinct and it is considered that the proposal satisfies the relevant provisions and the use can therefore be supported.

As such, City Officers then focus on whether the proposed additional floor area and alterations to the bin store and car parking will result in an acceptable layout as per the requirements of LPS3 and the 'Kwinana City Centre Master Plan', as discussed below.

### Built Form

The proposed development is consistent with the relevant LPS3 provisions relating to building setbacks, vehicle access, and site coverage. The existing service yard is located within an articulated area at the rear of the internal façade of Building A, and so the proposed extension works will not impact setbacks to the parent lot boundary.

Vehicle access (entry / egress) to the parent lot is not intended to be altered and the proposed alterations to the existing car parking area are considered to be minor and acceptable. The proposed 84m<sup>2</sup> addition results in site coverage increasing by 0.3% and the proposed total site cover of 32.5% remains below 100% permitted under LPS3.

The Kwinana City Centre Master Plan includes strategic objectives for development within the Centre. These include:

- Provide a high-quality Main Street environment facilitating a pedestrian-orientated environment and public spaces.
- Create key 'destinations' which promote activity and vibrancy in the City Centre.
- Reinforce existing civic and retail anchors to link primary pedestrian routes north and south of the City Centre.
- Encourage a wider variety of uses within the City Centre to facilitate activity outside of business hours.
- Minimise the impact of vehicle traffic and car parking within the City Centre.
- Integrate the City Centre with Calista Oval and surrounding developments.
- Promote a high quality mixed use environment accommodating ground level retail and opportunity for multi-unit residential dwellings above.

- Redefine Gilmore Avenue as the a gateway boulevard into the City Centre.
- Reflect Kwinana's unique sense of place identity through the built form and links to natural and cultural landscapes.
- Integrate peripheral development along Meares Avenue, reinforcing a mix of development within the City Centre.

The development is considered to adequately address the objectives of the Master Plan given that it will integrate with existing land uses, minimise the impact of vehicle traffic and car parking within the City Centre area, and reinforce the mix of development along Meares Avenue.

#### Removal of Service Yard

The application proposes to decommission the existing service yard to Tenancy 2. The proposed new communal bin store to be constructed in the car park is considered to address the requirements for waste disposal. The proposed Salvation Army store is intended to operate predominantly as a second-hand goods store and is anticipated to generate a smaller amount of packaging waste compared to a bulky goods showroom.

It is considered acceptable to decommission the existing service yard area given a dedicated delivery / loading area is not required for the proposed 'Shop' use. This is because a 'Shop' is not anticipated to require heavy vehicle access for deliveries in comparison to the needs of the existing 'Showroom' land use, which was intended to facilitate bulky goods handling and wholesale activity.

To ensure that the onsite waste disposal arrangements remain acceptable for the proposed use, it is recommended that a Waste Management Plan be prepared as a condition of development approval.

#### Car Parking - Local Planning Scheme No.2 (LPS2)

Minimum car parking requirements are set out in Part VI of LPS2. Within the Kwinana City Centre, a minimum of 1 bay is required for every 50m<sup>2</sup> of gross floor area for a Shop with less than 3,000m<sup>2</sup> gross floor area.

Tenancy 2 will comprise a Shop with total floor area of 767m<sup>2</sup>, (683m<sup>2</sup> existing + 84m<sup>2</sup> proposed addition). The required quantity of car parking needed for Tenancy 2 will increase as a consequence of the proposed change of land use from Showroom to Shop and the 84m<sup>2</sup> addition to floor area as follows:

- existing Showroom (683m<sup>2</sup>) requires 9 car parking bays
- proposed Shop (767m<sup>2</sup>) requires 15.3 car parking bays

The applicant submitted a car parking calculation and land use survey for the entire parent site (see Attachments 6 - 7). In considering the proposed Shop extension with all other uses in operation on the site, there will be a total parking surplus of 22 bays for the development site. The quantity of car parking is considered acceptable to facilitate the proposed change of use and increased floor area. The reallocated ACROD car parking bays will be required to be set out and marked in accordance with Australian Standard AS2890, a condition requiring this has been included.

#### *Vehicle Sightlines*

The City's Engineers advise that further details are required to demonstrate safe vehicle / driver sightlines for the car parking bays abutting the sides of the proposed bin store. These details can be included in a Waste Management Plan as recommended as a condition of approval.

In any case, it is anticipated that a vehicle exclusion area can be accommodated around the bin store if necessary, and that the site will maintain an overall car parking surplus should the two bays need to be removed.

**Conclusion:**

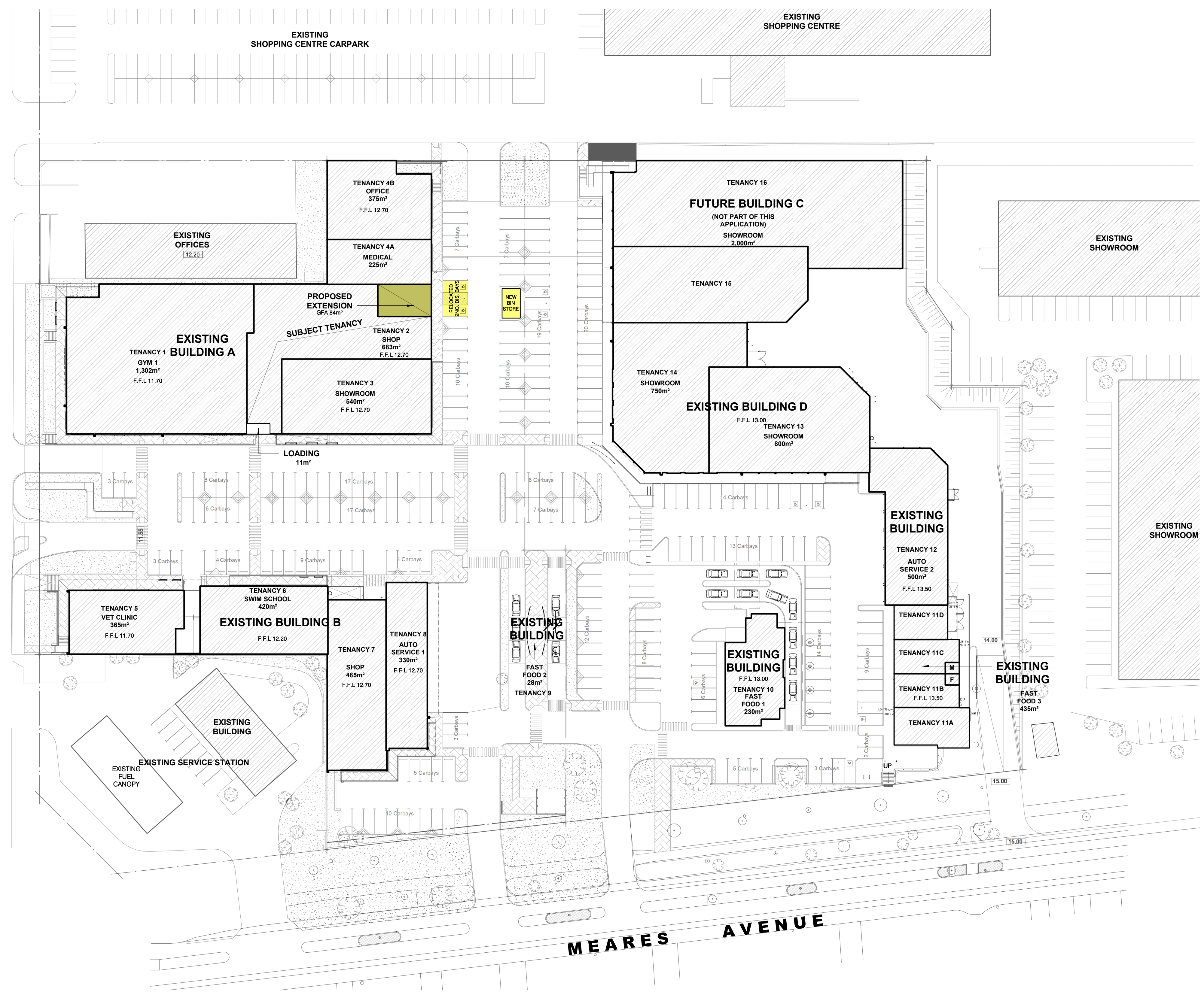
The proposed change of use and floorspace extension for a Shop at Tenancy 2 is minor in scale and is considered consistent with the existing development on site. The proposed bin store is considered generally acceptable, with details to be provided prior to occupancy permit stage. The minor car park rearrangement otherwise results in an appropriate layout, and adequate car parking remains available within the site.







CHALLENGER AVENUE



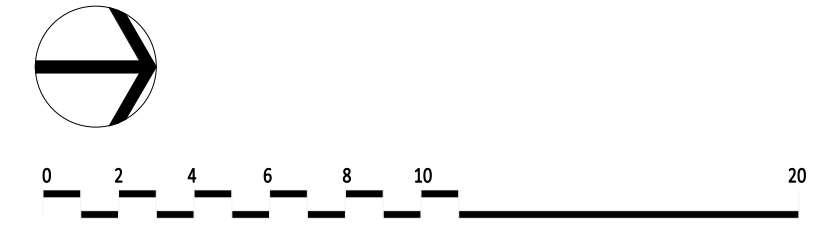
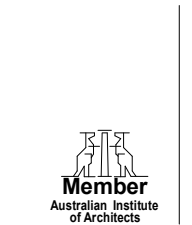
**SITE CRITERIA**

Carparking  
Cars Provided  
261 carbays  
(exclude 16No. drive thru' bays)

**SITE/LOCATION PLAN**  
SCALE: 1 : 500

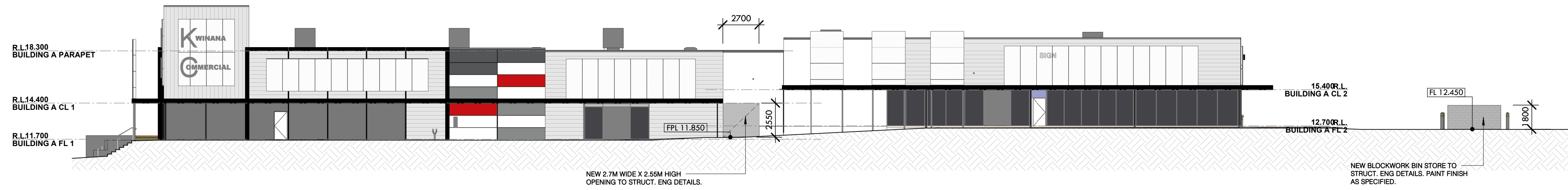


**PROPOSED SALVOS KWINANA**  
LOCATION : KWINANA SUPA CENTRE, 46 MEARES AVENUE, KWINANA TOWN CENTRE  
FOR : BY: CB RICHARD ELLIS FOR: SANTAVAE (KWINANA) PTY LTD



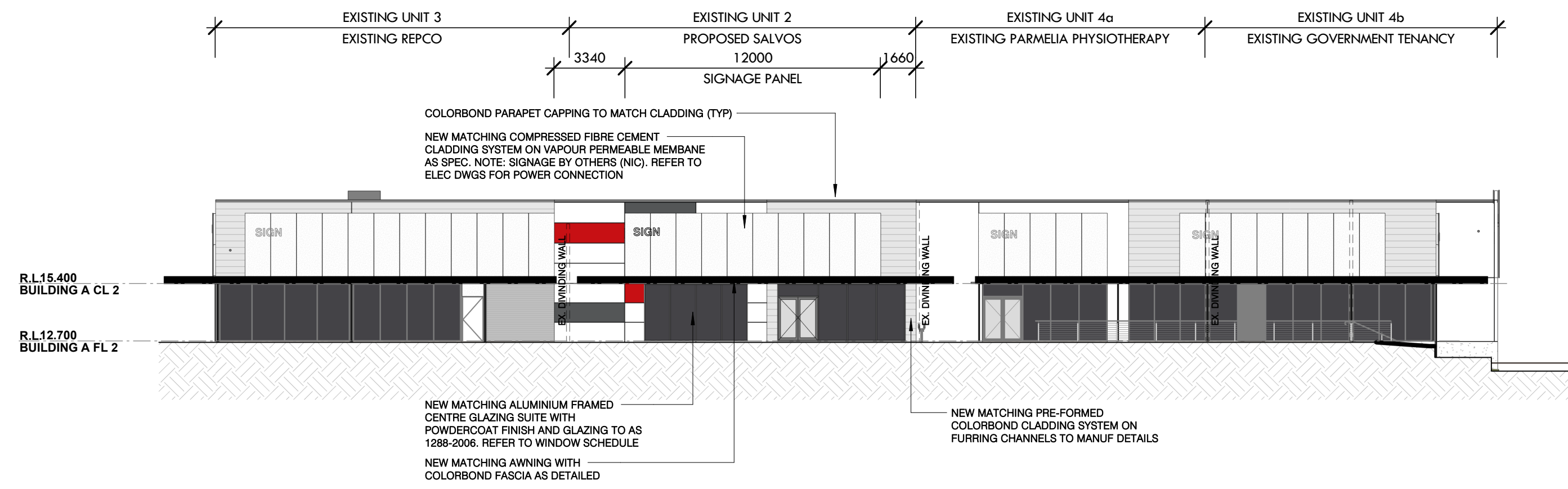
DATE: FEB 2023  
REVISION: SK001  
SHEET: AS S001  
SCALE: indicate@A1  
PROJECT NUMBER  
**P22-9130**  
© Meyer Shircore & Associates ACN 115 189 216  
Suite 2, Ground Floor 437 Roberts Road, Subiaco WA 6008  
P.O. Box 1254 Subiaco WA 6008  
t: 08 9381 8511 e: msa@meyershircore.com.au





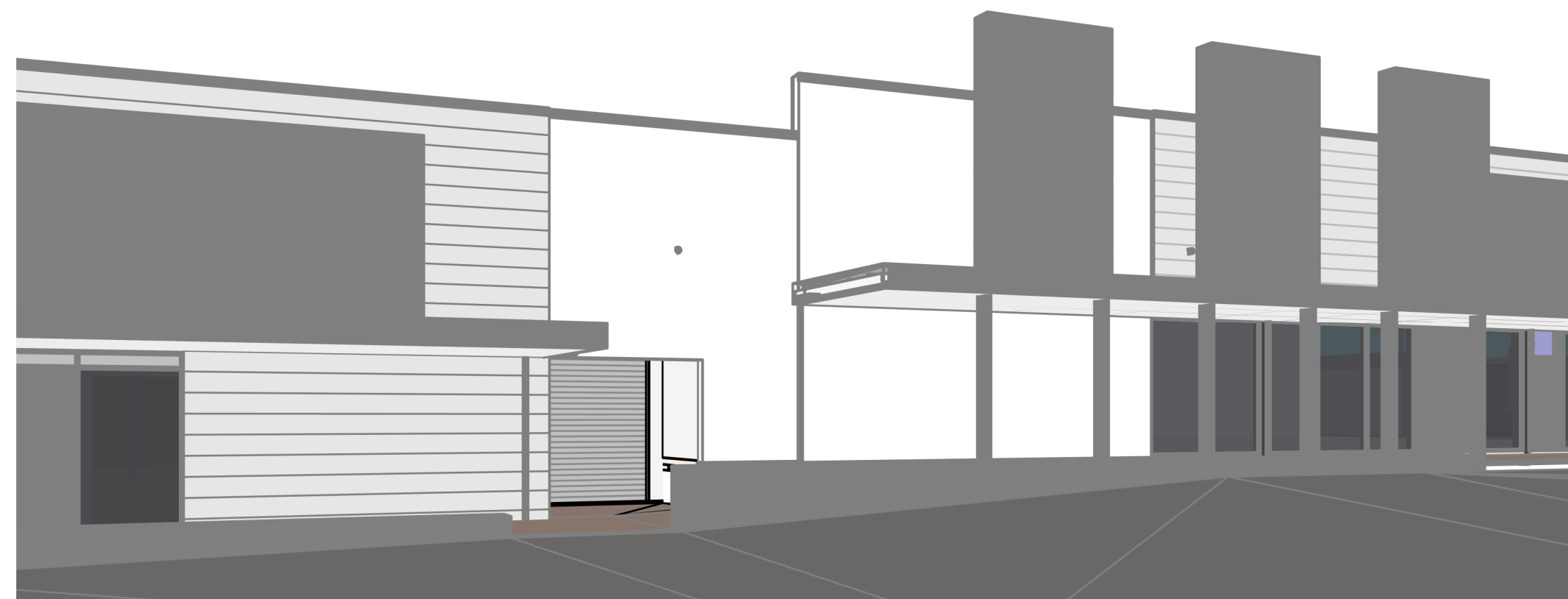
**BUILDING A - EAST ELEVATION**

SCALE: 1 : 200








**BUILDING A - NORTH ELEVATION**

SCALE: 1 : 200





**LEGEND**

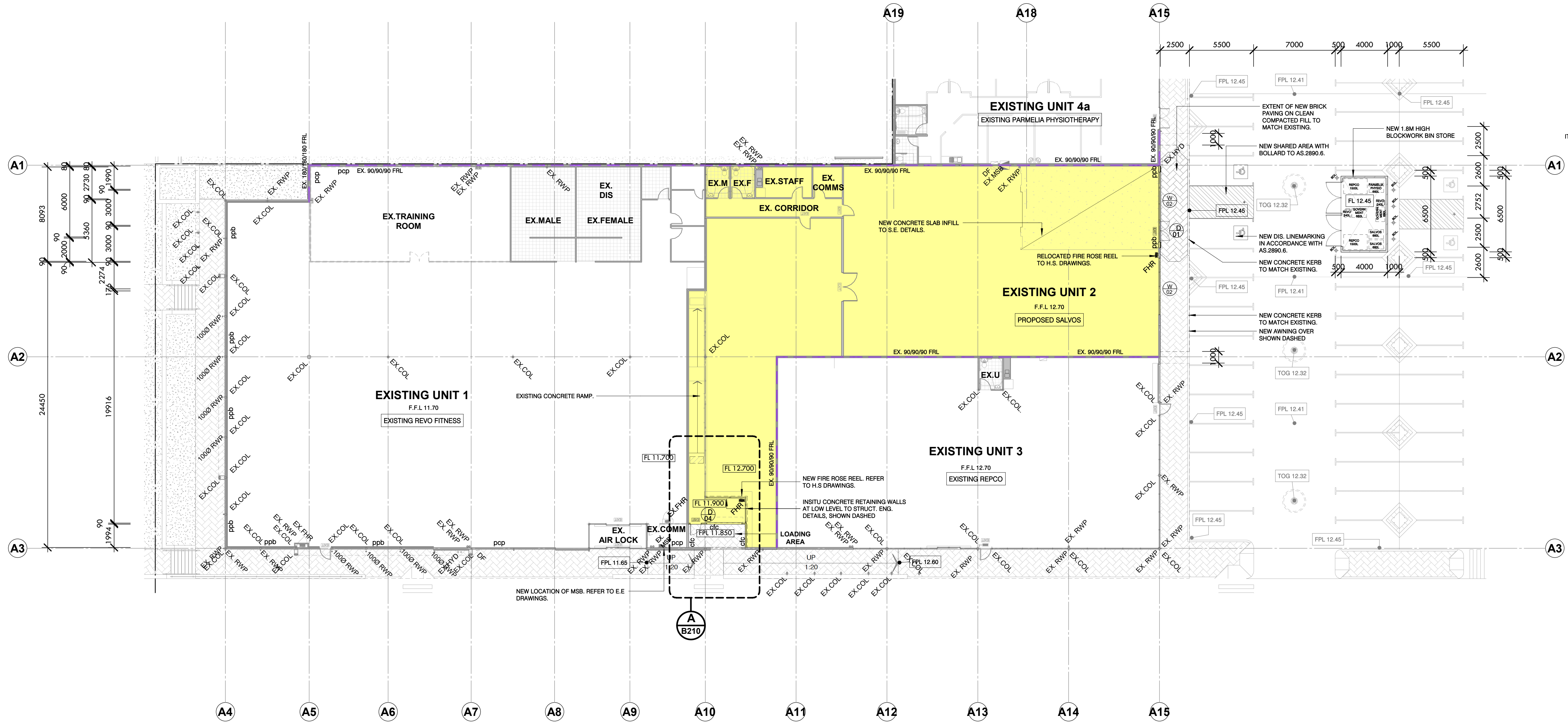
-  SELECTED FLOOR TILING
- RWP DOWNPIPE - SIZE AS NOTED ON PLAN
- PJ CONCRETE TILT PANEL JOINT
-  STEEL COLUMN TO STRUCT. ENG. DETAILS
-  STUD FRAMED WALL WITH FINISH AS NOTED
-  CONCRETE TILT PANEL WALL WITH FINISH AS NOTED
-  FIRE WALL WALL AS NOTED
- IFW FLOOR WASTE. REFER TO HYD DWGS
- HC HOSECOCK. REFER TO HYD DWGS
- FH FIRE HYDRANT. REFER TO HYD DWGS
- FHR FIRE HOSE REEL. REFER TO HYD DWGS
- MSB ELECTRICAL DISTRIBUTION BOARD. REFER TO ELEC. DWGS
- DF DISTRIBUTION FRAME. REFER TO ELEC. DWGS
- FCU FAN COIL UNIT OVER. REFER TO MECH. DWGS
- AC AIR COND. PLENUM OVER. REFER TO MECH. DWGS
- SRV SLOPING ROOF VENT OVER. REFER TO MECH. DWGS
- W WINDOW
- D DOOR
- RS-R/SHUTTER
- DOORWINDOW/ROLLER SHUTTER NUMBER

**WALL FINISHES**

- pcp PAINTED CONCRETE TILT PANEL
- ppb PAINTED FLUSH PLASTERBOARD
- ppv PAINTED FLUSH VILLABOARD
- ppv+fc PAINTED FLUSH VILLABOARD ON FURRING CHANNELS
- cfc COMPRESSED FIBRE CEMENT CLADDING
- ftt FULL HEIGHT TILES
- skt 300 HIGH SKIRTING TILES

**GENERAL NOTES**

1. ALL NEW GLASS ASSEMBLIES TO BE IN ACCORDANCE WITH AS 1288 AND AS 2047.
2. THE FIRE HAZARD PROPERTIES OF NEW MATERIALS (FLOOR, WALL COVERINGS, ETC) WITHIN THE BUILDING TO COMPLY WITH BCA SPECIFICATION C1.10.
3. LATCHING DEVICES TO EXIT DOORS TO COMPLY WITH BCA D2.21.
4. EXISTING FIRE HYDRANTS TO REMAIN AND COMPLYING WITH BCA E1.3 AND AS 2419.1 AND DFES OPERATIONAL REQUIREMENTS.
5. EXISTING FIRE HOSE REELS AND CABINETS TO REMAIN AND COMPLYING WITH THE BCA TABLE E1.4 AND AS 2441.
6. PORTABLE FIRE EXTINGUISHERS CONTAINING AN EXTINGUISHING AGENT SUITABLE FOR THE RISK BEING PROTECTED TO BE INSTALLED IN ACCORDANCE WITH BCA PART E1.6 AND AS 2444.
7. NEW MECHANICAL AIR HANDLING SYSTEM TO COMPLY WITH BCA PART J 5, E2.2 AND AS/NZS 1668.1 AND AS 1668.2 AND AS/NZS 3000.
8. NEW ELECTRICAL WORKS TO COMPLY WITH BCA PART J 6 AND AS/NZS 3000.
9. EXISTING SMOKE HAZARD MANAGEMENT TO REMAIN AND COMPLYING WITH BCA SPECIFICATIONS E2.2A AND E2.2B.



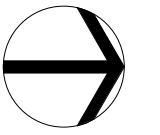
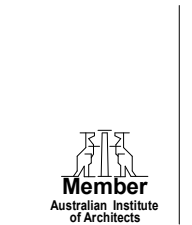
**GROUND FLOOR PLAN - PROPOSED**

SCALE: 1 : 200



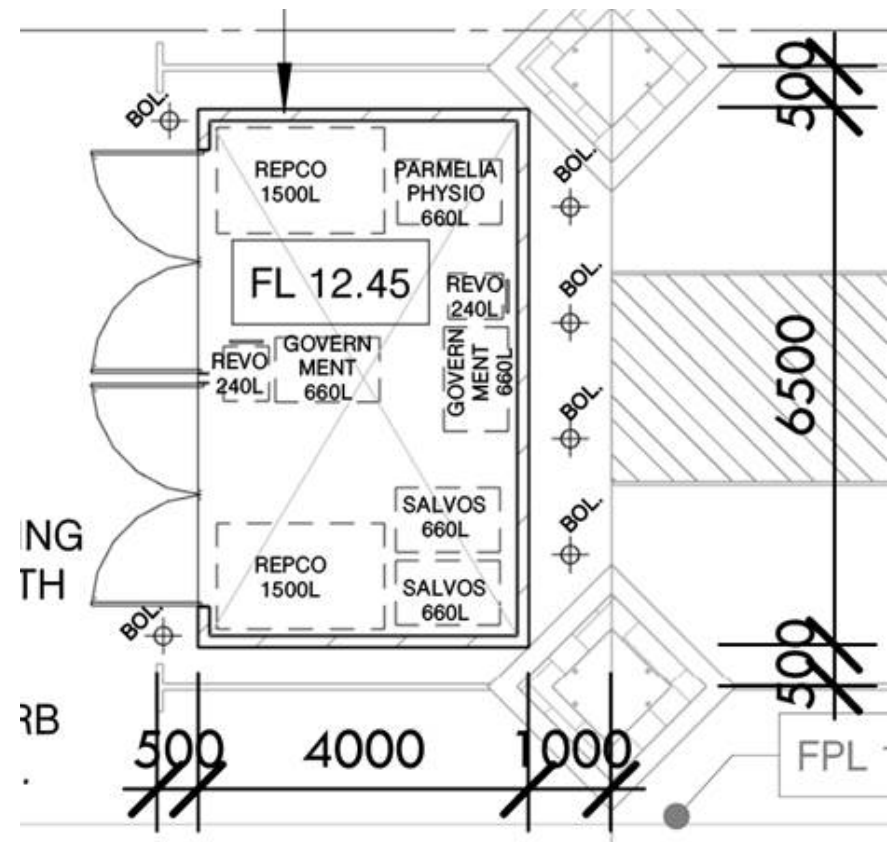
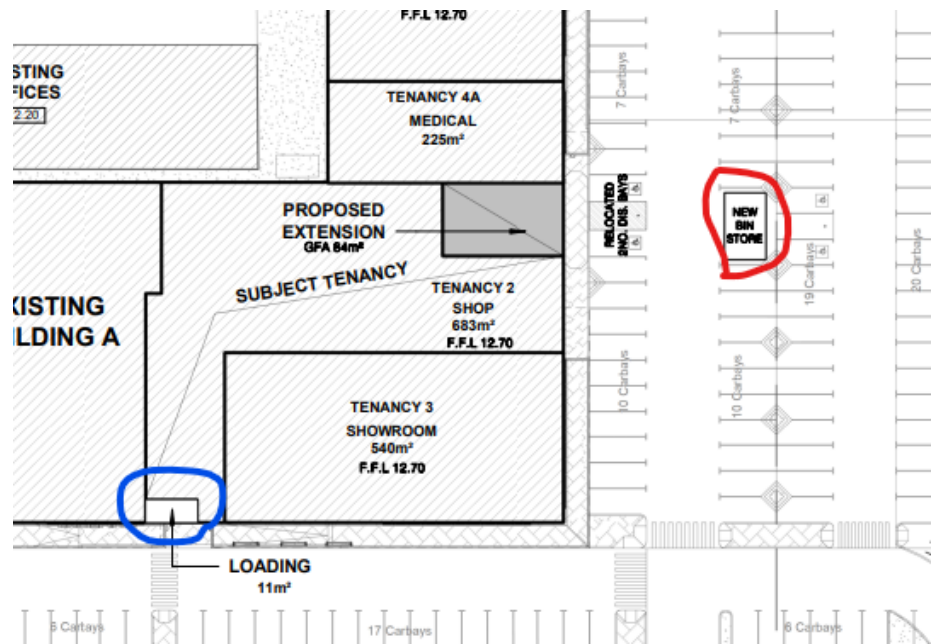
**PROPOSED SALVOS KWINANA**

LOCATION : KWINANA SUPA CENTRE, 46 MEARES AVENUE, KWINANA TOWN CENTRE  
 FOR : BY: CB RICHARD ELLIS FOR: SANTAVAE (KWINANA) PTY LTD



DATE: FEB 2023 PROJECT NUMBER  
 REVISION: SK001 **P22-9130**  
 SHEET: AS S003  
 SCALE: indicate@A1  
© Meyer Shircore & Associates ACN 115 189 216  
 Suite 2, Ground Floor 437 Roberts Road, Subiaco WA 6008  
 P.O. Box 1254 Subiaco WA 6008  
 t: 08 9381 8511 e: msa@meyershircore.com.au

# Attachment 5



The City has already confirmed that Development Approval is not required for the proposed 'Shop' use as outlined in its 23 January 2023 correspondence.

Refer **Attachment 3 – City of Kwinana Correspondence**.

### Car Parking

The following table summarises the parking requirement for the approved development and the proposed modifications:

<b>Stage 1</b>				
<b>Land Use</b>	<b>Component (m<sup>2</sup>)</b>	<b>Parking Requirement</b>	<b>Parking Required</b>	<b>Parking Proposed</b>
<b>Showroom/Bulk Retail</b>	-	4 up to the first 200m <sup>2</sup> gross floor area and thereafter 1 for every additional 100m <sup>2</sup> gross floor area or part thereof.	-	-
Tenancy 3	540		7.40	-
Tenancy 5A	95		4.00	-
<b>Medical Centre</b>	-	4 for every consulting room up to 2 such rooms and 2 for every additional consulting room.	-	-
Tenancy 4A	225		16.00	-
<b>Office</b>	-	1 for 50m <sup>2</sup> gross floor area.	-	-
Tenancy 4B	375		7.50	-
<b>Veterinary Clinic</b>	-	4 for every consulting room up to 2 such rooms and 2 for every additional consulting room.	-	-
Tenancy 5B	270		10.00	-
<b>Health Studio</b>	-	1:35m <sup>2</sup> GLA	-	-
Tenancy 1	1,302		37.20	-
Tenancy 6	420		12.00	-
<b>Shop</b>	-	1:50m <sup>2</sup> gross floor area	-	-
Tenancy 2 (Salvation Army)	767		15.34	-
Tenancy 7	485		9.70	-
<b>Service Station</b>	-	6 for customers plus 1 for each lubrication and maintenance bay plus 1 for each person working on the site.	-	-
Tenancy 8	330		15.00	-
<b>Eating House</b>	-		-	-

Tenancy 9	28	1 for every 4 seats which an eating area is designed to provide OR 1 for every 4m <sup>2</sup> of eating area or part thereof whichever produces the greater number of car parking spaces.	0.00	-
Sub-Total	4,837	-	134.14	124
<b>Stage 2</b>				
<b>Land Use</b>	<b>Component (m<sup>2</sup>)</b>	<b>Parking Requirement</b>	<b>Parking Required</b>	<b>Parking Approved</b>
<b>Eating House</b>	-	1 for every 4 seats which an eating area is designed to provide OR 1 for every 4m <sup>2</sup> of eating area or part thereof whichever produces the greater number of car parking spaces.	-	
Drive-in Takeaway Food Shop (assumed to be as per Eating House) (Tenancy 10)	248 (50 seats/ approx. 53m <sup>2</sup> seating area)		13.25	
Tenancy 11A	90 (6 seats)		1.50	
Tenancy 11B	100 (8 seats)		2.00	
Tenancy 11C	100 (8 seats)		2.00	
Tenancy 11D	140 (12 seats)		3.00	
<b>Motor Vehicle Repair</b>	-	6 for customers plus 1 for each lubrication and maintenance bay plus 1 for each person working on the site.	-	
Tenancy 12	500		18.00	
<b>Showroom</b>	-	4 for up to the first 200m <sup>2</sup> gross floor area and thereafter 1 for every additional 100m <sup>2</sup> gross floor area or part thereof.	-	
Tenancy 13	800		10.00	
Tenancy 14	750		9.50	
Tenancy 15	750		9.50	
<b>Health Studio</b>	-	No parking ratio listed.	-	
Tenancy 16	1,250	1:35m <sup>2</sup> GLA (City of Mandurah Town Planning Scheme No. 3)	35.70	10 bays in drive-through
Sub-Total	4,728	-	104.45	140
<b>Total</b>	<b>9,565</b>	<b>-</b>	<b>238.59</b>	<b>261</b>





## LOT 649 (98) O'MARA BOULEVARD, ILUKA - MODIFICATION TO PREVIOUS APPROVAL (COMMERCIAL DEVELOPMENT)

### State Administrative Tribunal Reconsideration – Responsible Authority Report (Regulation 12)

<b>DAP Name:</b>	Metro Outer JDAP
<b>Local Government Area:</b>	City of Joondalup
<b>Summary of Modifications:</b>	Amendment of development approval including: <ul style="list-style-type: none"><li>• Modification to condition relating to hours of operation of the tavern use.</li><li>• Modification to condition relating to the use of the first-floor car park between 10.00pm and 5.30am.</li><li>• Modifications to the approved barrier above the car parking access from Calis Avenue.</li><li>• Modification of advice note regarding the playing of live music at the tavern use.</li></ul>
<b>Applicant:</b>	Dynamic Planning and Developments
<b>Owner:</b>	AGEM PG33 PTY LTD
<b>Value of Development:</b>	N/A
<b>Responsible Authority:</b>	City of Joondalup
<b>Authorising Officer:</b>	Chris Leigh – Director Planning and Community Development
<b>LG Reference:</b>	DA18/1336.01
<b>DAP File No:</b>	DAP/18/01543
<b>SAT File No (DR reference):</b>	DR75/2022
<b>Date of Decision under Review:</b>	14 April 2022
<b>Application for Review Lodgement Date:</b>	2 May 2022
<b>Attachment(s):</b>	<ol style="list-style-type: none"><li>1. Proposed development plans</li><li>2. Applicant planning justification</li><li>3. Operational Management Plan (including Noise Management Plan and Noise Impact Assessment)</li><li>4. Location Plan</li><li>5. DA18/1336 - Determination letter (original development)</li><li>6. DA20/0452 - Determination letter and plans (change of use to tavern)</li><li>7. DA18/1336.01 – Determination letter and plans (refusal)</li><li>8. Summary of Submissions (including applicant comment)</li><li>9. Summary of Submissions (including City comment)</li></ol>

<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input checked="" type="checkbox"/> N/A	
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

**Responsible Authority Recommendation**

That the Metro Outer Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR DR75 of 2022, resolves to:

**Reconsider** its decision dated 14 April 2022 and **APPROVE** DAP Application reference DAP/18/01543 and accompanying plans (Attachment 1) in accordance with the Metropolitan Region Scheme, Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Joondalup *Local Planning Scheme No. 3*, subject to the following conditions:

**Additional Conditions**

- 24. An updated Noise Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Noise Management Plan shall include, but not be limited to, specific requirements in relation to the site including layout, staff training requirements, ongoing maintenance and physical levels to be set on each piece of equipment. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.
- 25. The works required to modify the bulkhead facing Calis Avenue shall be undertaken within 90 days from the date of approval and thereafter maintained to the satisfaction of the City.

**Amended Conditions**

Condition 22 shall read:

*“The hours of operation shall be no more than:*

- a) *T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.*  
*T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.*

Replacement condition 23 shall read:

*An updated Operations Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Operations Management Plan shall include, but not be limited to, an internal floor plan indicating the specific function of each area within the Tavern use. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.*

**Additional Advice Note**



13. The Operational Management Plan and Noise Management Plan as submitted are considered acceptable subject to the following modifications:
- a) Operational Management Plan – Include appropriate noise mitigation measures related with the movement of kegs relating to the Tavern with specific attention to any movements required outside of 10.00am and 7.00pm.
  - b) Noise Management Plan - Section 6 shall include any speakers within the function room. Any speaker's setting shall be required to be documented in the same manner as the main bar.
  - c) Noise Management Plan – Include commentary regarding the management of the collection of glasses, cans and bottles including times this will occur. The Noise Management Plan can replicate similar statements within the Operational Management Plan.

### Amended Advice Notes

Advice Note 9 shall read:

*Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on outdoor areas (including time restrictions and any openings to the indoor area).*

All other conditions and advice notes remain as per the previous decisions of JDAP issued 13 May 2019, 28 June 2019 and 31 August 2020.

### Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Urban
Local Planning Scheme	City of Joondalup Local Planning Scheme No. 3
Local Planning Scheme Zone/Reserve	Urban Development
Structure Plan/Precinct Plan	Iluka Structure Plan
Structure Plan/Precinct Plan Land Use Designation	Commercial, R80
Use Class (proposed) and permissibility:	Not applicable
Lot Size:	5,552m <sup>2</sup>
Net Lettable Area (NLA):	Not applicable
Number of Dwellings:	N/A
Existing Land Use:	Shopping Centre
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other

Bushfire Prone Area	Yes
Swan River Trust Area	No

**Proposal:**

The Metro Outer Joint Development Assessment Panel (JDAP) has been asked by the State Administrative Tribunal (SAT) to reconsider its decision to refuse an application seeking modifications to a development approval for a Tavern located at 98 O'Mara Road, Iluka. Following mediation, the applicant has submitted further information and a modified proposal for consideration.

The application proposes the following amendments to the previous approval:

1. Modify condition 22 of DA20/0452 (DAP/18/01543) to remove the operating hours of the 'Tavern'. The operating hours would need to be in line with the requirements of the *Liquor Control Act 1988*, effectively increasing the operating hours of the 'Tavern' land use from 11.00pm to midnight. Condition 22 currently states:

*"The hours of operation shall be no more than:*

- a) *T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.*  
*T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.*  
*T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday."*

2. Modify condition 21 of DA18/1336 (DAP/18/01543) to allow access to the first floor parking area at all times. Condition 21 currently states:

*"A Traffic and Parking Management Plan shall be submitted to and approved by the City prior to the commencement of the development. The Traffic and Parking Management Plan shall include, but not be limited to, the following;*

- *Demonstrate safe access and egress including vehicular and pedestrian access;*
- *Consideration of mirrors at the exit on Calis Avenue; and*
- *The Calis Avenue access shall be closed to prevent entry by vehicles between 10.00pm and 5.30am Monday to Sunday.*

*Traffic and Parking Management shall then be undertaken in accordance with the approved plan."*

3. The removal of the bulkhead/screening device across the ramp to the first floor parking area accessed from Calis Avenue. This is proposed to be replaced with a height restriction bar with a 400mm rubber flap to prevent the impacts of headlight glare.
4. Amend advice note 9 of DA20/0452 (DAP/18/01543) to remove the reference to a restriction on live music within the tavern. Advice note 9 currently states:

*"Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on*

*outdoor areas (including time restrictions, prohibition of music and any openings to the indoor area) and music to be of an ambient nature with live performances to be prohibited.”*

The applicant has provided updated plans (Attachment 1 refers) with additional documentation including justification and updated reports including the Operational Management Plan (OMP), Noise Impact Assessment (NIA) and Noise Management Plan (NMP) in Attachments 2 and 3.

**Background:**

The development site is bound by Burns Beach Road to the west, Calis Avenue to the east, O'Mara Boulevard to the south and residential properties including an apartment complex (24 units) and 13 survey strata grouped dwellings to the north.

The subject site is located within the Commercial zone of the Iluka Structure Plan (ISP) and is identified in Attachment 4.

On 14 April 2022, the JDAP refused a development application seeking retrospective approval for increased operating hours for the tavern, a screening device to the car park facing Calis Avenue, unrestricted access to the first floor car park after 10.00pm and the ability to play live music for the following reasons;

1. *The proposed modifications do not satisfy the matters to be considered under Clause 67(2)(a), Schedule 2, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015. Specifically, extending hours from 11.00pm to 12.00am for the 'Tavern' use and modifications to the car park entrance to Calis Avenue will have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality and, therefore, does not meet the objectives under Table 2, 'Commercial' zone objectives of Local Planning Scheme No. 3.*
2. *The proposed modifications do not satisfy the matters to be considered under clause 67(2)(h), Schedule 2, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015. Specifically, the modifications do not meet the objectives under clause 6.1 of the Iluka Structure Plan as the proposal is considered to;*
  - a) *have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality;*
3. *The proposed modifications do not satisfy the matters to be considered under clause 67(2)(n), Schedule 2, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 as the proposal will detrimentally impact the amenity of the locality, specifically in relation to the character of the location and the social impacts of the development.*
4. *The proposal does not satisfy the matters to be considered under clause 67(2)(m), Schedule 2, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed hours of operation of the 'Tavern' between 11.00pm and midnight is not compatible with the setting of the locality, being a local centre, and with the specific objectives set out in the Iluka Structure Plan.*

5. *Insufficient information has been provided to support an amendment to Advice Note 9 to remove reference to the prohibition of play live music at the tavern use. The application has not demonstrated that the playing of live music can meet the relevant requirements of the Environmental Protection (Noise) Regulations 1997.*

On 2 May 2022 an application was lodged with the State Administrative Tribunal (SAT) to review the JDAP's decision to refuse the application at its meeting on 14 April 2022. Numerous directions hearings and mediation sessions between the Metro Outer Joint Development Assessment Panel and centre management (AGEM PG 33 Pty Ltd) were held between 20 May 2022 and 2 May 2023. The outcome of these sessions resulted in additional information and justification being submitted by the applicant for the purposes of reconsidering the application including:

- Updated Operational Management Plan.
- Updated Noise Impact Assessment.
- Updated Noise Management Plan.
- Revised plans including a rubber flap on the bulkhead facing Calis Avenue.

On 16 March 2023, SAT made orders inviting the decision-maker, being the JDAP, to reconsider its decision pursuant to Section 31 of the *State Administrative Tribunal Act 2004* (SAT Act). In doing so the decision-maker may:

- affirm the previous decision;
- vary the decision; or
- set aside the decision and substitute a new decision.

#### Previous Development Applications

##### *DA18/1336 – Commercial Development*

On 11 March 2019, the Metro North-West Joint Development Assessment Panel (JDAP) considered an application for a two-storey commercial development. The JDAP deferred the matter at that meeting to allow the applicant to further consider pedestrian and vehicle access for the development and building setbacks to Calis Avenue.

On 18 March 2019, the applicant sought a review of the JDAP's decision via the State Administrative Tribunal (SAT).

On 13 May 2019, the JDAP considered revised development plans and approved the application, subject to conditions, which included a restriction on the operating hours of the supermarket.

As part of the same ongoing SAT process, the applicant sought review of the operating hours condition. The matter was subsequently reconsidered by the JDAP and approved revised conditions permitting the hours of operation of the supermarket to 11.00pm.

Following JDAP's decision, the applicant withdrew its SAT appeal.

The development was approved, incorporating the following land uses:

- Shop
- Restaurant / Café (food and beverage)
- Supermarket
- Liquor store
- Consulting room
- Office
- Recreation – Private (gym)
- Child care premises.

A copy of the DA18/1336 approval, is provided as Attachment 5.

*DA20/0452 – Change of Use to Tavern (Form 2)*

On 31 August 2020, the JDAP approved an application to change the use of tenancies 1, 2 and 3 to ‘Tavern’ subject to conditions, including a restriction on the operating hours of the tavern to between 6.00am and 11.00pm, Monday to Sunday.

A copy of the DA20/0452 approval is included as Attachment 6.

**Legislation and Policy:**

Legislation

- *Planning and Development Act 2005.*
- *Metropolitan Region Scheme.*
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).*
- *Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations).*
- *City of Joondalup Local Planning Scheme No.3 (LPS3).*

State Government Policies

- *State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7).*
- *State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP4.2)*

Local Structure Plan/Local Development Plan

- *Iluka Structure Plan (ISP).*
- *Iluka Local Centre Local Development Plan No.1 (LDP No. 1).*

Local Planning Policies

- *Commercial, Mixed Use and Service Commercial Local Planning Policy.*

**Consultation:**

Public Consultation

The additional information and justification provided by the applicant through the SAT process was advertised in accordance with the City’s *Planning Consultation Local Planning Policy* (Consultation Policy) for a period of 21 days; 14 days as per standard

processes with an additional 7 days given advertising occurred over the Easter holiday period. Consultation commenced on 24 March 2023 and ended on 17 April 2023.

Consultation was undertaken in the following manner:

- 287 letters were sent directly to landowners and occupiers within the surrounding area.
- 210 emails were sent to those who had previously made submissions and advised they wished to stay informed.
- Development plans and information provided by the applicant were made available for public viewing on the City's website.

149 submissions were received during the public consultation period consisting of 116 submissions in support, 32 submissions opposing the development and one neutral submission.

A summary of the issues raised along with applicant's comment's is included in Attachment 8 and with officer's comments in Attachment 9.

The main issues identified through consultation include:

- The revised proposal still does not sufficiently address the negative impact on our peaceful amenity.
- The tavern generates anti-social behaviour from intoxicated people including yelling/screaming and talking loudly in front of houses.
- The tavern still generates too much noise for being within a predominantly residential area. Noise can be heard in residential properties until late into the evening.
- Littering, rubbish and cigarette butts are left around the area, including within the under-croft car park and not cleaned up.
- The Operational Management Plan has a number of issues relating to complaints, party buses and overall intention of the venue.

#### *Previous complaints*

The City previously received a number of complaints from the community regarding the tavern not operating in accordance with its planning approval, along with the way in which access to the upper floor carpark accessed via Calis Avenue is managed.

The City's investigation of these complaints identified matters of non-compliance with conditions of approval with respect to:

- Hours of operation of the tavern.
- Removal of the bulkhead device to the first floor car park.
- Vehicle access to the first floor car park after 10.00pm

The City's investigation of the above, resulted in the applicant retrospectively applying for approval for the following, which is subject of this application.

#### Referrals/consultation with Government/Service Agencies

Not applicable.

## Design Review Panel Advice

Not applicable.

### **Planning Assessment:**

The Tavern is located within the Commercial zone of the Iluka Structure Plan (ISP) and more broadly forms part of Iluka Plaza local centre.

The relevant objectives of the ISP Commercial zone are:

- *To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.*
- *To ensure any commercial uses are reflective of the local scale of the centre, primarily serving the needs of the local community.*

The proposal incorporates a number of modifications to the application previously refused by the JDAP. Each of these modifications are considered in further detail below against the JDAP's reasons for refusal, specifically the impact on the amenity of the adjoining owners and residential properties in the locality, and compatibility within the setting of the Iluka Plaza local centre.

### Modification to condition 22 – hours of operation

Condition 22 of the current approval for the Tavern (Attachment 6), limits the hours of operation to between 6.00am and 11.00pm each day. The closing time of 11.00pm is consistent with the trading hours of other uses within the centre and was considered appropriate to manage the amenity impacts of the Tavern on surrounding residents.

The applicant is now seeking approval to modify condition 22 by removing all reference to trading hours for the Tavern, allowing its trading hours to be managed through the liquor licensing process.

The JDAP refused the previous request to extend the trading hours to midnight (Attachment 7) as there was insufficient evidence to demonstrate that extending the trading hours would not result in undue impact on the residential amenity of the local community. The Responsible Authority Report (RAR) presented to the JDAP at the time outlined the following concerns in relation to the Tavern:

- The style and operation of the Tavern was not in keeping with the character of the area.
- Holding numerous large scale events including sporting and music events.
- Noise from the venue was audible from surrounding residences and causing a nuisance.
- The tavern was not operating in accordance with the approval issued (operating outside approved operating hours), resulting in amenity impacts on the surrounding local community.

To support its request, the applicant submitted an Operational Management Plan (OMP - Attachment 3) and an updated Noise Impact Assessment (NMP – Appendix 1 to Attachment 3).

The applicant considers modification to condition 22 to remove operating hours for the Tavern is appropriate for the following reasons:

- *In undertaking a detailed acoustic assessment as part of the submitted Noise Management Plan, the facility will ensure compliance with the Environmental Protection (Noise) Regulations 1997, ensuring no negative noise impacts on adjoining sensitive land uses, despite the modified operating hours allowing an additional hour of trade in the evenings.*

*Included in the Noise Management Plan are controls around the nature and type of live music to be played at the premises.*

- *In addressing the amenity concerns associated with the 'Tavern' operations, a detailed Operations Management Plan has been prepared to govern the operation of the 'Tavern' and provide measurable and assessable management controls for the premises that can be appropriately implemented by the operator and assessed for compliance by the City.*
- *The intent behind removing the operating hours pertaining to the proposed 'Tavern' land use is to reduce conflicts between separate legislation being the Planning and Development (Local Planning Schemes) Regulations 2015 and the Liquor Control Act 1988.*

*In having the operating hours consistent with the Liquor Control Act 1988, there would be restrictions on trade until 12am at night, consistent with what we are seeking. Further, it would also allow the flexibility for Extended Trading Permits to be obtained on occasion in accordance with the provisions of the Liquor Control Act.*

There is an existing inconsistency between the operating hours contained within the current planning approval and the trading hours permitted under the liquor licence. There is benefit in addressing this inconsistency and this application provides the opportunity to do so.

Having a condition on a planning approval that controls operating hours of a tavern can also have the effect of limiting a venue from obtaining an extended trading permit (issued through Racing, Gaming and Liquor) which allows trade beyond those on a liquor licence (being 12.00am in this instance) for special events, an example being the recently held men's soccer world cup in late 2022.

In isolation, the City does not consider these two issues as sufficient justification to modify condition 22. In determining whether the modification to condition 22, which would allow the Tavern to operate until midnight, is appropriate, the City has considered the additional information provided by the applicant as part of this application, and whether it sufficiently demonstrates the amenity impacts from Tavern can be appropriately managed through the OMP and NMP.

#### *Operational Management Plan*

The proposed OMP (Attachment 3 refers) outlines that the Tavern is intended to be a food-focussed, family friendly venue with a DJ on Friday and Saturday evenings after the dinner service has concluded (approximately 9.00pm). The OMP states that the



Tavern will provide live music mainly on weekends (interchangeably with DJ performances) and sporadically during the week. Live music will be in line with soft contemporary radio music, jazz, classical, singer songwriters and will exclude heavy rock or music with harsh live elements such as kick drum and the use of hard drumsticks.

The OMP provides the following strategies and procedures that will be used by the operator to manage amenity impacts such as noise, disorderly behaviour, litter, and complaints management:

- Party bus bookings will be declined by management, and any patrons of party buses arriving at the venue will be declined entry.
- Licenced crowd controllers and security personnel will be employed on Friday and Saturday nights and all major events to assist in managing the dispersal of patrons.
- Special events (AFL grand final, Melbourne Cup etc) will have crowd controllers and be open to ticket holders only to manage venue capacity.
- Extended trading permits will be sought on occasion (ie. New Years Eve) in accordance with the *Liquor Control Act 1988*.
- Staff will patrol the venue regularly to clear empty and discarded glasses, cans and bottles, and to prevent patrons from leaving with alcohol.
- Liquor sales will cease 30 minutes prior to closing time and patrons will be guided by security personnel and staff to dedicated pick up bays along O'Mara Boulevard.
- Management will arrange for collection of litter from the residential areas surrounding the premises.
- Disposal of waste from the Tavern (to the external waste storage areas) will only occur between the hours of 7.00am to 7.00pm to manage noise associated with this activity.
- Complaints procedure which formalises how any concerns raised from the surrounding properties are dealt with. This includes first response by staff and follow up by management and provides a variety of options in which the concerns can be raised (to avoid attending in person if desired). The procedures are aimed at promoting communication between residents and operators to ensure cohesion within the community.

The City has reviewed the OMP and considers that the measures addressing dispersal of patrons, litter and complaints management demonstrate that, through proper management, the Tavern can appropriately minimise the potentially detrimental impact on the amenity of the surrounding area. The measures contained in the OMP such as employing crowd controllers and security personnel, ceasing of liquor service 30 minutes prior to closing and undertaking litter patrols provide greater detail and certainty around how the Tavern will function, which in turn, will allow the City to better monitor compliance in the future and ensure that the Tavern operates in accordance with the stated intent of the venue.

During consultation, a concern was raised regarding noise generated from the movement of kegs (especially into the evening). The OMP does not specifically address this issue, however could be readily modified to do so. Should the matter be approved, it is recommended that the existing condition 23 be amended to address how any movement of kegs will be managed to ensure it does not result in any amenity impacts to the surrounding residential area.

*Noise Management Plan*

The City's previous RAR outlined that the noise generated from the development was not in keeping with the character of the area. Submissions raised that noise was audible from surrounding properties, with the concern being a later closing time would effectively extend the period of time which the local community would be subject to these impacts.

Since the JDAP's previous consideration, the applicant has undertaken an updated Noise Impact Assessment (NIA - Appendix 4) which has informed the NMP (Appendix 1 of the OMP – Attachment 3 refers). The NIA concludes that the noise impacts associated with the sound system of the Tavern originally significantly exceeded the allowable noise levels as prescribed by the *Environmental Protection (Noise) Regulations 1997*. This finding aligns with submissions received during the consultation period that numerous large-scale events (sporting and music) were held and could be heard from surrounding residential properties. As a result of the updated NIA, the sound system has now been set to ensure the noise limits within the Tavern are compliant with thresholds detailed in the *Environmental Protection (Noise) Regulations 1997*.

The NMP provides the operational strategies that will be used by the Tavern operator to ensure noise emitting from the premises does not adversely impact on the surrounding area. This includes locating the speakers out of reach of performers and patrons to ensure controls can only be altered by suitably experienced staff, ensuring doors and windows are closed when the venue is operating at specified levels and only allowing the inhouse sound system to be used (performers cannot bring their own speakers). All staff will be made aware of the requirements of the NMP through their induction process, with one staff member on each shift responsible for ensuring the requirements of the plan are met. Staff will also undertake periodic checks on noise impacts within the surrounding area and record levels in a log. In the event the venue receives a complaint, staff will attend to check levels and adjust levels accordingly (if found to be non-compliant).

The Tavern is an approved use on the site and is currently permitted to remain open to 11.00pm at night. Whilst the applicant is seeking approval to remain open until midnight, the OMP and NMP provide broader management strategies for the venue throughout the evening, not just the additional hours trading that is being sought.

The increase in the hours of operation was previously refused due to the considered impacts on the amenity of surrounding properties and impact on the character of the area. The OMP and NMP introduce measures and actions for the operator to adhere to that will directly reduce the external impact of the development on the surrounding properties and the character of the area, containing the impact of the Tavern largely within the premises.

On this basis, the amendments sought by the applicant are considered appropriate and therefore it is recommended this aspect of the proposal be approved subject to the recommended modifications.

#### Removal of the bulkhead within the Calis Avenue access ramp

The original approval (DA18/1336) incorporated a bulkhead structure over the access ramp from Calis Avenue to the first floor carpark. The structure was intended to reduce headlight glare from vehicles leaving the carpark to the adjacent residential property. The development was originally constructed in accordance with the approved plans, however was later modified and the bulkhead structure was removed and replaced by

a height restriction bar. The applicant advised the modification was to increase the clearance height to allow ambulances to access the upper floor medical centre. This change formed part of the proposed modifications refused by the JDAP in 2022.

Through the mediation process of SAT, the applicant has modified the proposal and is now seeking approval to attach rubber flaps to the height restriction bar to meet the intent of the original approval (ie. preventing headlight glare to spill to an adjoining property) whilst still allowing an ambulance to access the upper floor as the rubber flap will move with the vehicle as it touches it. The height of this rubber flap is consistent with where the bulkhead was previously constructed to (being 3.05m above ground level).

The applicant has justified the change to the entry to the car park as follows:

- *Acknowledging the desire/need to also prevent headlight glare was the primary reason for the proposed installation of the rubber flap to hang from the height bar. As is evident in the section from the amended development plans (Attachment 2 refers), the rubber flap will clearly obstruct headlight glare from entering the property opposite the first floor access on the other side of Calis Avenue.*
- *The removal of the bulkhead and replacement with a height bar and rubber flap will enable ambulance access to the medical centre, which is a critical need for the development as in emergency situations the approved medical centre needs to have the ability to have access to an ambulance without the need to transport patients in a lift or down the first-floor parking access ramp. In considering the ambulance access to the first floor, we sought advice from a structural engineer around the weight bearing capacity of the ramp and the first floor parking area and they advised that;*

*“The loading design for this carpark is as per Australian Standards and is 2.5kPa or vehicles of 2.5t. This effectively allows for the car park to fully loaded bumper to bumper with 2.5t vehicles. An isolated ambulance weighing up to 3.5t is acceptable as on average the overall weight on the deck will still be less than 2.5 kPa.”*

*This advice indicates that the ability exists for the ramp and parking area to accommodate an ambulance. Any other larger vehicles will be prohibited from accessing the first-floor parking area through the approved Traffic and Parking Management Plan that is in operation for the centre in addition to the height bar prohibiting larger vehicles.*

The City has reviewed the information submitted by the applicant (Attachment 2 – drawing A03.01 and cross section) and is satisfied that it demonstrates the rubber flap attached to the existing height bar will minimise the impact of headlight glare from vehicles exiting the first floor carpark onto the adjacent residential property.

The applicant has identified the modifications were made to permit ambulances to access the site whilst also protecting headlight glare. While noting the design is not the same architectural outcome from previous scenarios, the proposed solution is considered acceptable.

Should the application be approved, it is recommended that a condition be imposed on the development that requires the works to be undertaken within 90 days from the date of approval and thereafter maintained to the satisfaction of the City.

### Modification of condition 21 – access to first floor parking area

During the consultation process for the initial development application (DA18/1336), an issue was raised regarding the potential impact from the use of the first floor car park, specifically at night. Following discussion with the applicant, a condition was imposed requiring a traffic management plan which (amongst other things) restricted the entry of vehicles to the first floor car park between 10.00pm and 5.30am. It was intended that access be controlled via a gate on the entry driveway which prevented vehicles entering the carpark between 10.00pm and 5.30am, however allowed vehicles already within the carpark to exit during this time.

A gate was constructed, however has been broken by people trying to open the gate when it was in the closed position on numerous occasions. When reported, the applicant repaired the gate on two occasions, however has now advised the expense of this is significant, and has not since undertaken repairs meaning the first floor car park is currently accessible at all times.

The applicant is seeking to formalise this unrestricted access arrangement and has justified the formal removal of the gate as follows:

- *Access to the first-floor car parking at all times is requested to ensure a level of passive surveillance of this part of the development, which is currently being used for anti-social behaviour and is impacting the amenity of the development and the surrounding community.*
- *Previous restrictions to access on the first floor has only been applicable to vehicles. This has not discouraged people riding bikes, skateboards etc. up on the first floor which, because access is restricted, is free from vehicles and patrons in the evenings which has ultimately enabled antisocial behaviour. Unfortunately, other methods such as security patrols, calls to the police and local rangers and security cameras has been unsuccessful in discouraging this behaviour. Should access remain open at all times, this will create the perception that staff or patrons attending businesses could arrive at any time which should assist in discouraging antisocial behaviour. This in combination with the rubber flap installation to block headlight glare should act to alleviate all potential amenity impacts from having the first-floor access open at all times.*

The City does not support the justification and recommends the retention of Condition 21 as written for the following reasons:

- Submissions have raised concerns that the upstairs car park is used for anti-social behaviour. While anti-social behaviour cannot be specially controlled by a development approval, there is the ability for building or approval conditions to incorporate designing out crime principles to assist in limiting the opportunities for crime and anti-social behaviour, including limiting the access hours to spaces where such activities might occur. Limiting vehicle access to the first floor car park is considered to assist in limiting the opportunity for anti-social behaviour and the consequential impact on local amenity.

In addition, the gate has only been operational for a small percentage of the development's history, yet submissions raised through various consultations undertaken identified that anti-social behaviour was still occurring.

- The parking study previously provided by the applicant to justify increased vehicle access indicated that ground and first floor car parking were underutilised on the survey dates. The study showed that between 10:00pm and 11:00pm the upper floor had a maximum of four cars. Given this, it is questionable the level of passive surveillance that would be provided by the limited number of vehicles.
- The restriction was designed to allow vehicles to exit the parking area if required, and therefore only impacts vehicles seeking to enter after 10.00pm. Therefore, the restriction would not impact vehicles currently there that would provide for passive surveillance over the area.
- The vandalism of the boom gate, while unfortunate, is not a relevant planning consideration. In maintaining the need for access restriction, if the applicant does not wish to repair the boom gate, it is recommended that other methods to comply with the requirements of the approval is investigated.

While noting that the inclusion of the rubber flap, as discussed above, will alleviate concerns regarding headlight glare, insufficient justification has been provided by the applicant that addresses the matter in relation to anti-social behaviour. As this was the main reason the condition was required in this manner, the City does not see how the condition can be removed.

It is therefore recommended that this element of the proposal not be supported and that condition 21 be retained as previously written.

#### Advice note 9 – live music

The impact of noise was considered as part of the initial commercial development application as well as the tavern change of use application. The applicant provided a technical report for each application stating that the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) could be met, and a condition of approval was included which required the submission of additional details to substantiate the findings.

The technical report provided as part of the tavern change of use application identified specific measures needed to comply with the noise regulations, including the restriction on live music.

Advice note 9 relates to condition 14 of DA20/0452 and requires a detailed acoustic report be provided, including the details of implementation within various land uses/tenancies of the commercial development (ie. how were the operations going to be undertaken to comply with the relevant noise regulations). The advice note refers to management strategies taken directly from the technical report, such as restricting music in outdoor areas, music to be of an ambient nature, and live performances being prohibited.

The purpose of the advice note was to provide guidance in relation to the expected management strategies to be outlined in the detailed acoustic report required by the condition.

While acoustic reports had been provided in the past, the City considered that the level of detail provided within the reports was not sufficient to demonstrate that live music could occur within the relevant assigned noise levels. Specifically, the City identified that in light of any detailed information or noise modelling properly assessing the impacts in line with the Noise Regulations, retention of the advice note was appropriate.

The applicant has now provided updated documentation in the form of a Noise Impact Assessment (NIA) to identify the criteria that the tavern can operate within and comply with the noise regulations, specifically the noise levels at nearby noise sensitive premises. The NIA addresses the previous concerns of the City and identifies that the venue can operate within the Noise Regulations if adhering to certain guidelines.

The Noise Management Plan (NMP) submitted provides the detail of how these certain guidelines will be met and addresses specific requirements in relation to the site including layout, staff training requirements, ongoing maintenance and the physical levels which sound equipment is set (ie. speaker volume). The NMP works in conjunction with the OMP as a measurable guide for the day to day operation of the site.

The main controls included as part of the NIA/NMP include the requirement that all amplified means of entertainment are to be operated through the 'in house sound system' rather than relying on individual artists. Having this requirement, along with physical separation distance of the speakers (being too high to be reached by patrons and performers) will ensure that appropriate levels are maintained for all music played.

The City has reviewed the revised acoustic reports and considers that the level of detail provided within the reports is now sufficient and provides a robust management for the impacts of noise related to music.

On this basis, it is considered that this aspect of the proposal can be supported and reference in Advice Note 9 that currently prohibits live music can be removed.

### **Conclusion:**

The applicant is seeking approval from the Metro Outer JDAP for modifications to previous approvals relating to operating hours of the Tavern, changes to the vehicle access on Calis Avenue and modification to an advice note about the live music for a commercial development at 98 O'Mara Boulevard, Iluka.

The applicant has provided updated documents around operational management, and noise management as well as providing an updated acoustic assessment to respond to concerns relating to noise from the venue and the overall impact from the land use. The City considers the updated information sufficient to determine that, if properly managed, the additional hour and ability to have live music will not have an unacceptable detrimental impact on the surrounding area.

The City is satisfied that the proposed modification to the entrance to Calis Avenue to introduce a rubber flap will reduce the impact of headlight glare and is supported.

Insufficient information however has been provided to demonstrate that access to the upper floor car parking should remain open at all times and it is therefore recommended that condition 21 of the approval remains in place.

The development is considered to be consistent with the provisions of the City's *Local Planning Scheme No. 3*, objectives of the Iluka Structure Plan and relevant local planning policies and therefore it is recommended that the the development is approved, subject to conditions.

### Alternatives

In accordance with clause 17(4) of the Regulations, the JDAP may determine an application by either approving the application (with or without conditions) or refusing the application.

In reference to the Responsible Authority Recommendation, the JDAP can amend or delete the conditions of approval recommended by the City and/or include additional conditions of approval should they be considered necessary to ensure the proposal complies with the relevant planning framework.

Should the JDAP resolve to refuse the application, this determination needs to be made based on valid planning considerations as outlined under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and as set out in the *Development Assessment Panel Practice Notes: Making Good Planning Decisions*.

However, as outlined in the Planning Assessment and Officer's Comment sections above, the City considers that the development meets the relevant provisions and/or objectives of the applicable planning framework and the application is therefore recommended for approval.

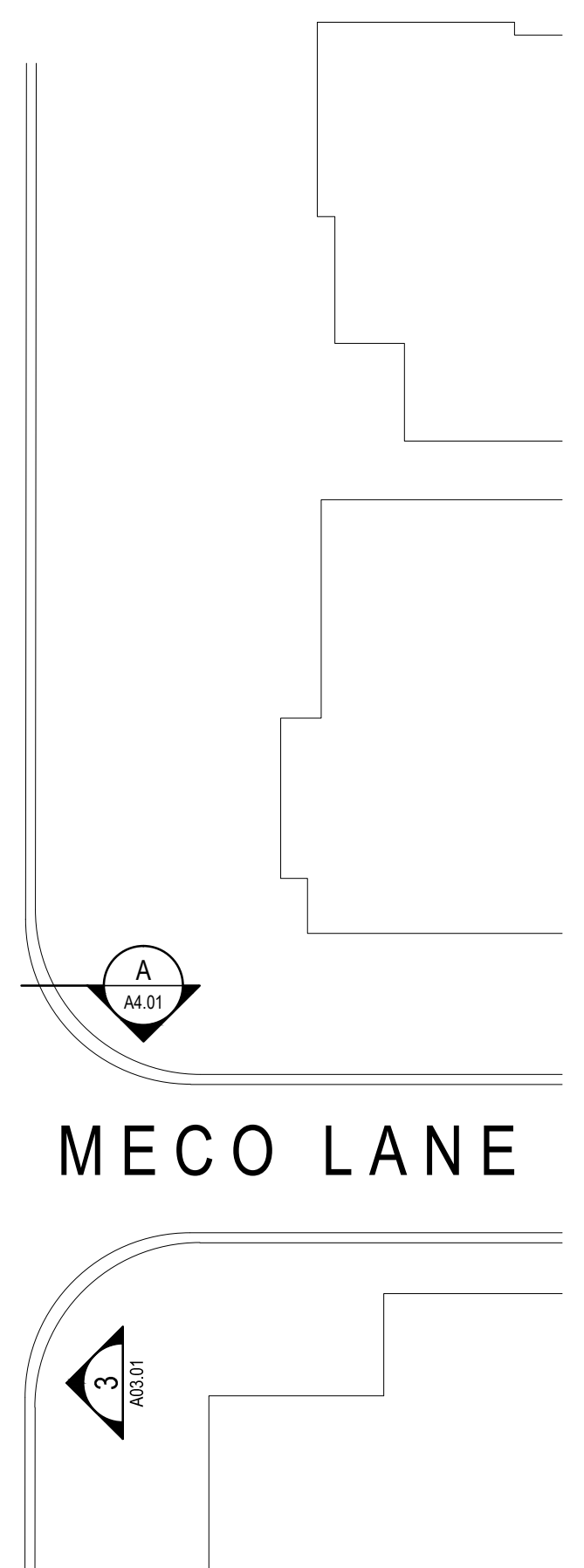
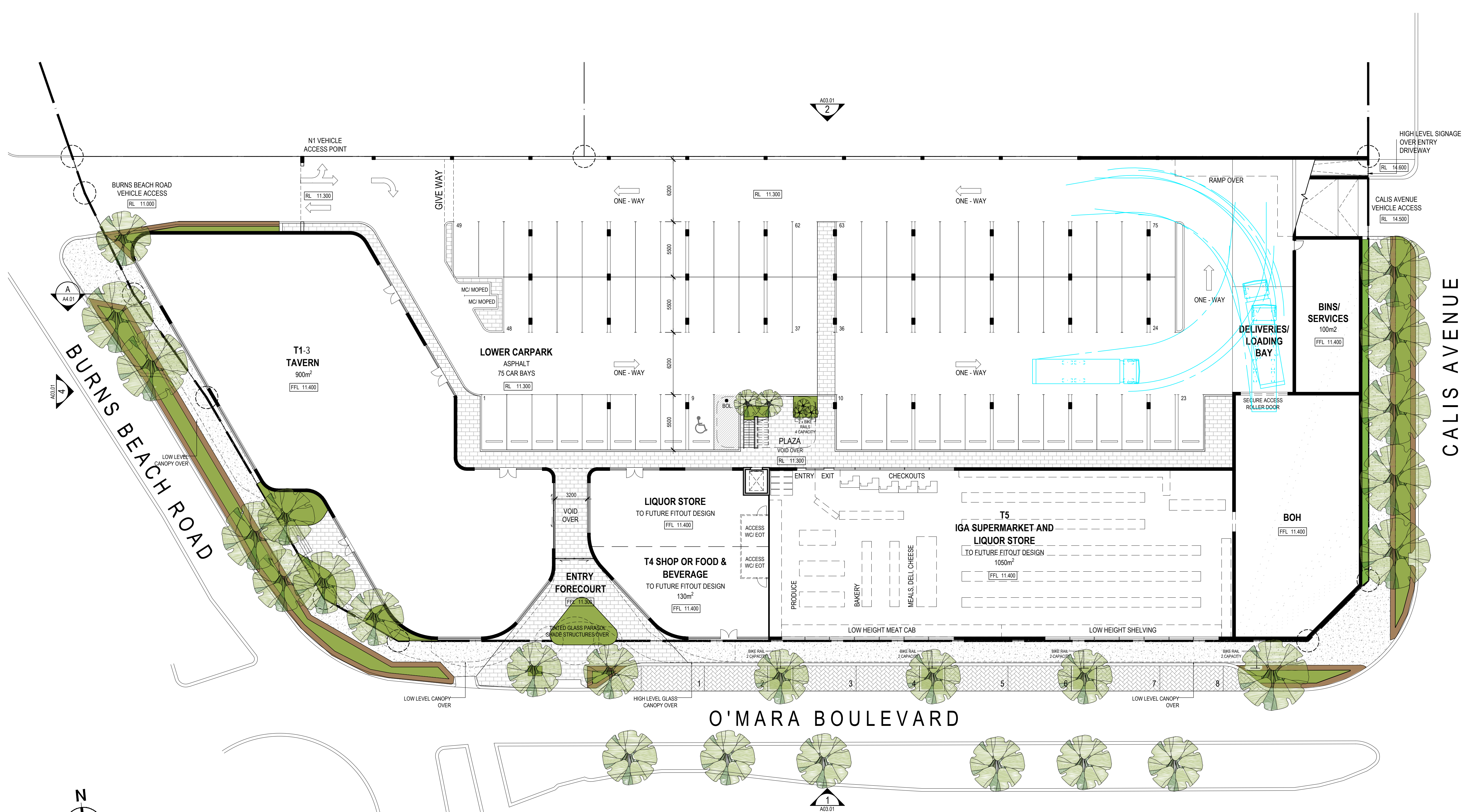
If the applicant is aggrieved by the decision or any aspect of the decision, the applicant has a right of review in accordance with the *State Administrative Tribunal Act 2004* and the *Planning and Development Act 2005*.

### **Council Recommendation:**

Not applicable.



**NOTE:** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



ISSUE	DATE	DESCRIPTION	DRN.	APP.
F	18/03/19	JDAP REVISIONS	LM	LA
E	26/02/19	DRP REVISIONS	LM	LA
D	20/02/19	DRP REVISIONS	LM	LA
C	18/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

**DEVELOPMENT APPROVAL**



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 Telephone +61 8 9212 8888 | Facsimile +61 8 9212 8822  
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**PROJECT**  
**ILUKA PLAZA**  
 LOT 9040 (#98 O'MARA BOULEVARD)  
 ILUKA, WA 6028

**TITLE**  
 LOWER FLOOR PLAN

SCALE	DRAWN	CHECKED
1:200 @ A1	LM	LA

PROJECT #	DRAWING #	ISSUE
18031	<b>A02.01</b>	<b>F</b>

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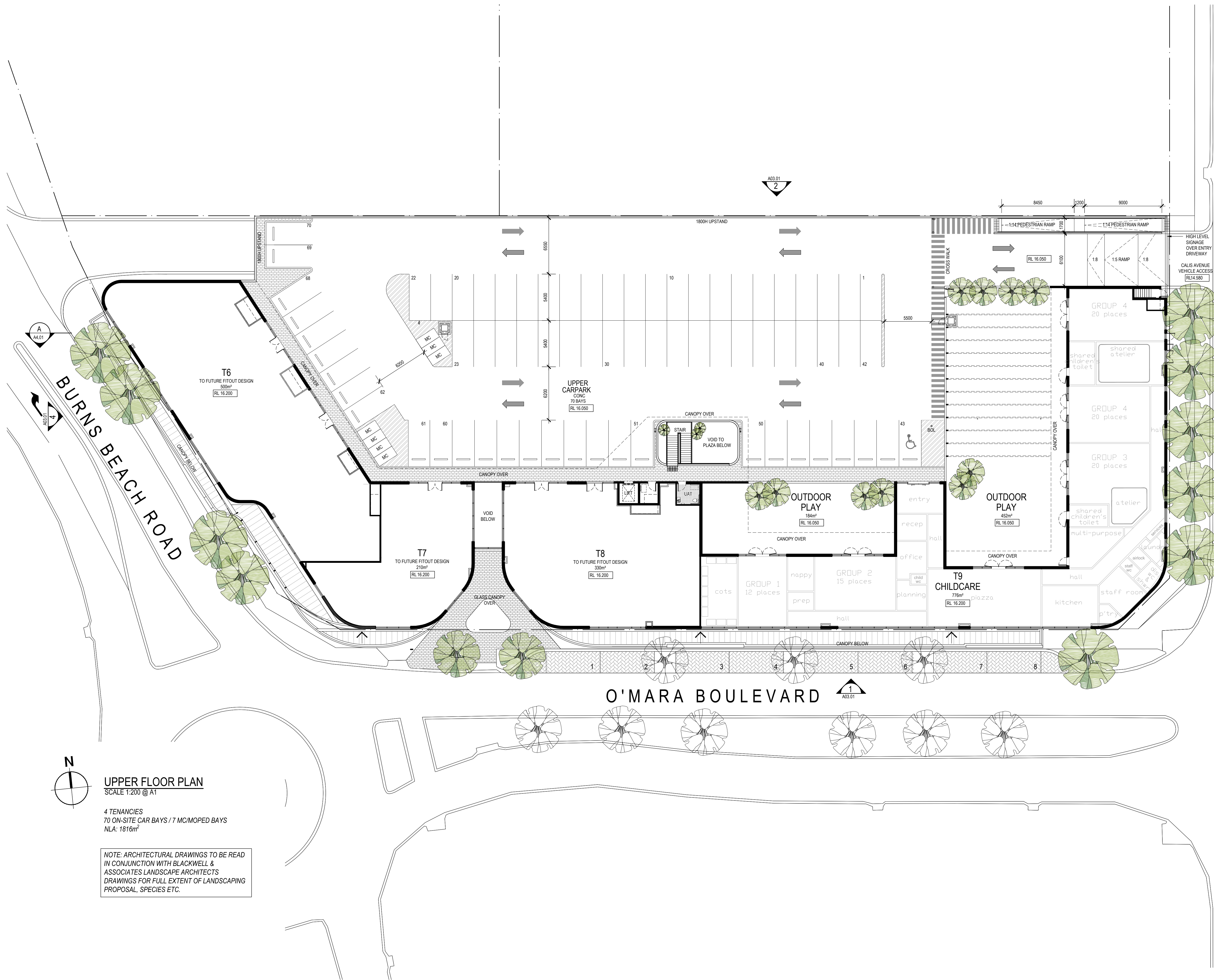
**LOWER FLOOR PLAN**  
 SCALE 1:200 @ A1

- 6 TENANCIES
- 75 ON-SITE CAR BAYS / 2 MC/MOPED BAYS
- 8 STREET CAR BAYS
- 6 BICYCLE RACKS (12 CAPACITY)
- NLA: 2080m<sup>2</sup>

**NOTE:** ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH BLACKWELL & ASSOCIATES LANDSCAPE ARCHITECTS DRAWINGS FOR FULL EXTENT OF LANDSCAPING PROPOSAL, SPECIES ETC.



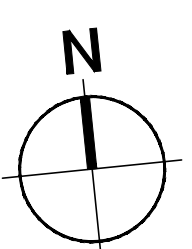
**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



CALIS AVENUE

MECO LANE

O'MARA BOULEVARD



**UPPER FLOOR PLAN**  
SCALE 1:200 @ A1

4 TENANCIES  
70 ON-SITE CAR BAYS / 7 MC/MOPED BAYS  
NLA: 1816m²

NOTE: ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH BLACKWELL & ASSOCIATES LANDSCAPE ARCHITECTS DRAWINGS FOR FULL EXTENT OF LANDSCAPING PROPOSAL, SPECIES ETC.

ISSUE DATE	DESCRIPTION	DRN. APP.
A 30/07/19	DA - REVISION	CS IH

**DEVELOPMENT APPROVAL**



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**PROJECT**  
**ILUKA PLAZA**  
LOT 9040 (#98 O'MARA BOULEVARD  
ILUKA, WA 6028

**TITLE**  
UPPER FLOOR PLAN

SCALE	DRAWN	CHECKED
1:200 @ A1	CS	IH

PROJECT #	DRAWING #	ISSUE
18031	SD02.02	A

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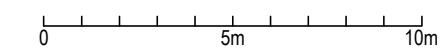


**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



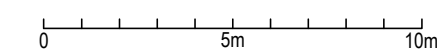
**SOUTH ELEVATION (O'MARA BOULEVARD)**

SCALE 1:200 @ A1



**NORTH ELEVATION**

SCALE 1:200 @ A1



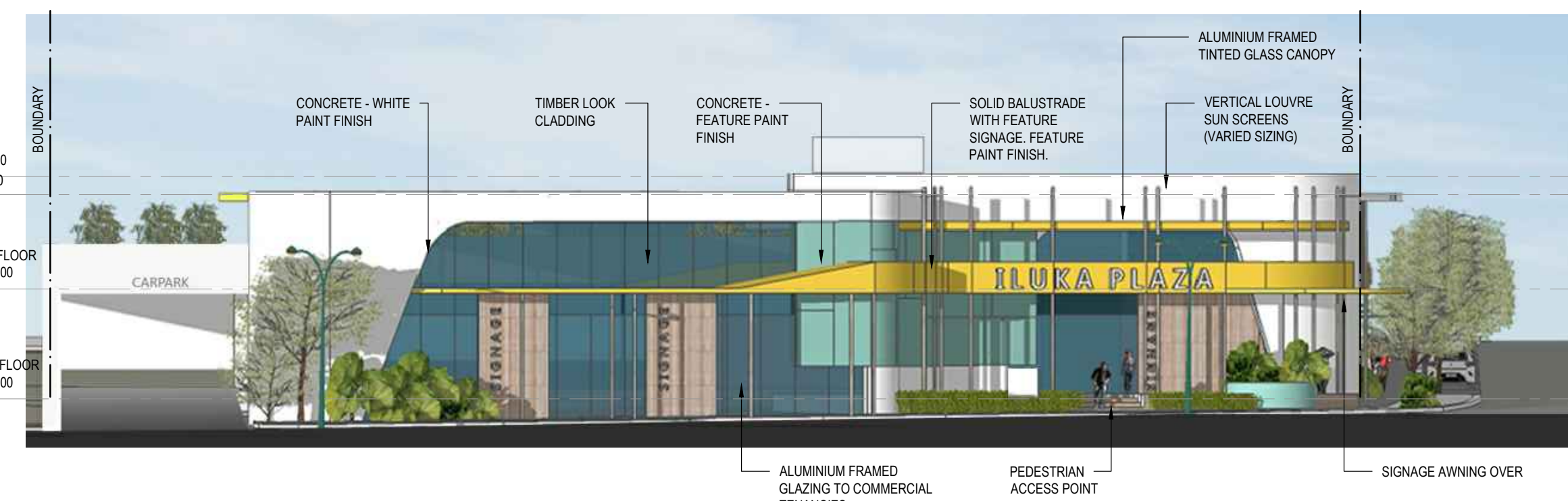
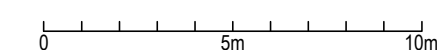
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C	20/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

ISSUE	DATE	DESCRIPTION	DRN.	APP.
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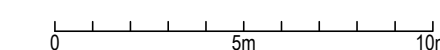
**EAST ELEVATION (CALIS AVENUE)**

SCALE 1:200 @ A1



**WEST ELEVATION (BURNS BEACH ROAD)**

SCALE 1:200 @ A1



Rubber Flap 400mm  
6000mm

**DEVELOPMENT APPROVAL**

**dmg** ARCHITECTURE  
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 telephone +61 8 9212 8888 | facsimile +61 8 9212 8822  
 info@dmgaustralia.com.au | www.dmgaustralia.com.au

**PROJECT**  
**ILUKA PLAZA**  
 LOT 9040 (#98) O'MARA BOULEVARD  
 ILUKA, WA 6028

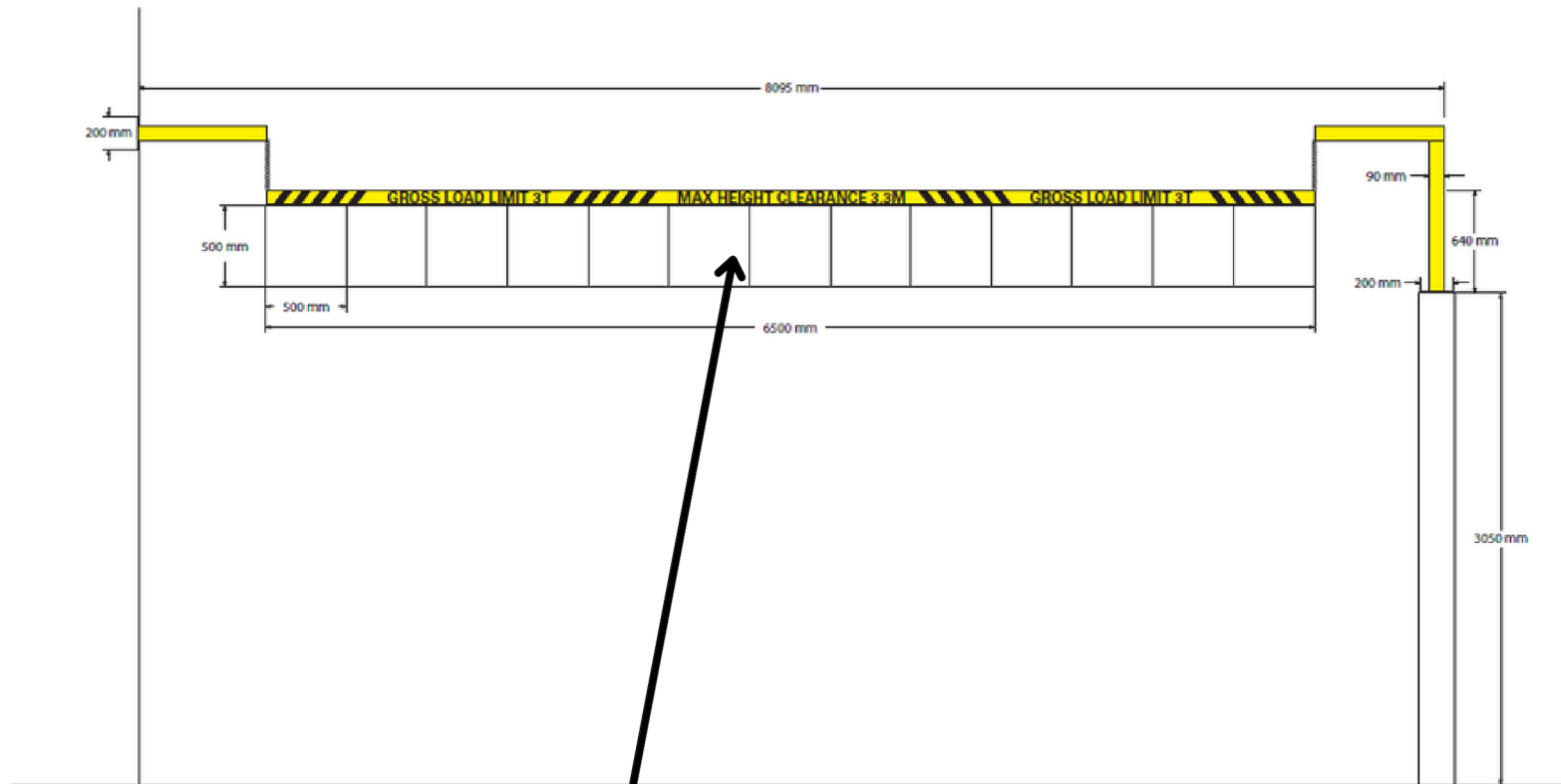
**TITLE**  
 ELEVATIONS

SCALE	DRAWN	CHECKED
1:200 @ A1	LM	LA

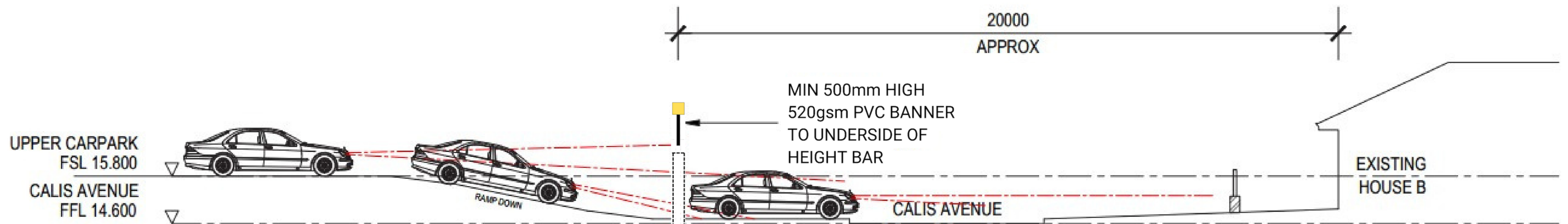
PROJECT #	DRAWING #	ISSUE
18031	<b>A03.01</b>	<b>D</b>

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NEW SAILTRACK EXTRUSION FIXED TO UNDERSIDE OF HEIGHT BAR  
 500mm HIGH 520gsm PVC BANNER WITH KEDAR EDGE AND SPLITS  
 EVERY 500mm FIXED TO EXTRUSION  
 COLOUR: BLACK



ILUKA PLAZA HEIGHT BAR  
 ILLUSTRATIVE CROSS SECTION

Our Ref: 840

31 January 2023

Chief Executive Officer  
City of Joondalup  
PO Box 21  
Joondalup WA 6919

Attention: Mr. Jeremy Thompson (via email – [Jeremy.Thompson@joondalup.wa.gov.au](mailto:Jeremy.Thompson@joondalup.wa.gov.au))

Dear Sir,

**ILUKA PLAZA – FORM 2 APPLICATION**  
**SUPPLEMENTARY INFORMATION**

This letter is in response to a recent mediation which dealt with a Form 2 application to amend a prior planning approval – DA20/0452 (DAP/18/01543). The intent of this submission is to revise our earlier application and provide additional information to assist the City in preparing a revised RAR Report and recommendation to be considered by the Metro Outer Joint Development Assessment Panel (JDAP).

Our original Form 2 application sought the following:

1. The removal of the bulkhead/screening device across the ramp to the first-floor parking area accessed from Calis Avenue. This is proposed to be replaced with a height restriction bar.
2. Modify Condition 22 of DA20/0452 (DAP/18/01543) to increase the operating hours of the 'Tavern' land use from 11.00pm to midnight. Condition 22 currently states:

*"The hours of operation shall be no more than:*

- a) *T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.*
- T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.*
- T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday"*

3. Amend Advice Note 9 of DA20/0452 (DAP/18/01543) to remove the reference to a restriction on live music within the tavern. Advice Note 9 currently states:

*"Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on outdoor areas (including time restrictions, prohibition of music and any openings to the indoor area) and music to be of an ambient nature with live performances to be prohibited."*

4. Modify Condition 21 of DA18/1336 (DAP/18/01543) to allow access to the first-floor parking area at all times. Condition 21 currently states:

*“A Traffic and Parking Management Plan shall be submitted to and approved by the City prior to the commencement of the development. The Traffic and Parking Management Plan shall include, but not be limited to, the following;*

- *Demonstrate safe access and egress including vehicular and pedestrian access;*
- *Consideration of mirrors at the exit on Calis Avenue; and*
- *The Calis Avenue access shall be closed to prevent entry by vehicles between 10.00pm and 5.30am Monday to Sunday. Traffic and Parking Management shall then be undertaken in accordance with the approved plan.”*

The changes being proposed as part of the amended proposal to be re-considered by JDAP include:

- Adding a rubber flap to the height bar that has replaced the bulkhead at the site in order to block headlight glare in a similar fashion to the approved bulkhead, which has since been removed. This is intended to allow ambulances to pass underneath the height bar whilst also blocking headlight glare should vehicles be using the first-floor parking area in the evening.
- Modifying the wording of Condition 22 to remove the reference to operating hours for the approved ‘Tavern’ land use for T1-T3. Instead, the operating hours for the ‘Tavern’ land use will be consistent with the Liquor Control Act 1988 and management will be consistent with an Operations Management Plan.

In addition to the abovementioned changes, we have also prepared additional supporting information to support the proposal, this additional information includes:

- A revised Operational Management Plan (**Attachment 2**) to guide the operation of the approved ‘Tavern’ and provide additional justification in support of the modifications proposed to Condition 22.
- A Noise Management Plan (**Attachment 3**) which provides an updated acoustic assessment and establishes acoustic measures to be implemented to ensure compliance with the *Environmental Protection (Noise) Regulations 1997*.

The proposed amendments and recent changes made as part of the mediation process have been considered in detail below.

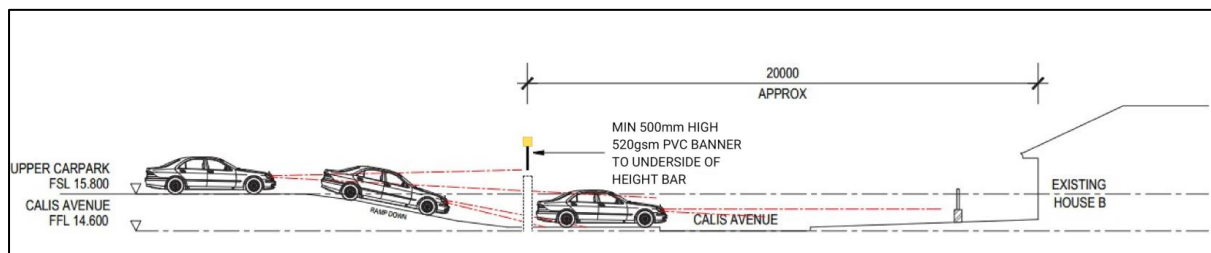
#### Removal of the Bulkhead

1. The removal of the bulkhead and replacement with a height bar and rubber flap will enable ambulance access to the medical centre, which is a critical need for the development as in emergency situations the approved medical centre needs to have the ability to have access to an ambulance without the need to transport patients in a lift or down the first-floor parking access ramp. In considering the ambulance access to the first floor, we sought advice from a structural engineer around the weight bearing capacity of the ramp and the first floor parking area and they advised that:

*The loading design for this carpark is as per Australian Standards and is 2.5kPa or vehicles of 2.5t. This effectively allows for the car park to fully loaded bumper to bumper with 2.5t vehicles. An isolated ambulance weighing up to 3.5t is acceptable as on average the overall weight on the deck will still be less than 2.5 kPa.*

This advice indicates that the ability exists for the ramp and parking area to accommodate an ambulance. Any other larger vehicles will be prohibited from accessing the first-floor parking area through the approved Traffic and Parking Management Plan that is in operation for the centre in addition to the height bar prohibiting larger vehicles.

- Acknowledging the desire/need to also prevent headlight glare was the primary reason for the proposed installation of the rubber flap to hang from the height bar. As is evident in the below section from the amended development plans (Attachment 1), the rubber flap will clearly obstruct headlight glare from entering the property opposite the first floor access on the other side of Calis Avenue.



### Access to First Floor Parking

- Access to the first-floor car parking at all times is requested to ensure a level of passive surveillance of this part of the development, which is currently being used for anti-social behaviour and is impacting the amenity of the development and the surrounding community.

Previous restrictions to access on the first floor has only been applicable to vehicles. This has not discouraged people riding bikes, skateboards etc. up on the first floor which, because access is restricted, is free from vehicles and patrons in the evenings which has ultimately enabled antisocial behaviour. Unfortunately, other methods such as security patrols, calls to the police and local rangers and security cameras has been unsuccessful in discouraging this behaviour. Should access remain open at all times, this will create the perception that staff or patrons attending businesses could arrive at any time which should assist in discouraging antisocial behaviour. This in combination with the rubber flap installation to block headlight glare should act to alleviate all potential amenity impacts from having the first-floor access open at all times.

#### Modification to Operating Hours

4. The intent behind removing the operating hours pertaining to the proposed 'Tavern' land use is to reduce conflicts between separate legislation being the *Planning and Development (Local Planning Schemes) Regulations 2015* and the *Liquor Control Act 1988*. This is most evident in the approval of the Section 39 certificate which allowed operation until 12am which differed from the approved operating hours noted in Condition 22.

In having the operating hours consistent with the Liquor Control Act 1988, there would be restrictions on trade until 12am at night, consistent with what we are seeking. Further, it would also allow the flexibility for Extended Trading Permits to be obtained on occasion in accordance with the provisions of the Liquor Control Act.

5. In undertaking a detailed acoustic assessment as part of the submitted Noise Management Plan (Attachment 3), the facility will ensure compliance with the *Environmental Protection (Noise) Regulations 1997*, ensuing no negative noise impacts on adjoining sensitive land uses, despite the modified operating hours allowing an additional hour of trade in the evenings.

Included in the Noise Management Plan are controls around the nature and type of live music to be played at the premises. This in combination with the other management measures outlined in the Noise Management Plan should ensure that the prohibition of live music noted in Advice Note 9 is no longer necessary.

6. In addressing the amenity concerns associated with the 'Tavern' operations, a detailed Operations Management Plan has been prepared to govern the operation of the 'Tavern' and provide measurable and assessable management controls for the premises that can be appropriately implemented by the operator and assessed for compliance by the City. A copy of the Operations Management Plan has been provided in Attachment 2.

Should you have any queries or require any clarification in regard to the matters raised, please do not hesitate to contact the undersigned on 9275-4433.

Yours faithfully,



**REEGAN CAKE**  
**PLANNING COORDINATOR**

# THE ILUKA

OPERATIONAL MANAGEMENT PLAN

MARCH 2023





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 Appendix 1 – Noise Management Plan	
Appendix 2 – Complaints Performa	

## Objectives of Management Plan

This Operational Management Plan (OMP) pertains to the 'The Iluka' which operates from Tenancy 2 & 3 at Lot 648 (No. 98) O'Mara Boulevard, Iluka. The intent of the OMP is to details strategies and procedures for the operator to comply with in order to manage the amenity impacts on the surrounding residential properties. In addition, it will assist in ensuring the venue operates as a food focused, family friendly venue that seeks to highlight local produce in the food offering and promote local acoustic and jazz artists in through the entertainment offered at the venue. The target demographic for the facility will be an older demographic that will include families to enjoy the food offering and available entertainment.

Included as part of the OMP is the following:

- Noise Management Plan (Appendix 1) which outlines how the facility demonstrates compliance with the *Environmental Protection (Noise) Regulations 1997*.
- Complaints Performa (Appendix 2).

It is stressed that the obligations outlined within this OMP are in addition to any requirements that are also applicable under the Liquor Control Act.

This OMP shall remain in place for as long as 'Tavern' is the approved land use for Tenancy 2 & 3. Should 'The Iluka' vacate the premises, any new operator will be subject to the provisions of this OMP unless otherwise amended, as agreed to by the City of Joondalup.

To ensure the objectives of the OMP is met the operating hours of the Tavern will not exceed 12am in the evening unless an Extended Trading Permit is granted in accordance with the Liquor Control Act.

## Entertainment

The provision of entertainment, which is appropriate and suitable to the Premises, is an important part of the success of our business.

The entertainment provided has to be of a kind that is acceptable to our patrons but at the same time does not cause undue offence, noise or disturbance to persons who live in close proximity to the Premises.

It is stressed that any entertainment provided at the facility will be required to comply with an approved Noise Management Plan which is contained in Appendix 1 of this OMP.

In order to minimise any undue offence, noise or disturbance:

- Operationally the facility will be a restaurant focused establishment that seeks to provide patrons with high quality food that is served in a premises that provides diners with a high level of amenity. The focus on food and a restaurant style operation is evident in the extent of floor space utilised for seated dining (see Figure 1 below). This is purposeful to encourage an older demographic to attend and ensure the venue is family friendly.
- On Friday and Saturday nights only, a DJ will be performing after the dinner service (usually concludes at 9pm) for disco nights. This will involve the removal of some seating in a portion of the premises (as noted as 'Evening Dance Area' in Figure 1 below). It is evident that this only represent a very small section of the total floor area and instead the facility is more restaurant focused.

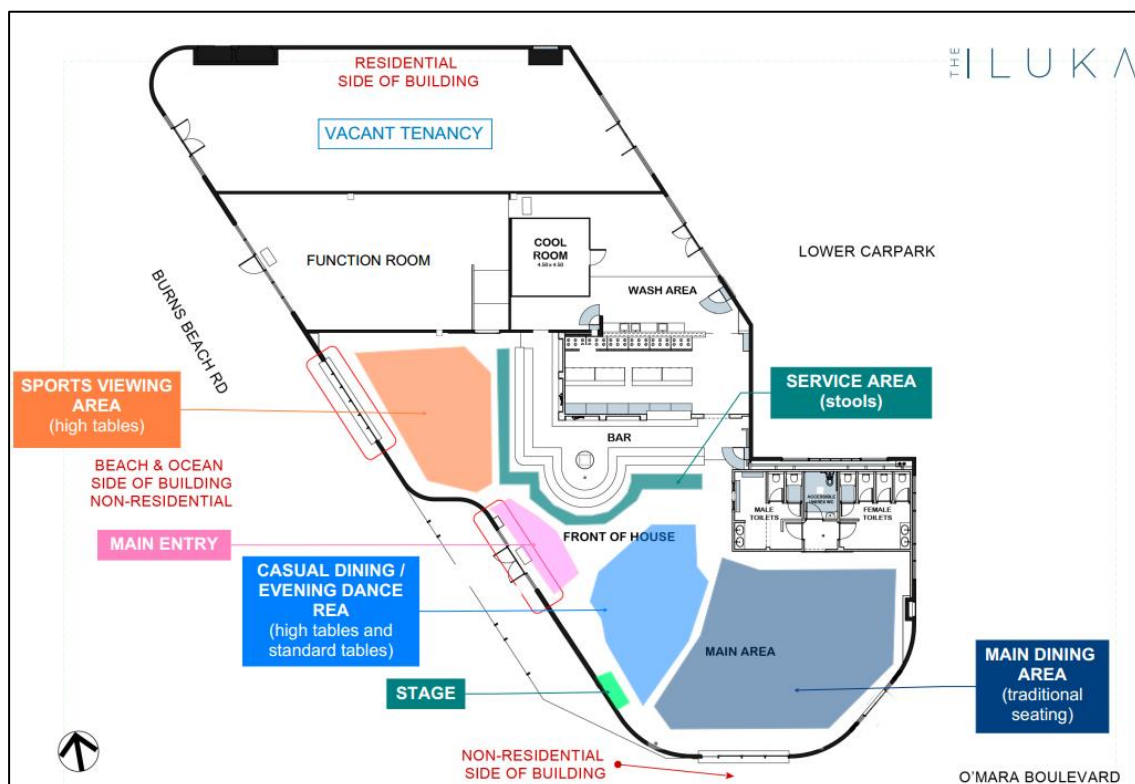


Figure 1 – Floor Plan

- 
- The nature of live music must be in line with soft contemporary radio music, jazz, classical, singer songwriters and will exclude heavy rock or music with harsh live elements such as kick drum and the use of hard drum sticks. Live music is expected to occur sporadically throughout the week but will most likely be available to patrons on weekends and may occur interchangeably with DJ performances.
  - Should the facility receive a request for a party bus to attend the site, this will be expressly declined by management. In the event that a party bus arrives on site, the patrons on the bus will be denied entry to the venue.
  - On occasion the facility will host special events, primarily related to sporting events such as soccer games, the AFL grand final or the Melbourne Cup. During these events, tickets will be sold and only patrons with tickets will be permitted to attend to ensure the capacity of venue is managed and the contact details of patrons are available to management. During any special event that is ticketed, crowd controllers will be employed to assist in the management of the event and venue in general.
  - On occasion an Extended Trading Permit (ETP) will be sought for events that occur beyond the allowed operating hours, such as New Years Eve. These applications will be made in accordance with the Liquor Control Act.
  - During special events or when ETP's are granted, the Tavern will conclude the drinks service 30 minutes prior to the end of the event.

## Complaints

Any complaint by a member of the public that they are experiencing undue offence, noise or disturbance as a result of entertainment being provided or the general operation of the Premises will follow the below procedure:

1. Complaints forms will be made available on the Tavern's website for members of the public to access and provide feedback if or when they consider it to be appropriate. The nature of the complaint form will be consistent with what is provided in Appendix 2 of the OMP.
2. Upon lodgement of a complaint, staff will bring it to the attention of the Duty Manager who will record the complaint on the mandatory complaints register.
3. The Duty Manager will investigate the complaint to ascertain whether the OMP or conditions of planning approval have been breached.
4. If contact details of the complainant are provided, the owner of the 'Tavern' will make contact to advise them of the outcome of the investigation and if any further concerns remain within a period of 1 week.
5. The resolution of any complaint will be included in the complaints register. Any complaints should be available to the City of Joondalup upon verbal or written request.
6. Should a complainant wish to have a complaint dealt with in real time, the relevant managers contact details will be provided for immediate contact to ensure the complaint is dealt with.

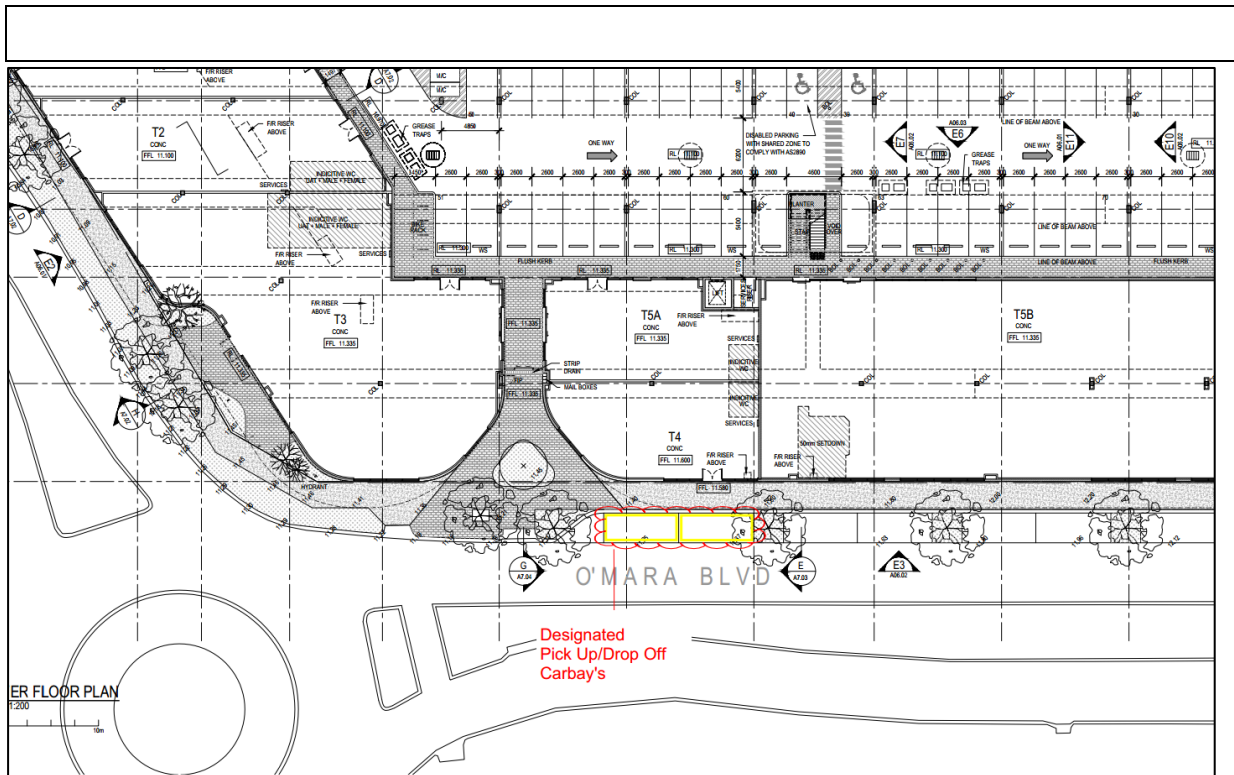
## Creating a Safe Environment

The creation of a safe environment within the Premises and the local neighbourhood is a commitment of Management as this will assist in the facility addressing the management plan objectives to encourage an older demographic that is family friendly to attend the venue.

Within the Premises patrons are entitled to feel safe and relaxed. Patrons should not be made to feel uncomfortable, embarrassed or threatened by the behaviour of other patrons. It is one of the aims of Management in adopting responsible service practices at the Premises to create an environment at the Premises where the safety and enjoyment of patrons of the Premises can be maximised as far as may be possible.

In addition, residents of houses within the vicinity of the Premises should not have their peace and quiet unduly disturbed by noise from the Premises or the behaviour of patrons as they leave the Premises. To facilitate these objectives:

- Staff will ensure that reasonable measures are in place to minimise the escape of undue noise from the Premises. This includes adherence to the submitted Noise Management Plan (Appendix 2) which ensures compliance with the *Environmental Protection (Noise) Regulations 1997*.
- Staff will promote and encourage amongst patrons a respect for the amenity of the neighbourhood in which the Premises is situated, and rights of residents not to be unduly disturbed by patrons' behaviour on or off the Premises. To encourage to respect for amenity signage will be installed at the premises reminding patrons that the venue is within a residential community and request that the noise and behaviour is respectful of that community.
- Staff will take reasonable steps to prevent patrons from leaving the Premises with open cans, bottles or with glasses.
- Staff will cease the sale of liquor 30 minutes prior to closing time and advise patrons of the approaching last drinks which will alert patrons of the forthcoming closure of the Premises and encourage them to disperse in an orderly manner. Upon dispersal patrons will be guided by security and staff to dedicated pick up bays and away from the surrounding residential community. The location of the proposed pick up and drop off bays is depicted in Figure 2.



**Figure 2 – Pick up and drop off bays**

- Staff will collect on a regular basis empty and discard glasses, cans and bottles throughout the Premises. Disposal of waste, in particular glasses, cans and bottles will occur after 7am in the morning and prior to 7pm at night to ensure this occurs outside the noise sensitive periods.
- Management will employ licensed crowd controllers and security personnel on Friday and Saturday nights and whenever the facility is hosting a special event. These staff members will assist in managing the dispersal of patrons and ensuring the behaviour of patrons does not impact adjoining residents.
- Management will arrange for the removal of litter from residential areas surrounding the Premises. This will occur daily during the morning hours when an engaged cleaner is cleaning the premises.
- Should local residents wish to express concern with regard to how the facility is operating, the contact details of management will be made available.



Appendix 1 – Noise Management Plan





# THE ILUKA TAVERN

98 O'MARA BOULEVARD  
ILUKA

NOISE MANAGEMENT PLAN

MAY 2023

OUR REF: 30393-7-22193



DOCUMENT CONTROL PAGE

**NOISE MANAGEMENT PLAN**  
**THE ILUKA TAVERN**

Job No: 22193

Document Reference: 30393-7-22193

**THE ILUKA TAVERN**

**DOCUMENT INFORMATION**

<b>Author:</b>	George Watts	<b>Checked By:</b>	Paul Daly
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## APPENDICIES

A	Noise Impact Assessment
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## 1. INTRODUCTION

The Iluka Tavern at 98 O'Mara Boulevard, Iluka, has established requirements for operations to ensure that noise emissions associated with the venue complies with the requirements of the Environmental Protection (Noise) Regulations 1997.

This document sets out the guidelines to be implemented by the operator and their staff to control noise emissions.

## 2. BACKGROUND

Herring Storer Acoustics conducted an acoustical assessment of noise emissions associated with the Iluka Tavern.

The findings of this report, and the conditions which are to be met are listed in the Noise Impact Assessment report for the venue (HSA Ref : 29657-6-22193).

## 3. UPDATES TO THIS NOISE MANAGEMENT PLAN

This Noise Management Plan is to be reviewed annually by the operators of the Tavern and in the event that any changes to the tavern (both operations and structure) or surrounding area takes place.

Examples of triggers for such a review, whilst not exhaustive, are as follows :

- Changes in speakers/amplification equipment.
- Changes in façade or roof construction.
- Changes in air conditioning and ventilation systems.
- Changes to the neighbouring area, such as new residential premises.
- Other noise sources become subject of complaint (for example, emptying of bins).

A review of the Noise Management Plan may necessitate a revision of the Noise Impact Assessment.

## 4. OPENING HOURS / OPERATIONS

The Iluka Tavern operates from 11:30am to late, Monday to Sunday.

## 5. STAFF INDUCTION

As an integral part of staff induction, staff will be made aware of requirements of this Noise Management Plan and what is required to ensure that The Iluka Tavern complies with this Plan at all times.

During the opening hours, The Iluka Tavern will dedicate one employee ensure that the requirements of this plan are met and respond to noise complaints.

## 6. NOISE CONTROL

Noise Control requirements within The Iluka Tavern were established as a part of the Noise Impact Assessment. The noise limits for each area within the tavern are summarised below in Table 1.

**TABLE 1 - INTERNAL NOISE CRITERIA REQUIRED FOR TAVERN**

Tavern Area Location	Required Noise Limit L <sub>Aeq</sub> , 5min	
	dB(A)	dB(C)
Tavern Function Room – Front of Stage	82	91
Main Tavern Sound System – Middle of Bar	85	97
Main Tavern Dance Floor Sound System – Middle of Dance Floor	90	94

Speakers are required to be set such the above noise levels are met. The speaker volume settings are too high to be reached by patrons or performers, with the primary control box locked with only management having access.

All doors and windows are to be normally closed whilst the venue is operating at the above levels.

Management are to ensure that the in house sound system is utilised for all entertainment activities within the venue to ensure that control is maintained on noise levels.

Staff will regularly monitor doors and windows to ensure they remain closed, with this requirement being part of the staff induction.

Calibration of the speaker system to ensure that the above noise limits are met, once undertaken, should only need to be repeated in the event that there is a change to the in house music equipment or should the investigation of a complaint warrant such action.

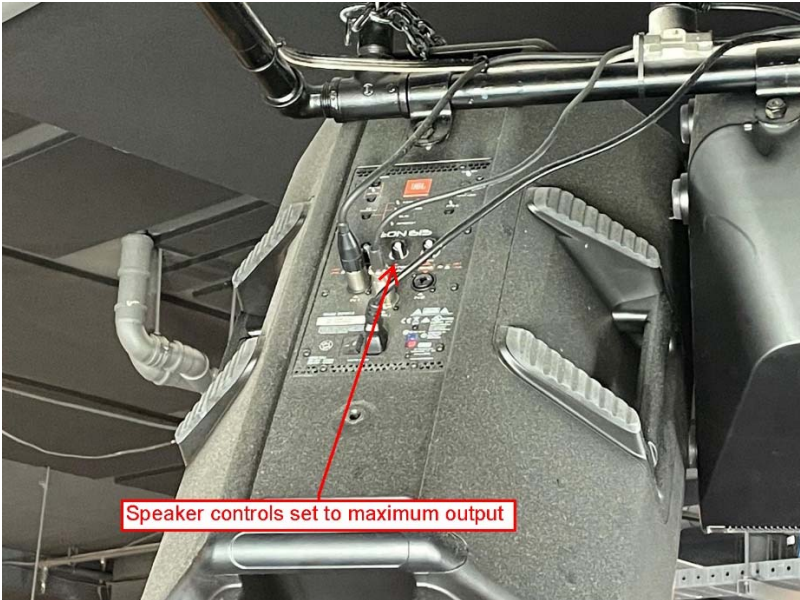
Photos of the speaker settings are shown below in Figures 1 to 6.



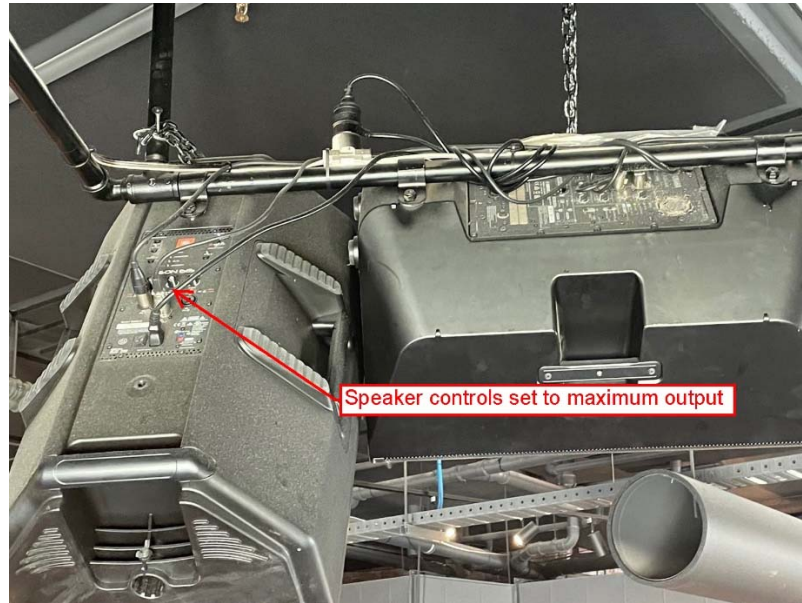
**FIGURE 1 – LOCATION OF SPEAKERS – MAIN BAR**



**FIGURE 2 – SPEAKER VOLUME SETTING – MAIN BAR**



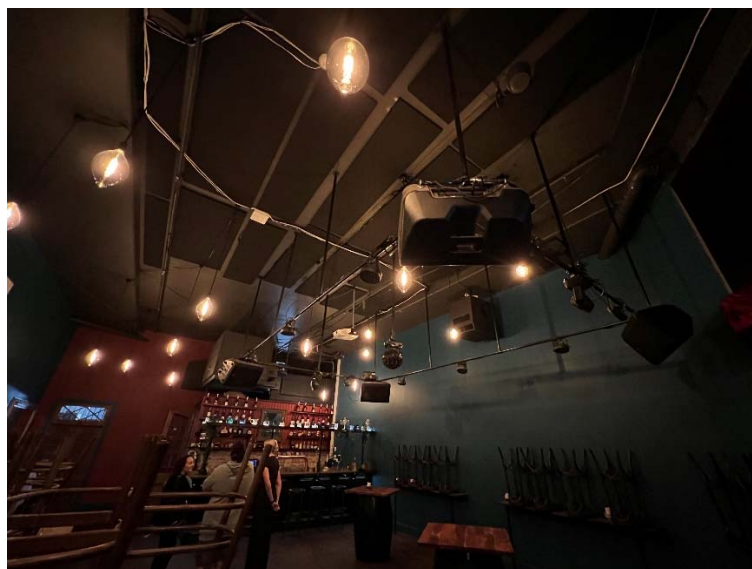
**FIGURE 3 – SPEAKER VOLUME SETTING – MAIN BAR**



**FIGURE 3 – SPEAKER VOLUME SETTING – MAIN BAR**



**FIGURE 4 – SPEAKER VOLUME SETTING – MAIN BAR**



**FIGURE 5 – SPEAKERS- FUNCTION ROOM**





**FIGURE 6 – SECURE CONTROL BOX**

## 7. DISPOSAL OF WASTE

Disposal of waste, in particular glasses, cans and bottles, will occur after 7am in the morning and prior to 7pm at night, to ensure that this occurs outside the noise sensitive periods.

In between these times, the waste will be stored within the tavern.

## 8. MONITORING OF NOISE IMPACTS

Whilst operating, management are to ensure that periodic checks on noise impacts in the area are undertaken.

This will involve a staff member walking around the surrounding area of the tavern during typical nights to ensure noise levels are either inaudible, or at typically low levels - with noise levels recorded in a log.

On a monthly basis, equipment settings will be checked to ensure that they have not been altered. This check should be recorded in a log.

## 9. MAINTENANCE OF EQUIPMENT

Management at annual intervals are to check/maintain all speakers/amplifiers to ensure equipment are operating correctly. Any changes to the manner in which the equipment perform will trigger a review of this Noise Management Plan and potentially the Noise Impact Assessment.

## 10. COMPLAINT RESPONSE

Where possible, the neighbouring residences should be encouraged to, in the first instance, report any complaints directly to The Iluka Tavern.



Any complaints received will be recorded in a log book, stating:

- The time and date of complaint;
- Visiting the site of the complaint (at the time of complaint if possible) and follow up if necessary.
- Review speaker settings and operations at the time of complaint (at the time of complaint if possible).
- Where the complaint was from;
- Source of complaint (i.e. Band / DJ or crowd noise);
- If a verbal response was given to the resident, what was it and was the resident satisfied with the response; and
- Did any personnel go to the property to discuss the complaint and what was resolved at this point.

After the complaint has been received and responded to, staff will check the venue for open doors or windows and then assess the noise at the complainants house using their ears, to determine if music can be heard. If the music can be heard staff will then reduce the volume of the sound system so that it can no longer be heard.

- Provide a copy to the General Manager.

## **APPENDIX A**

### **NOISE IMPACT ASSESSMENT**



## **DYNAMIC PLANNING AND DEVELOPMENTS PTY LTD**

**THE ILUKA TAVERN  
98 O'MARA BOULEVARD, ILUKA**

## **NOISE IMPACT ASSESSMENT**

**MARCH 2023**

**OUR REFERENCE: 29657-8-22193**



DOCUMENT CONTROL PAGE

**ACOUSTIC ASSESSMENT**  
**THE ILUKA TAVERN**  
**ILUKA**

Job No: 22193

Document Reference: 29657-8-22193

FOR

**DYNAMIC PLANNING AND DEVELOPMENTS PTY LTD**

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## **EXECUTIVE SUMMARY AND REQUIRED MANAGEMENT MEASURES**

Herring Storer Acoustics have been commissioned to undertake a noise impact assessment of The Iluka Tavern, with the purpose of establishing the internal noise criteria that can be operated within the tavern and comply with the relevant assigned noise levels stipulated by the Environmental Protection (Noise) Regulations 1997 at nearby noise sensitive premises.

The noise criteria for the various areas within the tavern have been developed (based on measurement) and are listed below.

### **INTERNAL NOISE CRITERIA REQUIRED FOR TAVERN**

<b>Tavern Area Location</b>	<b>Required Noise Limit</b>	
	<b>L<sub>Aeq</sub>, 5min</b>	
	<b>dB(A)</b>	<b>dB(C)</b>
Tavern Function Room – Front of Stage	82	91
Main Tavern Sound System – Middle of Bar	85	97
Main Tavern Dance Floor Sound System – Middle of Dance Floor	90	94

The above noise limits to the various areas are based on the existing sound system set up.

Further confirmation measurements of the system were conducted to calibrate the system and ensure noise levels meet the above criteria. It is noted the speakers were altered, via the physical volume controls located on the speakers at height, during the calibration measurements, hence, are unable to be tampered with by unauthorised personnel.

The measured noise levels during the calibration process within the various areas are listed below. These are all compliant with the limits that were established above.

### **NOISE LEVELS WITHIN TAVERN FOLLOWING LIMITING OF SPEAKERS**

<b>Tavern Area Location</b>	<b>Required Noise Limit</b>	
	<b>L<sub>Aeq</sub>, 5min</b>	
	<b>dB(A)</b>	<b>dB(C)</b>
Tavern Function Room – Front of Stage	82	91
Main Tavern Sound System – Middle of Bar	83	96
Main Tavern Dance Floor Sound System – Middle of Dance Floor	90	94

It is further noted that all windows and doors of the tavern were closed during the measurements undertaken for the assessment and forms part of the conditions that result in the noise limits presented.

Noise levels at the nearest noise sensitive premises are compliant with the most stringent assigned noise levels stipulated by the *Environmental Protection (Noise) Regulations 1997* whilst operating at the internal levels listed above.

## 1. INTRODUCTION

Herring Storer Acoustics were commissioned to undertake an acoustic review of The Iluka Tavern at 98 O'Mara Boulevard, Iluka.

The purpose of the review was to ascertain the noise impact of the venue, and the internal noise levels that result in compliant levels with the Environmental Protection (Noise) Regulations 1997.

This work is understood to have been requested to incorporate into an application to change the approved operating conditions of the venue.

## 2. ENVIRONMENTAL NOISE IMPACT

### 2.1 CRITERIA

The allowable noise level at the surrounding locales is prescribed by the *Environmental Protection (Noise) Regulations 1997*. Regulations 7 & 8 stipulate maximum allowable external noise levels determined by the calculation of an influencing factor, which is then added to the base levels shown below. The influencing factor is calculated for the usage of land within two circles, having radii of 100m and 450m from the premises of concern. In this instance, the neighbouring premises are commercial, hence, the Assigned Noise Levels are as specified below in Table 1.

**TABLE 1 - ASSIGNED OUTDOOR NOISE LEVEL**

Premises Receiving Noise	Time of Day	Assigned Level (dB)		
		L <sub>A10</sub>	L <sub>A1</sub>	L <sub>Amax</sub>
Noise sensitive premises within 15 metres of a dwelling (Highly Sensitive Areas)	0700 - 1900 hours Monday to Saturday	45 + IF	55 + IF	65 + IF
	0900 - 1900 hours Sunday and Public Holidays	40 + IF	50 + IF	65 + IF
	1900 - 2200 hours all days	40 + IF	50 + IF	55 + IF
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays	35 + IF	45 + IF	55 + IF

Note: L<sub>A10</sub> is the noise level exceeded for 10% of the time.  
 L<sub>A1</sub> is the noise level exceeded for 1% of the time.  
 L<sub>Amax</sub> is the maximum noise level.

It is a requirement that received noise be free of annoying characteristics (tonality, modulation and impulsiveness), defined below as per Regulation 9.

**“impulsiveness”** means a variation in the emission of a noise where the difference between L<sub>Apeak</sub> and L<sub>Amax Slow</sub> is more than 15 dB when determined for a single representative event.

**“modulation”** means a variation in the emission of noise that –

- is more than 3dB L<sub>A Fast</sub> or is more than 3 dB L<sub>A Fast</sub> in any one-third octave band;
- is present for more at least 10% of the representative assessment period; and
- is regular, cyclic and audible.

**“tonality”** means the presence in the noise emission of tonal characteristics where the difference between –

- (a) the A-weighted sound pressure level in any one-third octave band; and
- (b) the arithmetic average of the A-weighted sound pressure levels in the 2 adjacent one-third octave bands,

is greater than 3dB when the sound pressure levels are determined as  $L_{Aeq,T}$  levels where the time period T is greater than 10% of the representative assessment period, or greater than 8 dB at any time when the sound pressure levels are determined as  $L_{A\ Slow}$  levels.

Where the noise emission is not music, if the above characteristics exist and cannot be practicably removed, then any measured level is adjusted according to Table 2 below.

**TABLE 2 - ADJUSTMENTS TO MEASURED LEVELS**

Where <b>tonality</b> is present	Where <b>modulation</b> is present	Where <b>impulsiveness</b> is present
+5 dB(A)	+5 dB(A)	+10 dB(A)

Note: These adjustments are cumulative to a maximum of 15 dB.

Where the noise emission is music, then any measured level is adjusted to Table 3 below.

**TABLE 3 - ADJUSTMENTS TO MEASURED MUSIC NOISE LEVELS**

Where <b>impulsiveness</b> is not present	Where <b>impulsiveness</b> is present
+10 dB(A)	+15 dB(A)

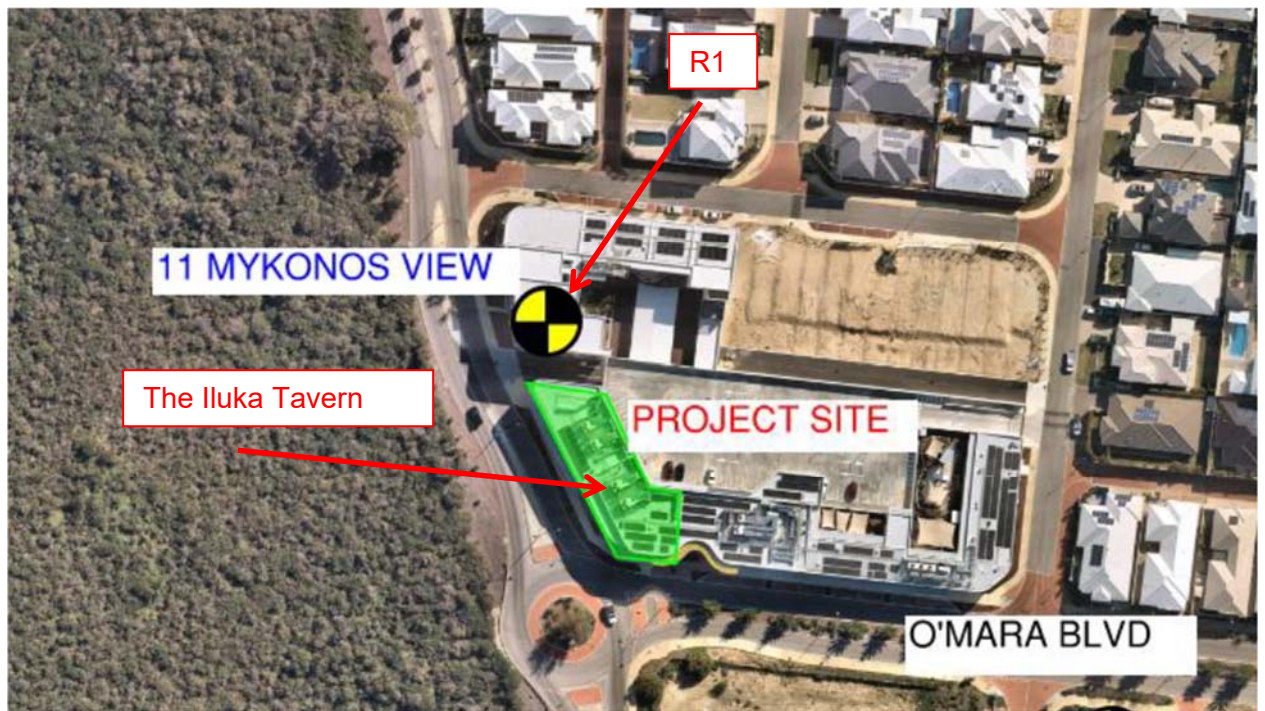
The allowable noise levels are external to premises. When measurements are recorded/calculated inside a premise, the resultant noise level measurements are to be adjusted in accordance with Table 4 below.

**TABLE 4 – INSIDE MEASUREMENTS**

Where external windows and doors are <b>open</b>	Where external windows and doors are <b>shut</b>
+10 dB(A)	+15 dB(A)

The location considered in our assessment is understood to be the location where noise levels are subject to complaint, namely the adjacent apartment building, shown in the extract of a previous acoustic assessment below in Figure 1.





**FIGURE 1 – NEAREST NOISE SENSITIVE LOCATION**

The influencing factor at the identified noise sensitive premises has been estimated in a previous acoustic report at 4 dB, hence, the assigned outdoor noise levels are as listed in Table 5 below.

**TABLE 5 - ASSIGNED OUTDOOR NOISE**

Premises Receiving Noise	Time of Day	Assigned Level (dB)		
		L <sub>A10</sub>	L <sub>A1</sub>	L <sub>Amax</sub>
Noise sensitive premises within 15 metres of a dwelling (Highly Sensitive Areas)	0700 - 1900 hours Monday to Saturday	49	59	69
	0900 - 1900 hours Sunday and Public Holidays	44	54	69
	1900 - 2200 hours all days	44	54	59
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays	39	49	59

Note: L<sub>A10</sub> is the noise level exceeded for 10% of the time.  
 L<sub>A1</sub> is the noise level exceeded for 1% of the time.  
 L<sub>Amax</sub> is the maximum noise level.

It is understood that 99 O'Mara Boulevard, the vacant lot to the south of The Iluka Tavern could potentially in the future be residential premises.

In the event of a residential premises being developed at this location, the impact of the Tavern upon these premises would need to be considered. It is noted that incorporating provisions for this location by The Iluka Tavern at this stage would be considered premature, as the premises at 99 O'Mara Boulevard may not be noise sensitive once developed, or there may be significant delay before any development at this location.

### 3. METHODOLOGY

#### 3.1 MEASURED NOISE LEVELS 16/6/2022

Noise levels associated with the tavern were ascertained during site measurements on 16<sup>th</sup> June 2022 between around 10pm and 11:30pm.

During this time the weather conditions were calm, overcast and a temperature of around 15 °C

Noise levels were recorded with a Larson and Davis 831 Sound Level Meter, with a field calibration check carried out both before and after the measurement period with an acoustic calibrator. All equipment is NATA calibrated, with certification available upon requested.

Noise levels were recorded within the tavern in the Function Room, Main Tavern Area and the area that is utilised as a dance floor in the Main Area at times.

For all locations, the sound system was set to a maximum noise level, with measurements undertaken at repeatable locations internally and externally at a location representative of 11 Mykonos View (“R1”).

Following the above site measurements, further noise level measurements were undertaken.

### 3.2 MEASURED NOISE LEVELS 16/7/2022

Noise levels associated with various areas/uses are shown in Table 6 below.

During the testing the same song was used on repeat (Daft Punk’s “One More Time”) for the duration of the measurement period.

The background noise level at “R1” prior to the music playing is listed below for reference purposes also.

To illustrate the low frequency content of the measured noise levels in a single number, the C-weighted noise levels are also listed below. The C-weighted overall noise levels better reflects the “bass” frequency content of the noise levels and is a useful way to ascertain the bass component of the measured noise levels.

All noise levels measured during the course of the assessment were undertaken with windows and doors of the tavern closed.

**TABLE 6 – MEASURED NOISE LEVELS 16/7/2022**

Location	Tavern operations	Measured Noise Level	
		dB(A)	dB(C)
R1 - Background	Not contributing to noise levels	45	56
Tavern Function Room – Front of Stage	Function Room Playing Music	91	107
R1		54	72
Main Tavern – Middle of Bar	Main Tavern Sound System Playing Music	88	103
R1		48	62
Main Tavern – Middle of Dance Floor	Dance Floor Sound System Playing Music	94	101
R1		49	63

#### 4. ASSESSMENT

In all instances, music was audible at “R1” during the testing, hence, the adjustments, as listed in Table 7 are applicable to the measured noise levels. It is noted that impulsive characteristics were not considered present at the measured levels.

**TABLE 7 - APPLICABLE ADJUSTMENTS FOR ANNOYING CHARACTERISTICS, dB(A)**

	Measured Noise Level, dB(A)	Adjustment to music noise emissions		Assessable Noise Level, dB(A)
		Where impulsiveness is not present	Where impulsiveness is present	
Tavern Function Room Playing Music	54	+ 10	-	64
Main Tavern Sound System Music	48	+ 10	-	58
Main tavern Dance Floor Sound System	49	+ 10	-	59

The music noise emissions associated with the various uses within the tavern, at “R1” has been assessed in Table 8 below – Noting that this assessment considered the tavern operating at maximum noise levels possible by the existing sound system setup, to determine the noise limits.

All time periods have been considered in this assessment, on that basis that music with the tavern could be played at all opening hours.

**TABLE 8 – ASSESSMENT OF NOISE LEVEL EMISSIONS – AT R1**

Operating Condition	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned Level (dB) L <sub>A10</sub> dB	Exceedance to Assigned Noise Level (dB)
Tavern Function Room Playing Music	64	Day	49	+ 15 dB
		Sundays	44	+ 20 dB
		Evenings	44	+ 20 dB
		Night	39	+ 25 dB
Main Tavern Sound System Music	58	Day	49	+ 9 dB
		Sundays	44	+ 14 dB
		Evenings	44	+ 14 dB
		Night	39	+ 15 dB
Main tavern Dance Floor Sound System	59	Day	49	+ 10 dB
		Sundays	44	+ 15 dB
		Evenings	44	+ 15 dB
		Night	39	+ 20 dB

As can be seen from the above table, noise level emissions whilst utilising the various areas with the sound system operating at maximum levels significantly exceed the allowable noise levels stipulated by the Environmental Protection (Noise) Regulations 1997 at all time periods.

## 5. DISCUSSION

### 5.1 INITIAL ASSESSMENT

The current setup of the sound systems within the tavern result in significant exceedances to the allowable noise levels stipulated by the Environmental Protection (Noise) Regulations 1997 at the adjacent apartment building “R1” – Noting that this exceedance occurs when the sound systems are set to maximum noise levels.

To ensure compliance with the Regulations is attained the following limits to the areas within the tavern are calculated to be required, noting that the following has been based upon noise level emissions after 10pm alone (i.e. during the night period).

**TABLE 9 – NOISE LIMITS REQUIRED FOR TAVERN**

Tavern Area Location	Required Noise Limit $L_{Aeq, 5min}$	
	dB(A)	dB(C)
Tavern Function Room – Front of Stage	82	91
Main Tavern Sound System– Middle of Bar	85	97
Main Tavern Dance Floor Sound System– Middle of Dance Floor	90	94

The above limits to the various areas are based on the existing sound system set up and all areas operating at these levels concurrently.

The above noise limits in place result in an assessable noise level of 39 dB(A) at the nearest noise sensitive premises, complying with the most stringent assigned noise level – being the night period between 10pm and 7am, Monday to Saturday.

### 5.2 CONFIRMATION MEASUREMENTS 26/7/2022

Noise level measurements were undertaken within the tavern on the 26/7/2022.

The purpose of these measurements was to confirm that the internal speaker systems had been set to the level ascertained to be required for compliance at neighbouring premises.

Noise level measurements were undertaken at the same internal spots as the 16/7/2022 assessment to confirm that the sound system had been set to the noise limits required as outlined in Table 9 above.

The measured noise levels were undertaken with the same song being played as the 16/7/2022 measurements (Daft Punk’s “One More Time”).

The results of the measurements are listed below in Table 10

**TABLE 10 – MEASURED INTERNAL NOISE LEVELS 26/7/2022**

Tavern Area Location	Required Noise Limit L <sub>Aeq</sub> , 5min	
	dB(A)	dB(C)
Tavern Function Room – Front of Stage	82	91
Main Tavern Sound System– Middle of Bar	83	96
Main Tavern Dance Floor Sound System– Middle of Dance Floor	90	94

### 5.3 LIVE MUSIC CONSIDERATIONS

The calibration of the in-house speaker system establishes compliance with the Regulations at the neighbouring noise sensitive premises.

It is noted that in the event of live music being played, all instruments would be routed through the in-house speakers, with minimal fold back which is required for the musicians to hear their instruments.

Live music to be in line with soft contemporary radio music, Jazz, singer songwriters and will exclude heavy rock or music with “harsh” live elements such as kick drum and the use of hard drum sticks.

## 6. CONCLUSION

The noise impact associated the sound system of the tavern, operating at maximum noise levels, was originally found to significantly exceed the allowable noise levels at the neighbouring noise sensitive premises stipulated by the *Environmental Protection (Noise) Regulations 1997*.

Following the above finding, the sound system has now been set such that the noise limits required within the tavern to comply with the *Environmental Protection (Noise) Regulations* are achieved. Hence, external noise levels now meet the assigned noise levels stipulated by the *Environmental Protection (Noise) Regulations requirements*.

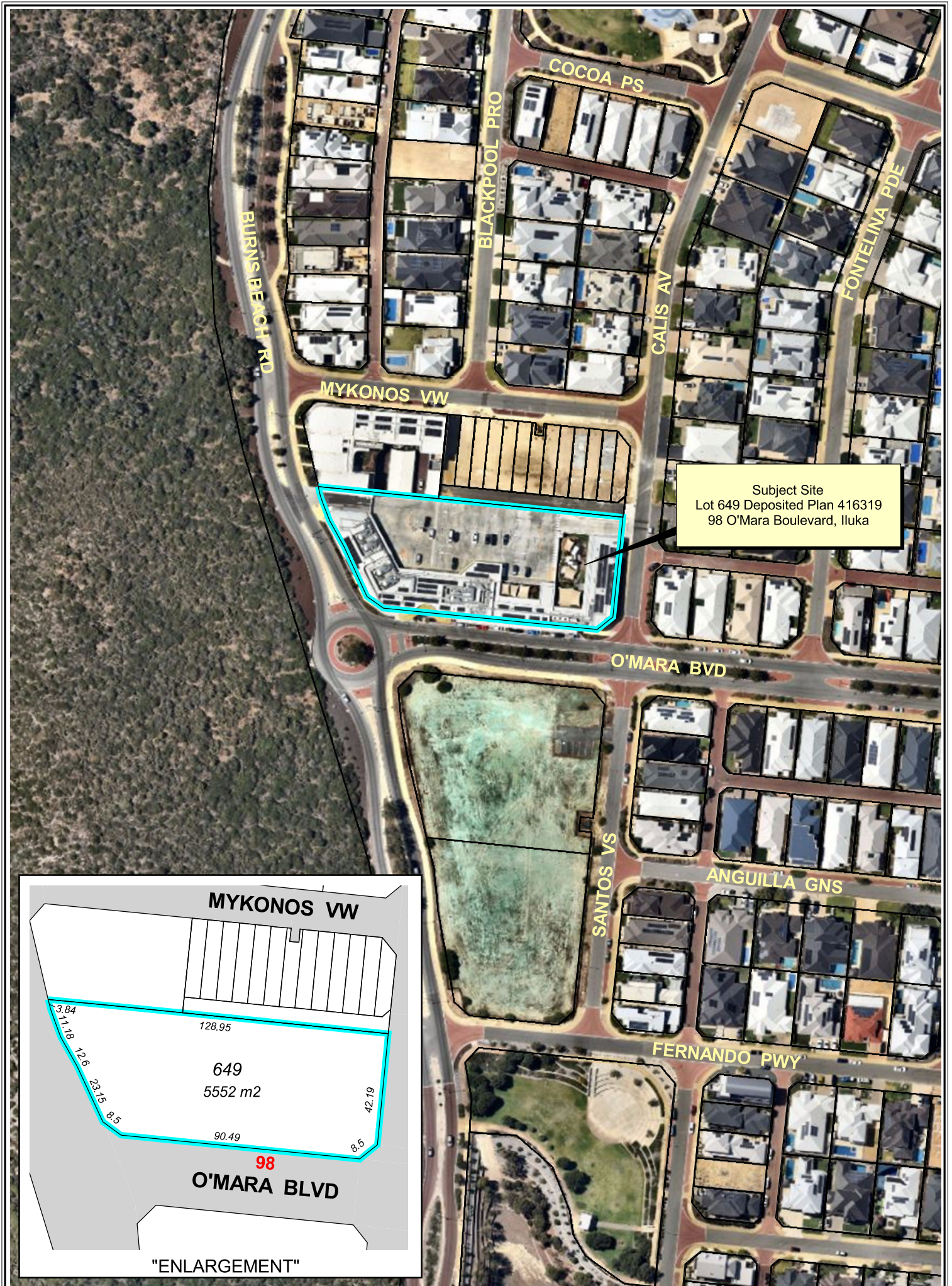
The sound system is understood to be kept at this level via the volume controls that are physically located on the speakers at height – hence, unable to be interfered with by unauthorised personnel.



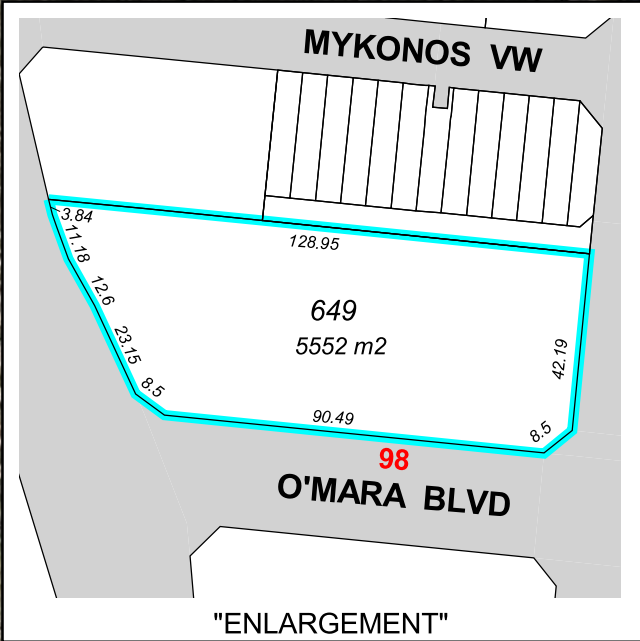
Appendix 2 – Complaints Performa







Subject Site  
 Lot 649 Deposited Plan 416319  
 98 O'Mara Boulevard, Iluka







LG Ref: DA8/1336  
DAP Ref: DAP/18/01543  
Enquiries: (08) 6551 9919

State Administrative Tribunal  
565 Hay Street  
PERTH WA 6000

Dear Sir/Madam

**STATE ADMINISTRATIVE TRIBUNAL REVIEW OUTCOME – DR 061/2019**

Property Location:	Portion of 9040 (34) Kallatina Drive, Iluka
Application Details:	Commercial Development

Please be advised that the Metro North-West Joint Development Assessment Panel reconsidered the above-mentioned development application, SAT ref DR 061/2019, pursuant to section 31 of the *State Administrative Tribunal Act 2004* on 28 June 2019.

The Notice of Determination is attached.

Yours sincerely,

**DAP Secretariat**

9 July 2019

Encl: Amended DAP Determination Notice

Cc: AGEM PG 33 PTY LTD C/- LSV Borello Lawyers

State Solicitor's Office

Mr Jeremy Thompson  
City of Joondalup

Planning Appeals



## ***Planning and Development Act 2005***

### **City of Joondalup Local Planning Scheme No.3**

#### **Metro North-West Joint Development Assessment Panel**

## **Determination on Development Assessment Panel Application for Planning Approval**

**Property Location:** Portion of 9040 (34) Kallatina Drive, Iluka

**Application Details:** Commercial Development

Pursuant to section 31 of the *State Administrative Tribunal Act 2004*, the Metro North-West JDAP, at its meeting on 28 June 2019, has reconsidered its decision dated 13 May 2019 in respect to the above application, SAT Ref. DR 061/2019 and has resolved to:

**Approve** DAP Application reference DAP/18/01543 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the *Metropolitan Region Scheme* and the City of Joondalup *Local Planning Scheme No. 3* and pursuant to clause 24(1) and 26 of the *Metropolitan Region Scheme*, subject to the following amended conditions:

#### **Conditions**

11. A Waste Management Plan shall be submitted to and approved by the City prior to commencement of development. The Waste Management Plan shall include, but not be limited to, the following;
  - Days, times and frequency of pick up;
  - Type and size of waste vehicle to be used;
  - Type and size of bins to be used; and
  - Method of rubbish collection.

All waste collection shall be in accordance with the approved Waste Management Plan.

12. A Delivery Management Plan shall be submitted to and approved by the City prior to commencement of the development. The Delivery Management Plan shall include, but not be limited to, the following;
  - Restricting deliveries by semi-rigid vehicles of 12.5m or more in length to between hours of 7am to 7pm;
  - Instruction to drivers for the use of Burns Beach Road access only and not to use Calis Avenue or Mykonos View when approaching or accessing the site;
  - Signage and wayfinding details to be installed on the property to direct delivery drivers to the Burns Beach Road vehicle access point; and
  - Timing of all other development to minimise conflict between customers and service vehicles.

Delivery management shall then be undertaken in accordance with the approved plan.



21. A Traffic and Parking Management Plan shall be submitted to and approved by the City prior to the commencement of the development. The Traffic and Parking Management Plan shall include, but not be limited to, the following;
- Demonstrate safe access and egress including vehicular and pedestrian access;
  - Consideration of mirrors at the exit on Calis Avenue; and
  - The Calis Avenue access shall be closed to prevent entry by vehicles between 10.00pm and 5.30am Monday to Sunday.

Traffic and Parking Management shall then be undertaken in accordance with the approved plan.

22. The hours of operation shall be no more than:
- a. T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.
  - b. T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.

All other conditions and advice notes remain as per the decision of 13 May 2019.

Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*.



LG Ref: DA20/0452  
DAP Ref: DAP/18/01543  
Enquiries: (08) 6551 9919

Mr Reegan Cake  
Dynamic Planning & Developments  
PO Box 688, Inglewood WA 6932

Dear Mr Cake

**METRO OUTER JDAP - CITY OF JOONDALUP - DAP APPLICATION - DA20/0452  
- DETERMINATION**

Property Location:	Lot 649 (98) O'Mara Boulevard, Iluka
Application Details:	Mixed Commercial Centre (Iluka Plaza)
Amendment Details:	Form 2.1 - Change of use of tenancies 1 - 3 to 'Tavern'.

Thank you for your Form 2.1 Development Assessment Panel (DAP) application and plans submitted to the City of Joondalup on 3 June 2020 for the above-mentioned development.

The application was considered by the Metro Outer JDAP at its meeting held on 31 August 2020, where in accordance with the provisions of the City of Joondalup Local Planning Scheme No.3, it was resolved to **approve** the application as per the attached notice of determination.

Should the applicant not be satisfied by this decision, an application may be made to amend or cancel this planning approval in accordance with regulation 17 and 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

Please also be advised that there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. Such an application must be made within 28 days of the determination, in accordance with the *State Administrative Tribunal Act 2004*.

Should you have any queries with respect to the conditions of approval, please contact Mr Jeremy Thompson on behalf of the City of Joondalup on 9400 4400.

Yours sincerely,

**DAP Secretariat**

9 September 2020

Encl. DAP Determination Notice  
Approved Plans

Cc: Mr Jeremy Thompson  
City of Joondalup



***Planning and Development Act 2005***

**City of Joondalup Local Planning Scheme No.3**

**Metro Outer Joint Development Assessment Panel**

**Determination on Development Assessment Panel  
Application for Planning Approval**

**Property Location:** Lot 649 (98) O'Mara Boulevard, Iluka

**Application Details:** Mixed Commercial Centre (Iluka Plaza)

**Amendment Details:** Form 2.1 - Change of use of tenancies 1 - 3 to 'Tavern'.

In accordance with regulation 8 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the above application for planning approval was **granted** on 31 August 2020, subject to the following:

1. **Accept** that the DAP Application reference DAP/18/01543 as detailed on the DAP Form 2 dated 28 May 2020 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** the DAP application reference DAP/18/01543, and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the *City of Joondalup Local Planning Scheme No. 3*, for the proposed change of use to the approved commercial development at Lot 649 (98) O'Mara Boulevard, Iluka, subject to:

**Amended Conditions of JDAP decision dated 13 May 2019**

14. A detailed acoustic report shall be submitted to the City's satisfaction, prior to the Occupation of Tenancy 1, 2 and 3. The acoustic report shall demonstrate that the design of the building can ensure that all activities, including those occurring within the gymnasium and child care, and tavern comply with the Environmental Protection (Noise) Regulations 1997. The acoustic report shall also consider any impacts to the adjoining residential development to the north.

**Additional Advice note of JDAP decision dated 13 May 2019**

9. Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on outdoor areas (including time restrictions, prohibition of music and any openings to the indoor area) and music to be of an ambient nature with live performances to be prohibited.



### **Amended Conditions of JDAP decision dated 28 June 2019**

11. A Waste Management Plan shall be submitted to and approved by the City prior to the occupation of Tenancy 1, 2 and 3. The Waste Management Plan shall include, but not be limited to, the following;
- Days, times and frequency of pick up;
  - Type and size of waste vehicle to be used;
  - Type and size of bins to be used; and
  - Method of rubbish collection.

All waste collection shall be in accordance with the approved Waste Management Plan.

12. A Delivery Management Plan shall be submitted to and approved by the City prior to the occupation of Tenancy 1, 2 and 3. The Delivery Management Plan shall include, but not be limited to, the following;
- Restricting deliveries by semi-rigid vehicles of 12.5m or more in length to between hours of 7am to 7pm;
  - Instruction to drivers for the use of Burns Beach Road access only and not to use Calis Avenue or Mykonos View when approaching or accessing the site;
  - Signage and wayfinding details to be installed on the property to direct delivery drivers to the Burns Beach Road vehicle access point; and
  - Timing of all other development to minimise conflict between customers and service vehicles.

Delivery management shall then be undertaken in accordance with the approved plan.

The Delivery Management Plan shall include the revised Tavern land use.

21. A Traffic and Parking Management Plan shall be submitted to and approved by the City prior to the occupation of Tenancy 1, 2 and 3. The Traffic and Parking Management Plan shall include, but not be limited to, the following;
- Demonstrate safe access and egress including vehicular and pedestrian access;
  - Consideration of mirrors at the exit on Calis Avenue; and
  - The Calis Avenue access shall be closed to prevent entry by vehicles between 10.00pm and 5.30am Monday to Sunday.

Traffic and Parking Management shall then be undertaken in accordance with the approved plan.

22. The hours of operation shall be no more than:
- a) T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.  
T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.  
T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday.



### **Additional Advice note of JDAP decision dated 28 June 2019**

10. Revised condition 11 is required to address the change of use of Tenancy 1, 2 and 3 including any additional waste required from the Tavern land use.
11. Revised condition 12 is required to address the change of use of Tenancy 1, 2 and 3 including any additional delivery requirements from the Tavern land use.
12. Revised condition 21 is required to address the change of use of Tenancy 1, 2 and 3 including the impacts of the Tavern use on vehicular and pedestrian access.

### **New Condition**

23. An Operations Management Plan shall be submitted to and approved by the City prior to commencement of the use. The Operations Management Plan shall include, but not be limited to, an internal floor plan indicating the specific function of each area within the tavern use.

All other conditions, footnotes and advice notes remain as per the decision of 13 May 2019 and 28 June 2019.

Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) or local government approval under regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.



### **Amended Conditions of JDAP decision dated 28 June 2019**

11. A Waste Management Plan shall be submitted to and approved by the City prior to the occupation of Tenancy 1, 2 and 3. The Waste Management Plan shall include, but not be limited to, the following;
- Days, times and frequency of pick up;
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  - Signage and wayfinding details to be installed on the property to direct delivery drivers to the Burns Beach Road vehicle access point; and
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Delivery management shall then be undertaken in accordance with the approved plan.

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- Demonstrate safe access and egress including vehicular and pedestrian access;
  - Consideration of mirrors at the exit on Calis Avenue; and
  - The Calis Avenue access shall be closed to prevent entry by vehicles between 10.00pm and 5.30am Monday to Sunday.

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T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.  
T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday.





### **Additional Advice note of JDAP decision dated 28 June 2019**

10. Revised condition 11 is required to address the change of use of Tenancy 1, 2 and 3 including any additional waste required from the Tavern land use.
11. Revised condition 12 is required to address the change of use of Tenancy 1, 2 and 3 including any additional delivery requirements from the Tavern land use.
12. Revised condition 21 is required to address the change of use of Tenancy 1, 2 and 3 including the impacts of the Tavern use on vehicular and pedestrian access.

### **New Condition**

23. An Operations Management Plan shall be submitted to and approved by the City prior to commencement of the use. The Operations Management Plan shall include, but not be limited to, an internal floor plan indicating the specific function of each area within the tavern use.

All other conditions and advice notes remain as per the decision of 13 May 2019.

All other conditions, footnotes and advice notes remain as per the decision of 13 May 2019 and DAPs' original decision from the SAT application finalised on 10 July 2019.

Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) or local government approval under regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.



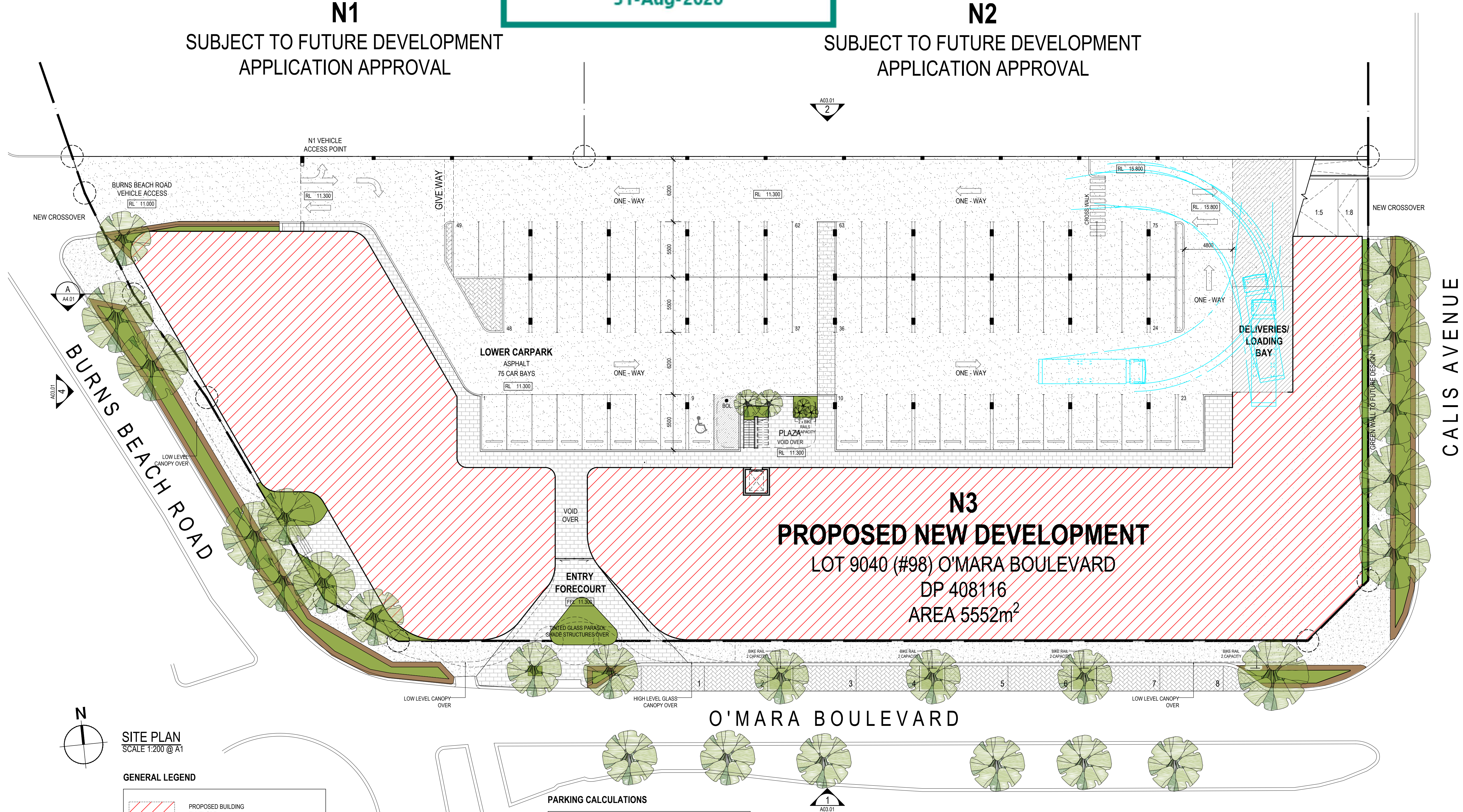
**DEVELOPMENT  
ASSESSMENT PANEL**

**APPROVED**  
31-Aug-2020

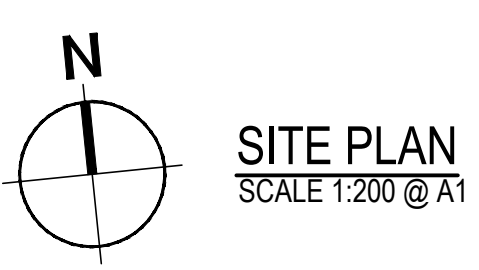
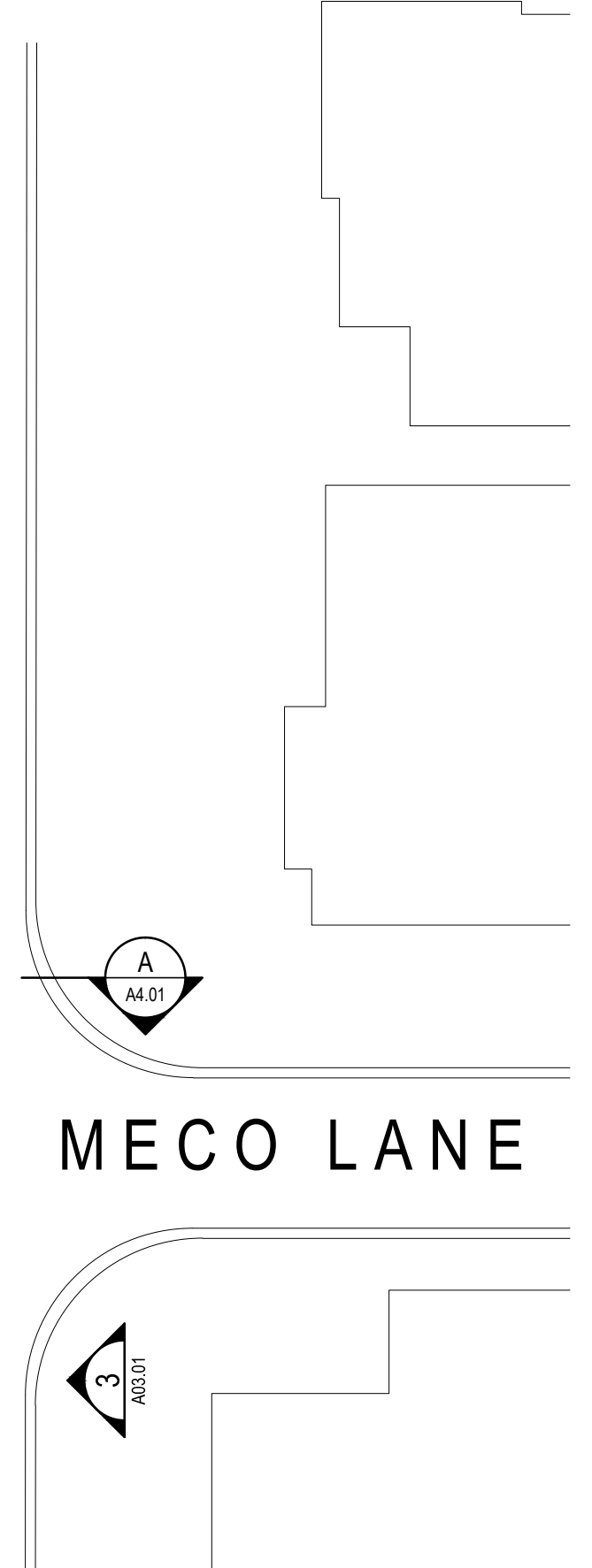
**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.

**N1**  
SUBJECT TO FUTURE DEVELOPMENT  
APPLICATION APPROVAL

**N2**  
SUBJECT TO FUTURE DEVELOPMENT  
APPLICATION APPROVAL



**N3**  
**PROPOSED NEW DEVELOPMENT**  
LOT 9040 (#98) O'MARA BOULEVARD  
DP 408116  
AREA 5552m<sup>2</sup>



**SITE PLAN**  
SCALE 1:200 @ A1

**GENERAL LEGEND**

- PROPOSED BUILDING ENVELOPE
- PROPOSED CARPARK BITUMEN
- PROPOSED PAVING
- PROPOSED LANDSCAPING
- PROPOSED VEGETATION
- PROPOSED COLUMN LOCATIONS
- RELATIVE LEVEL
- FINISHED FLOOR LEVEL

**LANDSCAPING CALCULATIONS**

<b>TOTAL SITE AREA</b>	<b>5552m<sup>2</sup></b>
<b>REQUIRED LANDSCAPING DISTRICT PLANNING SCHEME</b>	<b>445m<sup>2</sup></b> <b>8%</b>
<b>PROPOSED HARD &amp; SOFT LANDSCAPING</b>	<b>205m<sup>2</sup></b>
<b>CHILD CARE OUTDOOR AREA</b>	<b>507m<sup>2</sup></b>
<b>PROPOSED LANDSCAPING</b>	<b>712m<sup>2</sup> (12%)</b>

**PARKING CALCULATIONS**

<b>TOTAL LOWER FLOOR GLA</b>	<b>2080m<sup>2</sup></b>
<b>TOTAL UPPER FLOOR GLA</b>	<b>2590m<sup>2</sup></b>
T1 - SHOP	GLA 200m <sup>2</sup> 7 BAYS
T2 - SHOP	GLA 200m <sup>2</sup> 7 BAYS
T3 - FOOD	GLA 500m <sup>2</sup> 36 BAYS
T4 - SHOP	GLA 130m <sup>2</sup> 4 BAYS
T5 - SHOPPING CENTRE & LIQUOR STORE	GLA 1050m <sup>2</sup> 40 BAYS
T6 - OFFICE	GLA 410m <sup>2</sup> 8 BAYS
T7 - OFFICE	GLA 300m <sup>2</sup> 5 BAYS
T8 - GYM	GLA 350m <sup>2</sup> 10 BAYS
T9 - CHILDCARE	GLA 1530m <sup>2</sup>
STAFF (1:5)	16 BAYS
80 CHILDREN	10 BAYS
<b>REQUIRED BAYS</b>	<b>143 BAYS</b>
<b>PROPOSED BAYS</b>	<b>142 BAYS</b>
+ 8 STREET BAYS	
+ 5 MOTORCYCLE / MOPED BAYS	

F	18/03/19	JDAP REVISIONS	LM	LA
E	26/02/19	DRP REVISIONS	LM	LA
D	20/02/19	DRP REVISIONS	LM	LA
C	18/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

**DEVELOPMENT APPROVAL**

**dmg ARCHITECTURE**  
DESIGN MANAGEMENT GROUP Level 2 1008 hay street perth 6000  
telephone +61 8 9212 8888 | facsimile +61 8 9212 8822  
info@dmgaustralia.com.au | www.dmgaustralia.com.au

**PROJECT**  
**ILUKA PLAZA**  
LOT 9040 (#98 O'MARA BOULEVARD  
ILUKA, WA 6028

**TITLE**  
SITE PLAN

<b>SCALE</b>	<b>DRAWN</b>	<b>CHECKED</b>
1:200 @ A1	LM	LA

<b>PROJECT #</b>	<b>DRAWING #</b>	<b>ISSUE</b>
18031	<b>A02.01</b>	<b>F</b>

**COPYRIGHT.** The copyright of these drawings and all parts thereof remain the property of design management group pty ltd.



**TOTAL AREA:**

TENANCY 1	190sqm
TENANCY 2	195sqm
TENANCY 3	490sqm
TOTAL COMBINED	875sqm

**PROPOSED GENERAL ARRANGEMENT:**

INTERNAL SEATING	490sqm
ALFRESCO	125sqm
BACK OF HOUSE	310sqm

**AMENITIES:**

FEMALE

6 CLOSET PANS      4 WASH BASINS

MALE

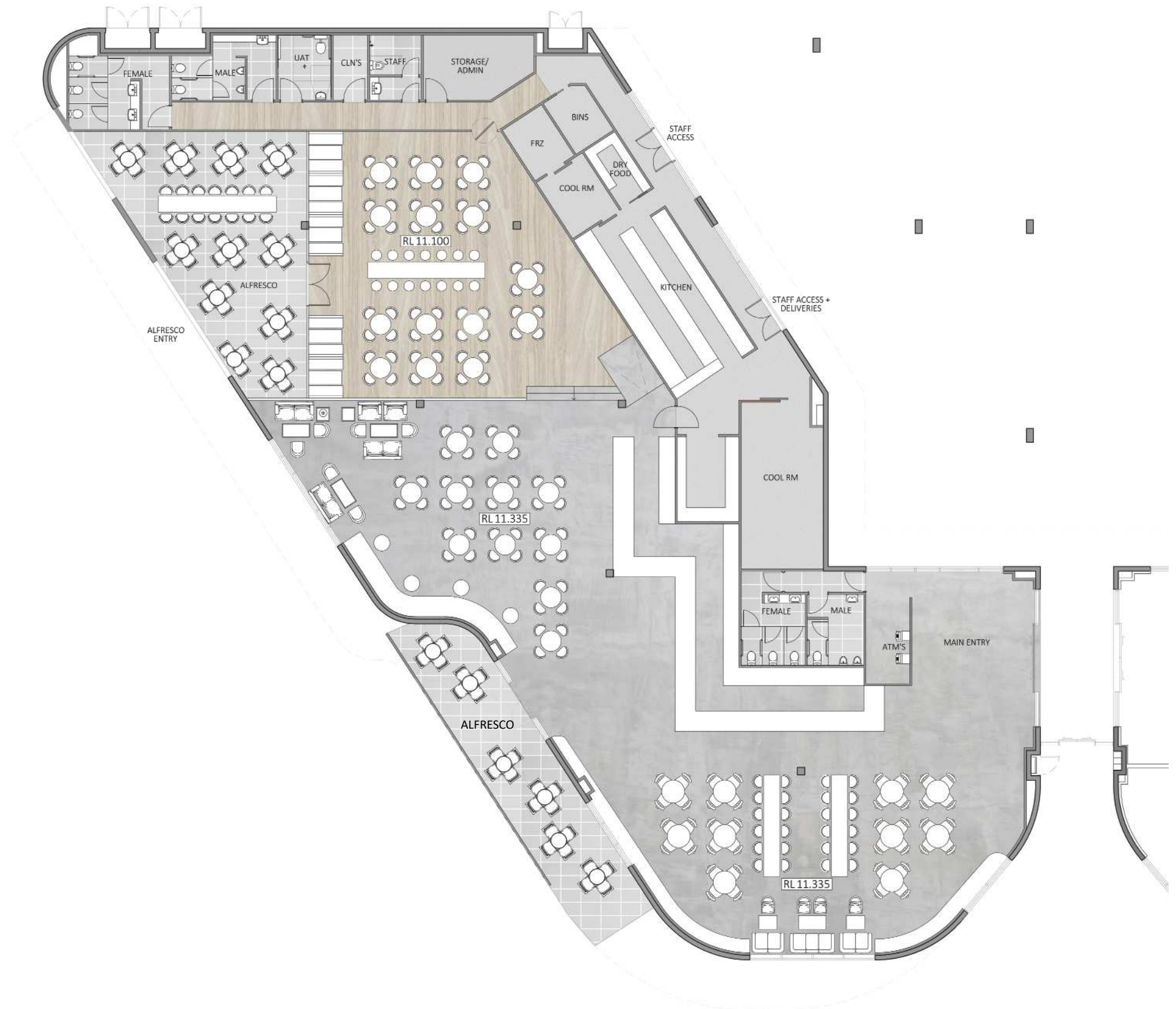
3 CLOSET PANS      2 WASH BASINS      4 URINALS

UAT

1 PROVIDED

STAFF

DEDICATED STAFF EOT FACILITY



GENERAL ARRANGEMENT PLAN 1:200@A3

DEVELOPMENT  
ASSESSMENT PANEL

**APPROVED**  
31-Aug-2020

# ILUKA





DEVELOPMENT  
ASSESSMENT PANEL

APPROVED

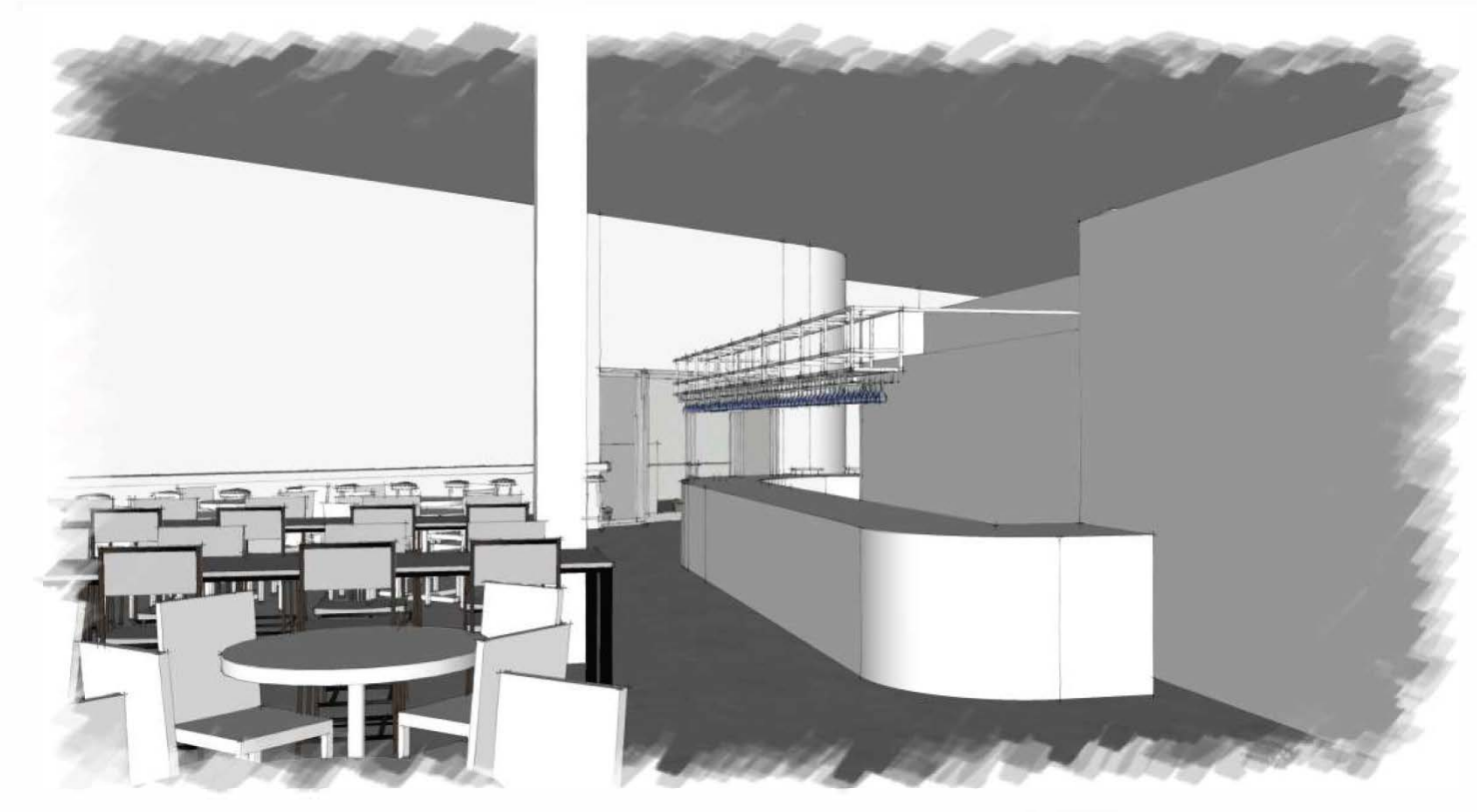
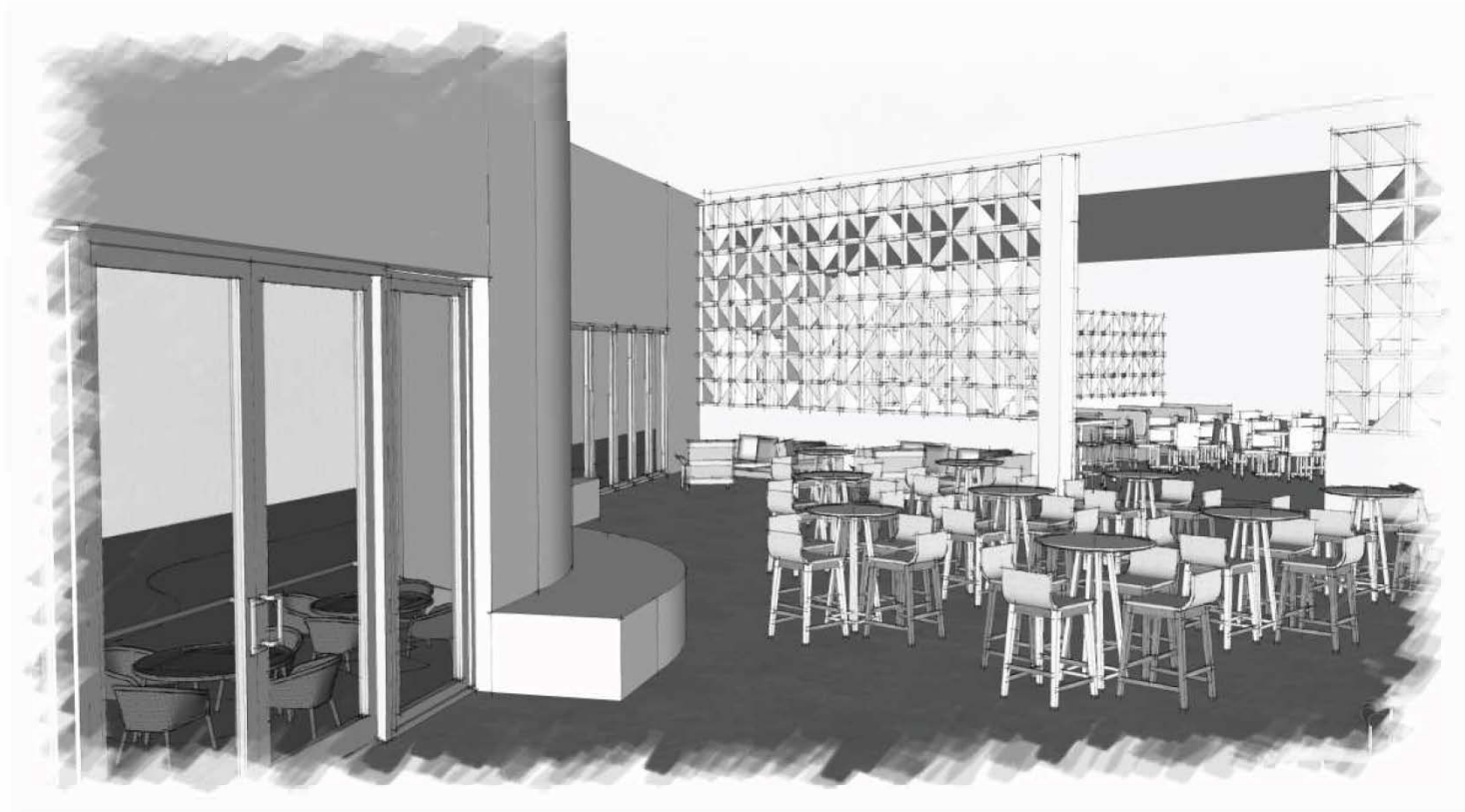
31-Aug-2020





DEVELOPMENT  
ASSESSMENT PANEL

**APPROVED**  
31-Aug-2020





LG Ref: DA18/1336.01  
DAP Ref: DAP/18/01543  
Enquiries: (08) 6551 9919

Mr Reegan Cake  
Dynamic Planning & Developments  
PO Box 688,  
Inglewood WA 6932

Dear Mr Cake

**METRO OUTER JDAP - CITY OF JOONDALUP - DAP APPLICATION -  
DA18/1336.01 - DETERMINATION**

Property Location:	Lot 649 (98) O'Mara Boulevard, Iluka
Application Details:	Mixed Commercial Centre (Iluka Plaza)
Amendment Details:	Form 2.2 - Retrospective approval to modify conditions of approval

Thank you for your Form 2.2 Development Assessment Panel (DAP) application and plans submitted to the City of Joondalup on 23 December 2021 for the above-mentioned development.

This application was considered by the Metro Outer JDAP at its meeting held on 14 April 2022, where in accordance with the provisions of the City of Joondalup Local Planning Scheme No.3, it was resolved to **refuse** the application as per the attached notice of determination.

Please be advised that there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. Such an application must be made within 28 days of the determination, in accordance with the *State Administrative Tribunal Act 2004*.

Should you have any queries with respect to the reasons for refusal, please contact Mr Jeremy Thompson on behalf of the City of Joondalup on 08 9400 4400.

Yours sincerely,

**DAP Secretariat**

22 April 2022

Encl. DAP Determination Notice  
Refused Plans

Cc: Mr Jeremy Thompson  
City of Joondalup



## ***Planning and Development Act 2005***

### **City of Joondalup Local Planning Scheme No.3**

#### **Metro Outer Joint Development Assessment Panel**

## **Determination on Development Assessment Panel Application for Planning Approval**

**Property Location:** Lot 649 (98) O'Mara Boulevard, Iluka  
**Application Details:** Mixed Commercial Centre (Iluka Plaza)  
**Amendment Details:** Form 2.2 - Retrospective approval to modify conditions of approval

In accordance with regulation 8 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the above application for planning approval was **refused** on 14 April 2022, subject to the following:

1. **Accept** that the DAP Application reference DAP/18/01543 as detailed on the DAP Form 2 dated 24 December 2021 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Refuse** the DAP Application reference DAP/18/01543 as detailed on the DAP Form 2 date 24 December 2021 and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the provisions of the City of Joondalup *Local Planning Scheme No. 3* and Iluka Structure Plan for the following reasons:

#### **Reasons**

1. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(a), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, extending hours from 11.00pm to 12.00am for the 'Tavern' use and modifications to the car park entrance to Calis Avenue will have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality and, therefore, does not meet the objectives under Table 2, 'Commercial' zone objectives of *Local Planning Scheme No. 3*.
2. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(h), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, the modifications do not meet the objectives under clause 6.1 of the Iluka Structure Plan as the proposal is considered to;
  - a. have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality;





3. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(n), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposal will detrimentally impact the amenity of the locality, specifically in relation to the character of the location and the social impacts of the development.
4. The proposal does not satisfy the matters to be considered under clause 67(2)(m), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposed hours of operation of the 'Tavern' between 11.00pm and midnight is not compatible with the setting of the locality, being a local centre, and with the specific objectives set out in the Iluka Structure Plan.
5. Insufficient information has been provided to support an amendment to Advice Note 9 to remove reference to the prohibition of play live music at the tavern use. The application has not demonstrated that the playing of live music can meet the relevant requirements of the *Environmental Protection (Noise) Regulations 1997*.

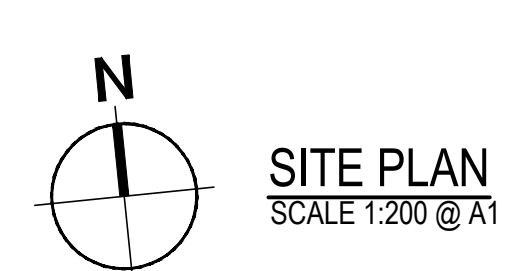
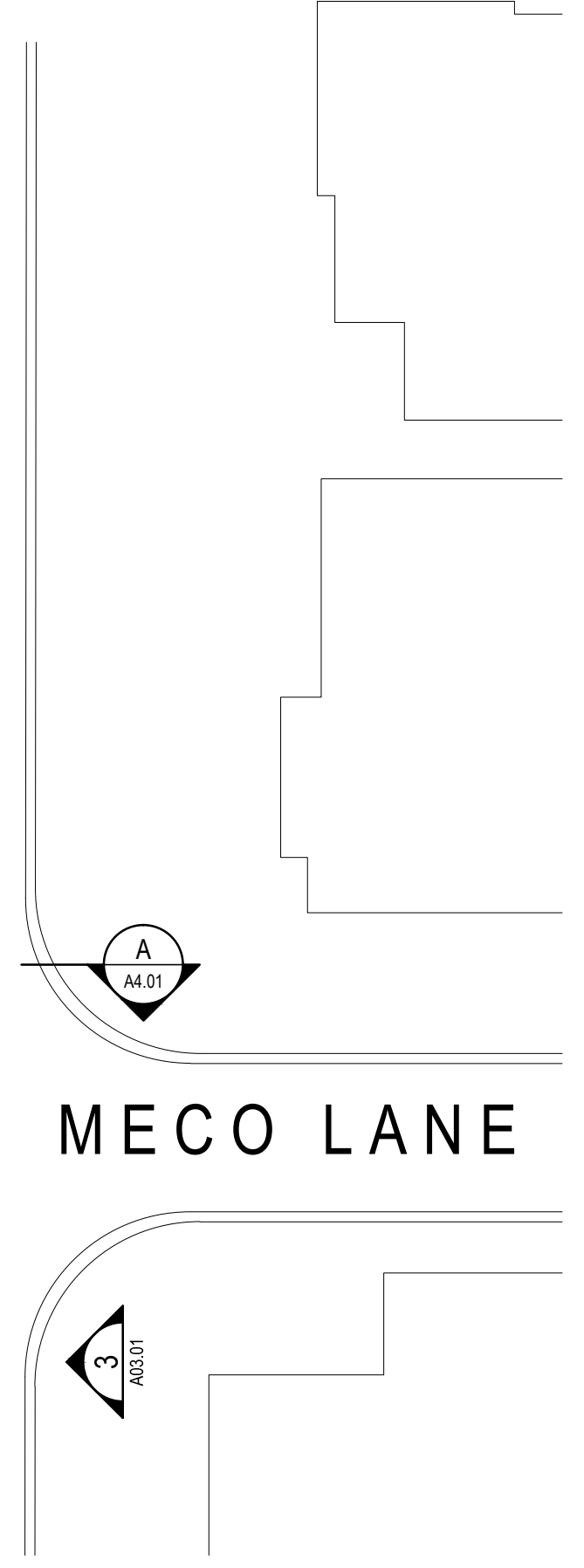
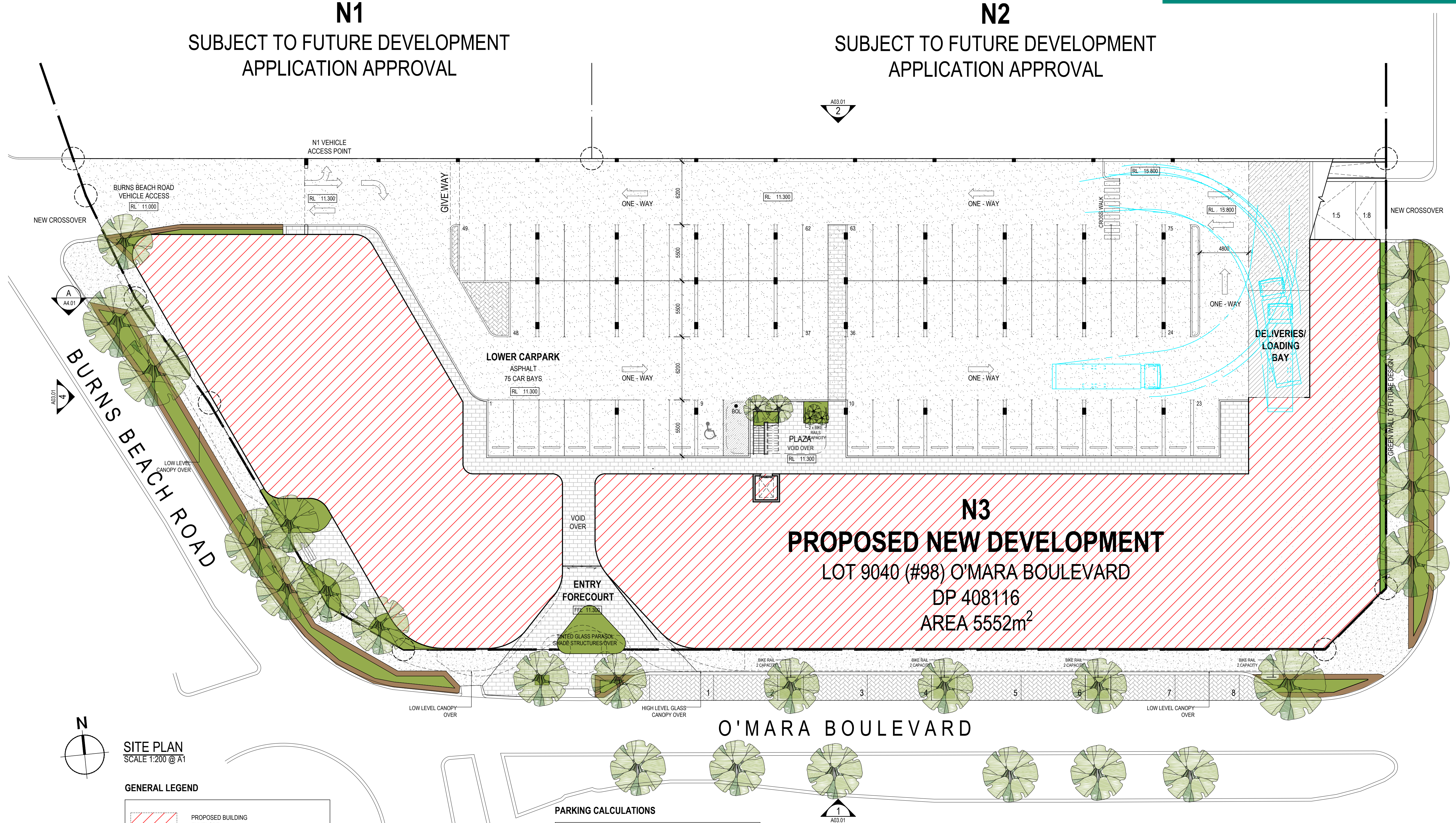


**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.

**N1**  
SUBJECT TO FUTURE DEVELOPMENT APPLICATION APPROVAL

**N2**  
SUBJECT TO FUTURE DEVELOPMENT APPLICATION APPROVAL

**N3**  
**PROPOSED NEW DEVELOPMENT**  
LOT 9040 (#98) O'MARA BOULEVARD  
DP 408116  
AREA 5552m<sup>2</sup>



**GENERAL LEGEND**

	PROPOSED BUILDING ENVELOPE
	PROPOSED CARPARK BITUMEN
	PROPOSED PAVING
	PROPOSED LANDSCAPING
	PROPOSED VEGETATION
	PROPOSED COLUMN LOCATIONS
	RELATIVE LEVEL
	FINISHED FLOOR LEVEL

**LANDSCAPING CALCULATIONS**

<b>TOTAL SITE AREA</b>	<b>5552m<sup>2</sup></b>
<b>REQUIRED LANDSCAPING DISTRICT PLANNING SCHEME</b>	<b>445m<sup>2</sup></b> 8%
<b>PROPOSED HARD &amp; SOFT LANDSCAPING</b>	<b>205m<sup>2</sup></b>
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<b>PROPOSED LANDSCAPING</b>	<b>712m<sup>2</sup> (12%)</b>

**PARKING CALCULATIONS**

<b>TOTAL LOWER FLOOR GLA</b>	<b>2080m<sup>2</sup></b>
<b>TOTAL UPPER FLOOR GLA</b>	<b>2590m<sup>2</sup></b>
T1 - SHOP	GLA 200m <sup>2</sup> 7 BAYS
T2 - SHOP	GLA 200m <sup>2</sup> 7 BAYS
T3 - FOOD	GLA 500m <sup>2</sup> 36 BAYS
T4 - SHOP	GLA 130m <sup>2</sup> 4 BAYS
T5 - SHOPPING CENTRE & LIQUOR STORE	GLA 1050m <sup>2</sup> 40 BAYS
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F	18/03/19	JDAP REVISIONS	LM	LA
E	26/02/19	DRP REVISIONS	LM	LA
D	20/02/19	DRP REVISIONS	LM	LA
C	18/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

**DEVELOPMENT APPROVAL**

**dmg ARCHITECTURE**  
DESIGN MANAGEMENT GROUP Level 2 1008 hay street perth 6000  
telephone +61 8 9212 8888 | facsimile +61 8 9212 8822  
info@dmgaustralia.com.au | www.dmgaustralia.com.au

**PROJECT**  
**ILUKA PLAZA**  
LOT 9040 (#98 O'MARA BOULEVARD  
ILUKA, WA 6028

**TITLE**  
SITE PLAN

<b>SCALE</b>	<b>DRAWN</b>	<b>CHECKED</b>
1:200 @ A1	LM	LA

<b>PROJECT #</b>	<b>DRAWING #</b>	<b>ISSUE</b>
18031	<b>A02.01</b>	<b>F</b>

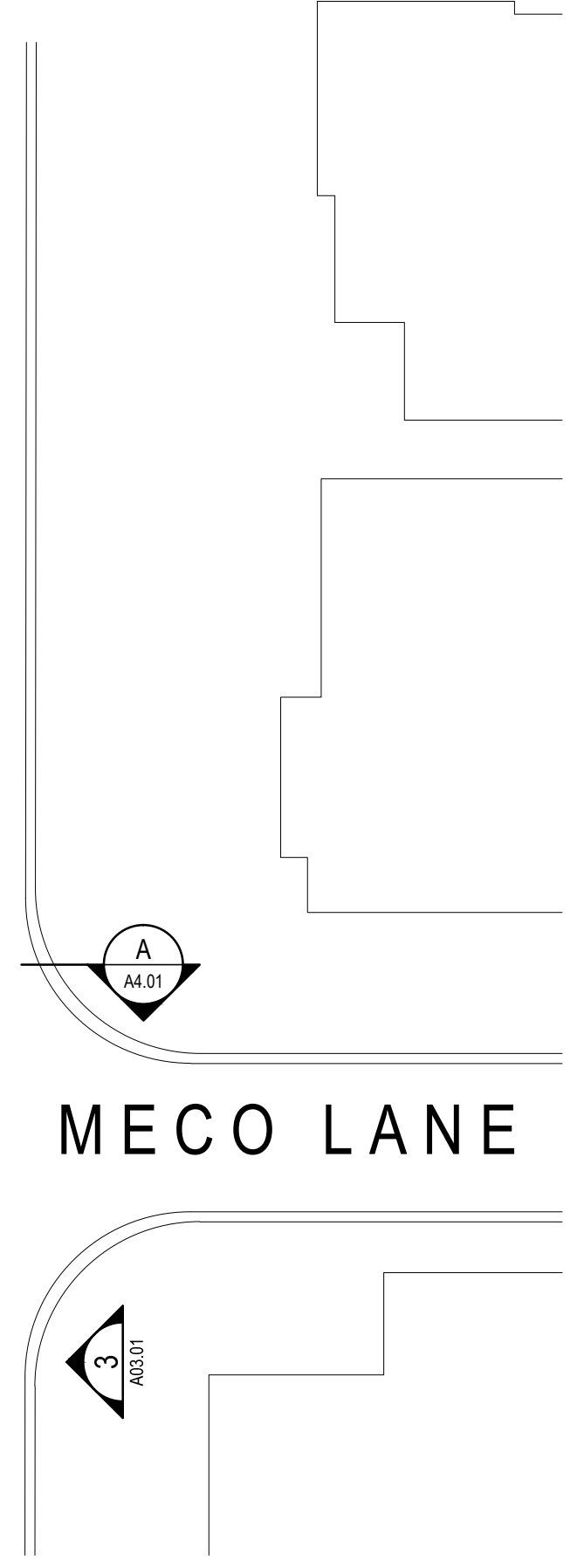
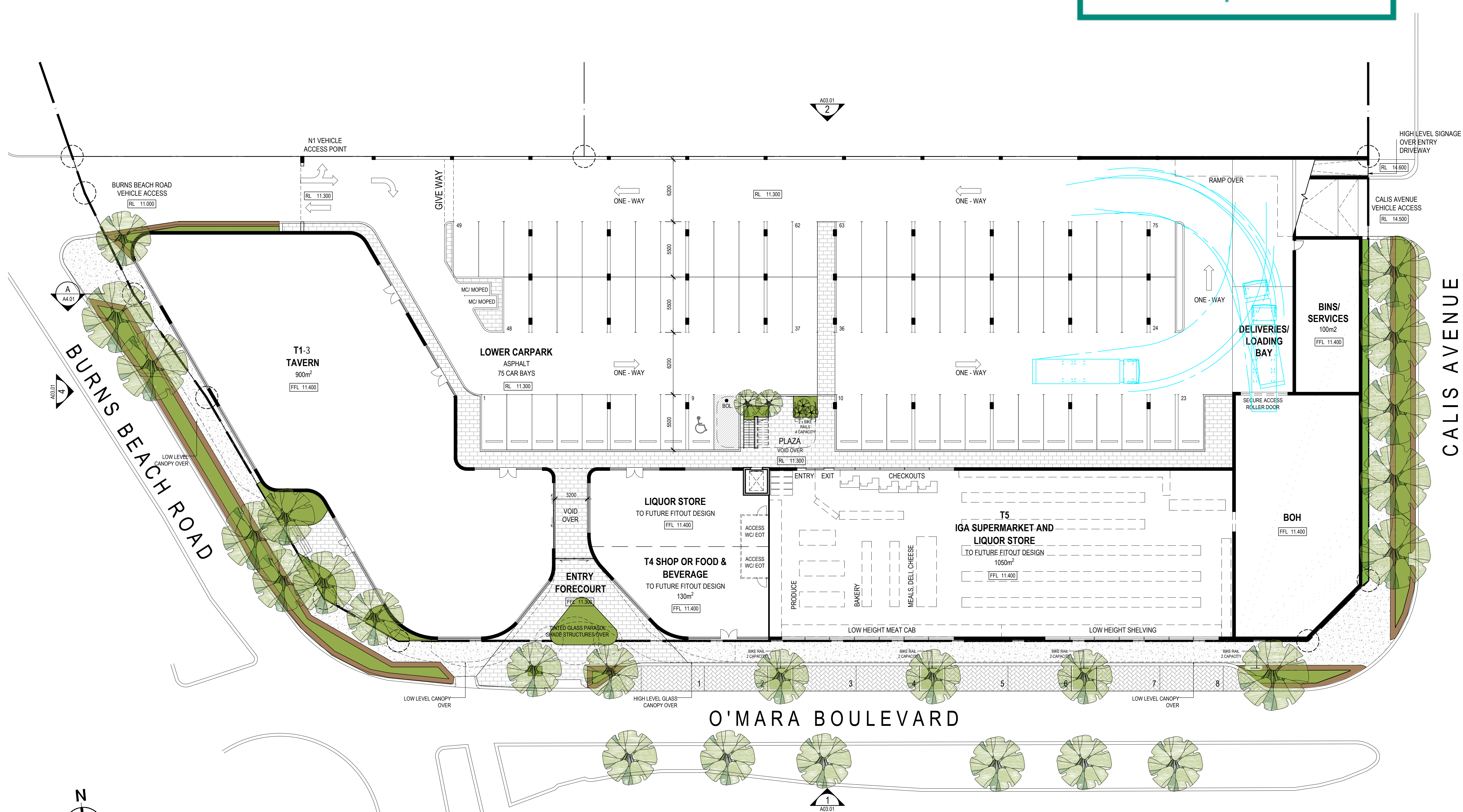
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**DEVELOPMENT  
ASSESSMENT PANEL**

**REFUSED**  
14-Apr-2022

**NOTE:** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



ISSUE	DATE	DESCRIPTION	DRN.	APP.
F	18/03/19	JDAP REVISIONS	LM	LA
E	26/02/19	DRP REVISIONS	LM	LA
D	20/02/19	DRP REVISIONS	LM	LA
C	18/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

**DEVELOPMENT APPROVAL**



**PROJECT**  
**ILUKA PLAZA**  
LOT 9040 (#98 O'MARA BOULEVARD  
ILUKA, WA 6028

**TITLE**  
LOWER FLOOR PLAN

SCALE	DRAWN	CHECKED
1:200 @ A1	LM	LA

PROJECT #	DRAWING #	ISSUE
18031	<b>A02.01</b>	<b>F</b>

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**LOWER FLOOR PLAN**  
SCALE 1:200 @ A1

- 6 TENANCIES
- 75 ON-SITE CAR BAYS / 2 MC/MOPED BAYS
- 8 STREET CAR BAYS
- 6 BICYCLE RACKS (12 CAPACITY)
- NLA: 2080m²

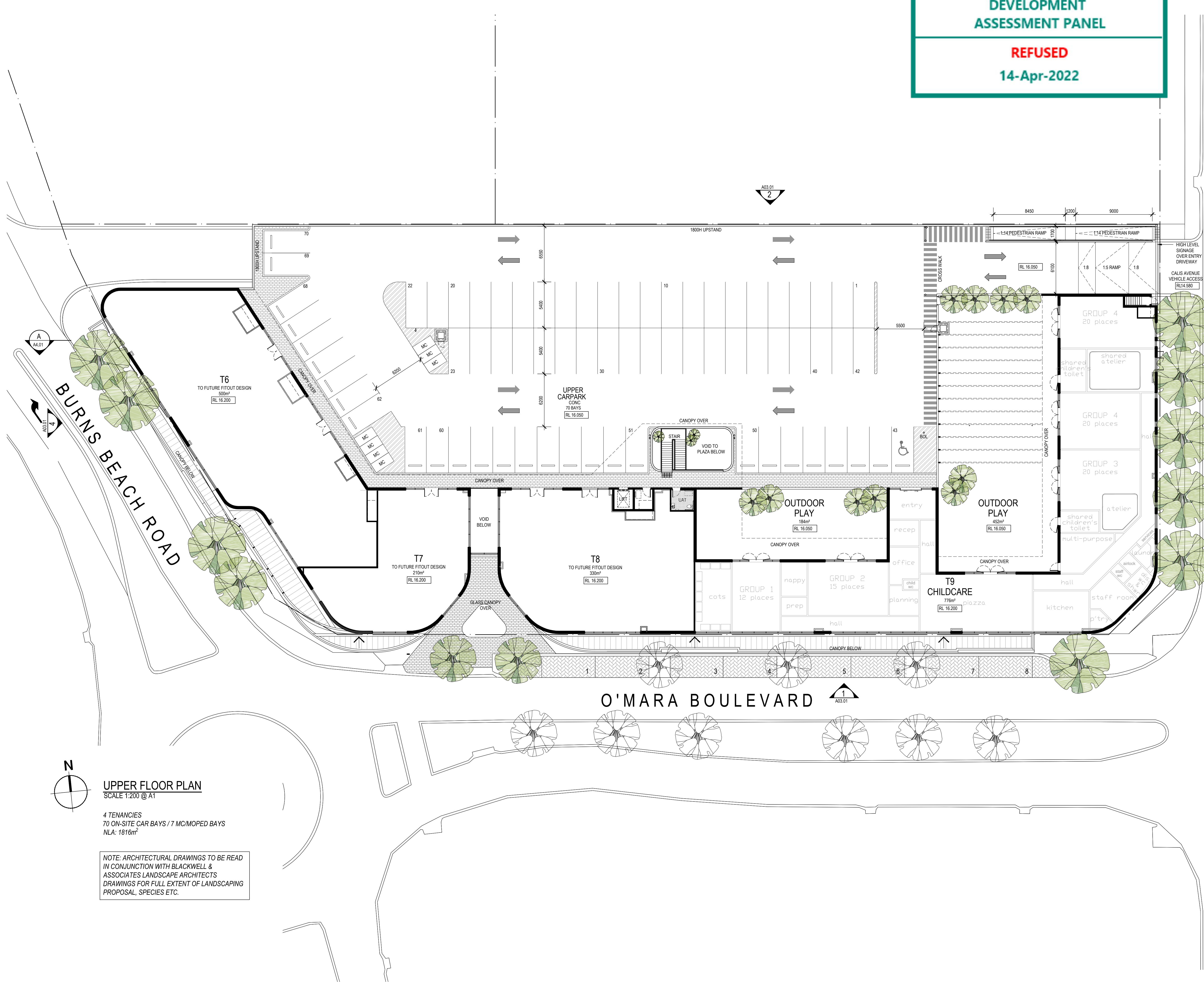
**NOTE:** ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH BLACKWELL & ASSOCIATES LANDSCAPE ARCHITECTS DRAWINGS FOR FULL EXTENT OF LANDSCAPING PROPOSAL, SPECIES ETC.



**DEVELOPMENT  
ASSESSMENT PANEL**

**REFUSED**  
**14-Apr-2022**

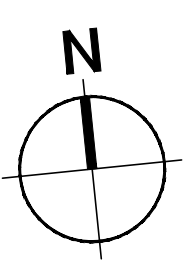
**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



CALIS AVENUE

MECO LANE

O'MARA BOULEVARD



**UPPER FLOOR PLAN**  
SCALE 1:200 @ A1

4 TENANCIES  
70 ON-SITE CAR BAYS / 7 MC/MOPED BAYS  
NLA: 1816m²

NOTE: ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH BLACKWELL & ASSOCIATES LANDSCAPE ARCHITECTS DRAWINGS FOR FULL EXTENT OF LANDSCAPING PROPOSAL, SPECIES ETC.

ISSUE DATE	DESCRIPTION	DRN. APP.
A 30/07/19	DA - REVISION	CS IH

**DEVELOPMENT APPROVAL**



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**PROJECT**  
**ILUKA PLAZA**  
LOT 9040 (#98 O'MARA BOULEVARD  
ILUKA, WA 6028

**TITLE**  
UPPER FLOOR PLAN

SCALE	DRAWN	CHECKED
1:200 @ A1	CS	IH

PROJECT #	DRAWING #	ISSUE
18031	SD02.02	A

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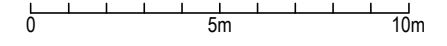


**NOTE.** Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.



**SOUTH ELEVATION (O'MARA BOULEVARD)**

SCALE 1:200 @ A1



**DEVELOPMENT  
ASSESSMENT PANEL**

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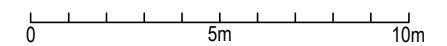
**REFUSED**

**14-Apr-2022**



**NORTH ELEVATION**

SCALE 1:200 @ A1



D	18/03/19	JDAP REVISIONS	LM	LA
C	20/02/19	DRP REVISIONS	LM	LA
B	05/02/19	DRP REVISIONS	LM	LA
A	29/11/18	DEVELOPMENT APPROVAL	LM	LA

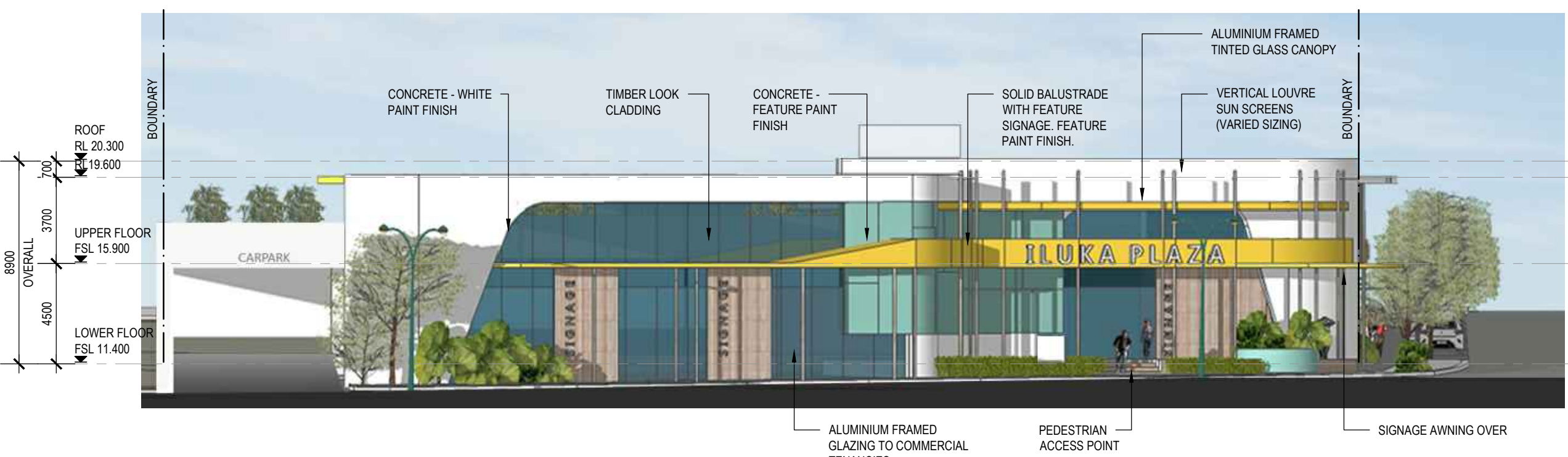
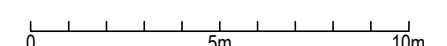
ISSUE	DATE	DESCRIPTION	DRN.	APP.
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To be removed and replaced with height bar below



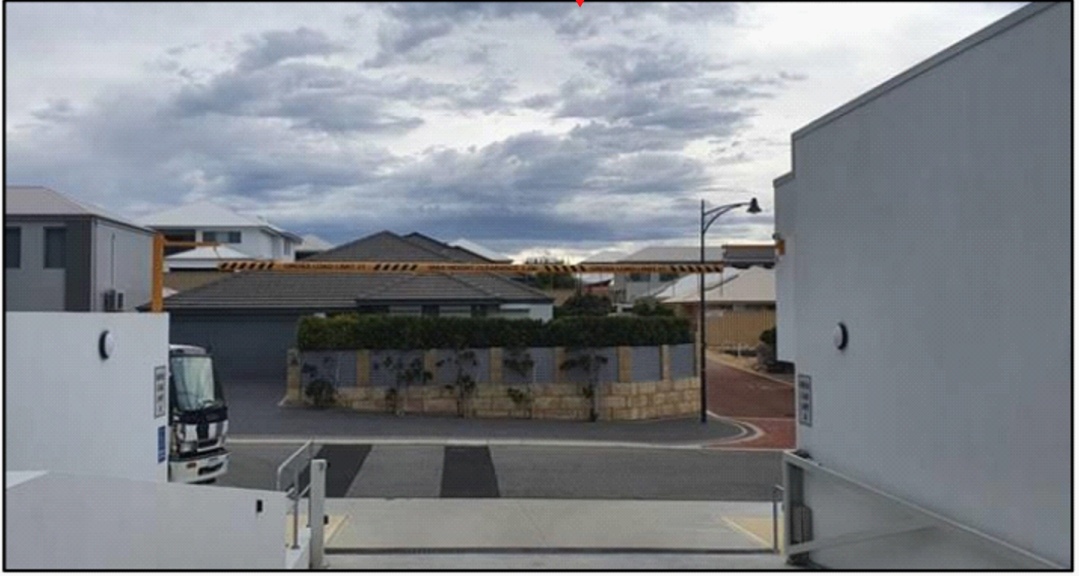
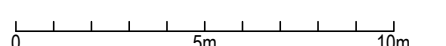
**EAST ELEVATION (CALIS AVENUE)**

SCALE 1:200 @ A1



**WEST ELEVATION (BURNS BEACH ROAD)**

SCALE 1:200 @ A1



**DEVELOPMENT APPROVAL**



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**PROJECT**

**ILUKA PLAZA**  
 LOT 9040 (#98) O'MARA BOULEVARD  
 ILUKA, WA 6028

**TITLE**

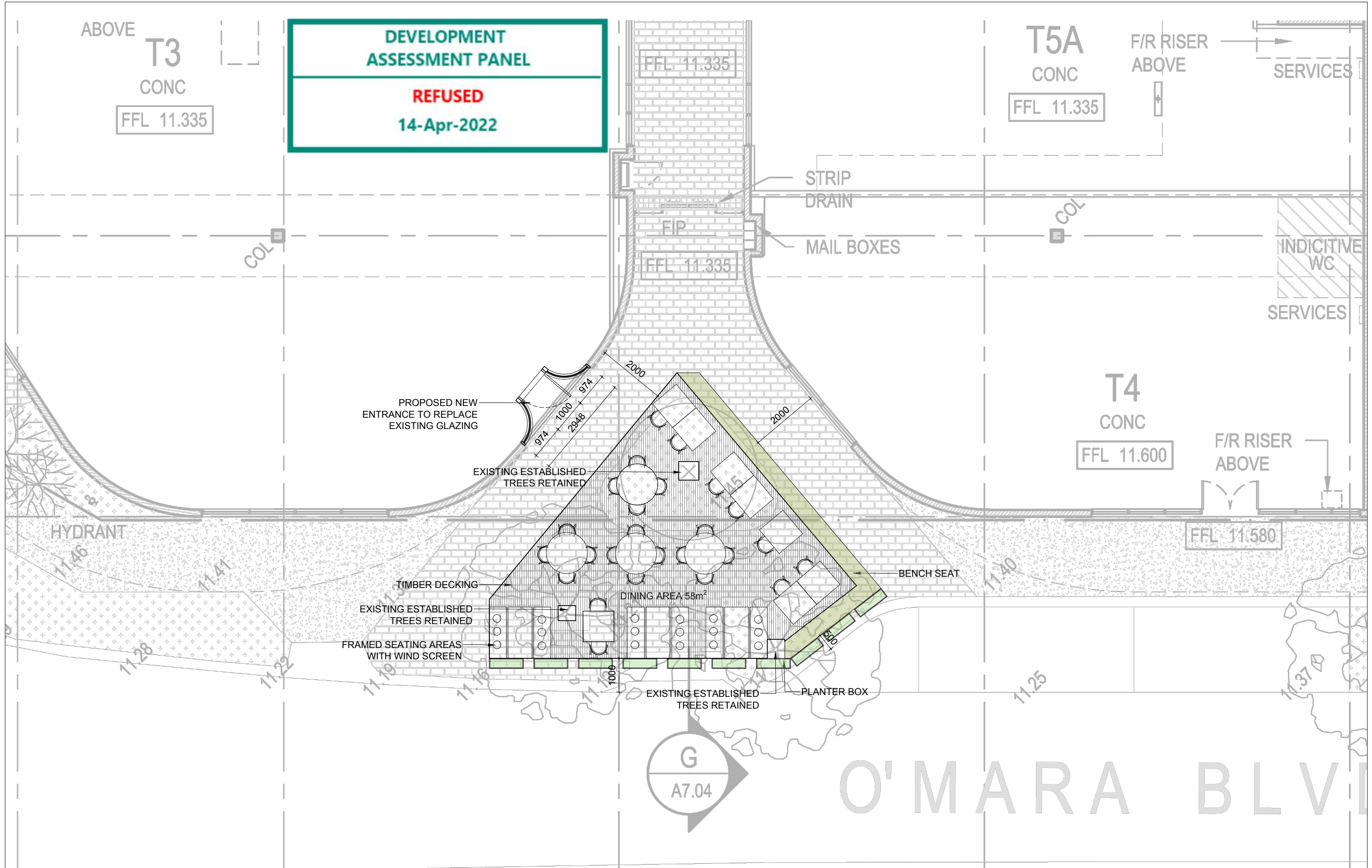
ELEVATIONS

SCALE	DRAWN	CHECKED
1:200 @ A1	LM	LA

PROJECT #	DRAWING #	ISSUE
18031	<b>A03.01</b>	<b>D</b>

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**Matthew Crawford Architects**

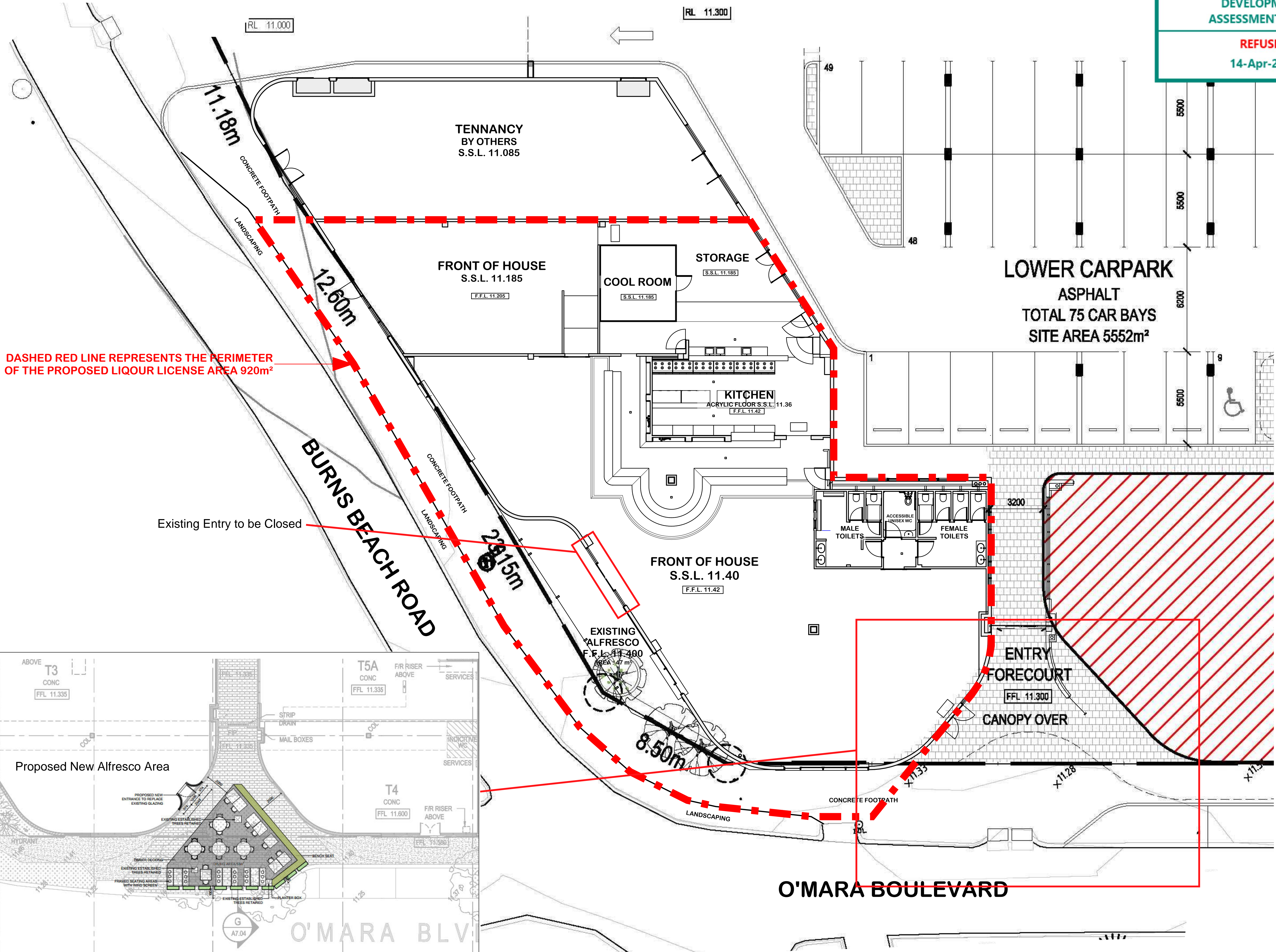
STUDIO 6 Burns Street North Fremantle  
 MOBILE 0404 479 243  
 WEBSITE www.mcarchitects.com.au  
 EMAIL contact@mcarchitects.com.au

# Iluka

NEW ALFRESCO AREA ON THE CORNER OF BURNS BEACH ROAD & O'MARA BLVD

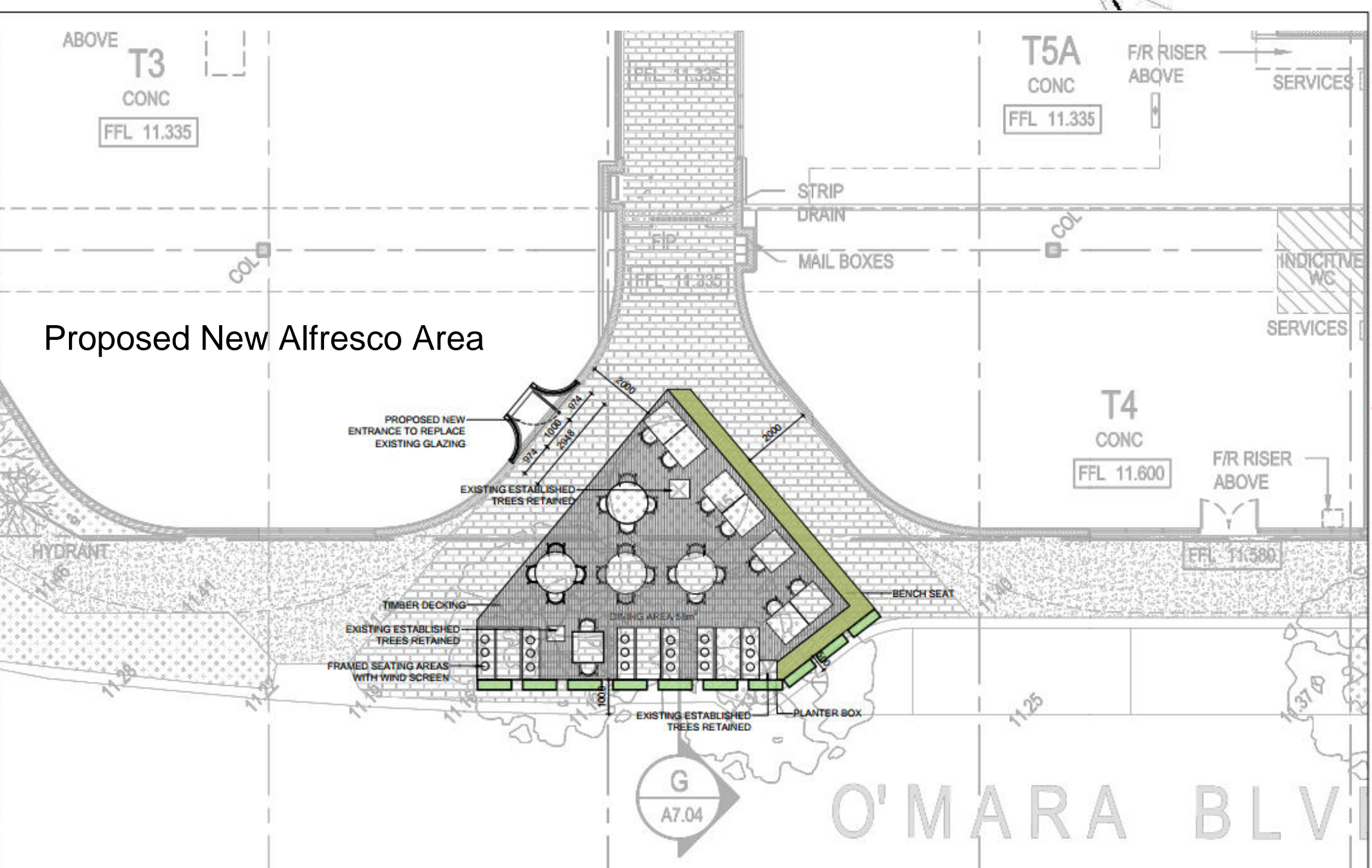
SITE PLAN			
* Check all dimensions on site • Do not scale this drawing • This drawing is copyright •			
DATE	November 2021	DRAWING No.	SK.03
SCALE	1:100 @ A3	REVISION	2
ISSUE	INFORMATION		
REV:	DATE:	NOTE:	APPR:
2	16/03/2022	PLANNING	
1	20/07/2021	INFORMATION	





DASHED RED LINE REPRESENTS THE PERIMETER OF THE PROPOSED LIQUOR LICENSE AREA 920m<sup>2</sup>

Existing Entry to be Closed



PRELIMINARY WORKING  
DRAWINGS FOR  
CERTIFICATION

DRAWING TITLE  
**SITE PLAN & LIQUOR  
LICENSE PLAN**

SCALE **1 : 100** PAGE SIZE **A1**

CLIENT  
WES D'ARCY

PROJECT  
PROPOSED RESTAURANT AND BAR  
AT TENNANCY 12 & T3 ILUKA PLAZA  
AT LOT 649 (No 98) OMARA BLVD,  
ILUKA, CITY OF JOONDALUP

PROJECT No. 20-296 DATE FEB 2021 REV. **B.**  
DRAWN J. BROOKS DWG. No. 02-06

NOTE: THESE PLANS ARE DRAWING USING THE PLANS  
AND DETAILS SUPPLIED TO FINE LINES DRAFTING.  
1. CHECK ALL DIMENSIONS ON SITE PRIOR TO SETTING OUT AND  
CORRECTING ANY WORK. EXCESS SHALL BE MADE TO THE DRAWINGS.  
2. ALL STATUTORY REQUIREMENTS SHALL BE MET TO THE BEST OF  
OUR KNOWLEDGE AND BELIEF.  
3. ALL WORK TO BE IN ACCORDANCE WITH THE B.C.A. CODES AND  
THE MOST RECENT AUSTRALIAN STANDARDS.  
4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE ENGINEER'S  
DRAWINGS AND THE BUILDERS SPECIFICATION.  
5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE SUPPLIER'S  
INSTRUCTIONS AND THE BUILDERS SPECIFICATION.  
6. THESE DRAWINGS ARE PREPARED USING INFORMATION OBTAINED  
FROM SUPPLIERS OF FINISHES AND OTHER INFORMATION.  
7. FINE LINES DRAFTING SHALL NOT BE RESPONSIBLE FOR ANY  
MISUNDERSTANDING OR ERRORS FROM THE  
SUPPLIED INFORMATION.



Summary of submissions and applicant response – Iluka Tavern (SAT Reconsideration) Concluded 17 April 2023

Submission/Issue/Comment	Applicant submission
The revised proposal for this application still does not sufficiently or adequately address the negative impact on the amenity of surrounding residential properties.	The revised OMP has been comprehensive in its control on the operation of the proposed Tavern with detailed acoustic analysis completed to ensure long term compliance with the Environmental Protection (Noise) Regulations 1997.
We welcome those steps the Applicant proposes that will partially address some of our current complaints. However, these proposed steps definitely do not justify modifications to the previous approvals and the modifications to the previous approvals requested will cause further unreasonable disturbance to nearby residents' enjoyment of their properties and diminish their quality of life.	Refer above comments.  With reference to the other proposed modifications, we reiterate that access to the first floor parking area will seek to discourage antisocial behaviour in this location with security cameras, security patrols, police visits etc. all being unsuccessful to date.  On the addition of the rubber flap to the height bar that replaces the bulk head, this resolves the headlight glare concern in the same fashion as the bulkhead would have done whilst allowing ambulance access
Residents have had to explain why this is a bad outcome so many times. All the comments that were previously provided are still valid.	The proposed changes through the OMP seek to address these issues.
The tavern itself is not in line with the objectives of the structure plan. Opening later is even less so.	The land use has been approved.
<b>Noise</b>	
There are still intoxicated people yelling/screaming when leaving the premises. This includes talking loudly in front of houses and yelling at surrounding residents.	Public behaviour once people have left the venue is difficult to control, especially if they are locals. Measures in the OMP include security and staff managing patrons and directing them to designated ride share bays for an efficient departure.
The tavern still generates too much noise for being within a predominantly residential area.	The Tavern through the noise analysis completed has been demonstrated to comply with the Environmental Protection (Noise) Regulations 1997.
The acoustic assessment identified that doors and windows are to be normally closed but this does not happen, particularly in the summer months.	The OMP includes measures for staff to complete regular patrols to ensure doors and windows are closed.
There are loud noises heard from the movement of Kegs within the underground storage unit (including late into the evening). Later hours could result in this noise being even later.	The Tavern through the noise analysis completed has been demonstrated to comply with the Environmental Protection (Noise) Regulations 1997.
<b>Restrictions on car park</b>	
Noises coming from car park occurs late into the evenings and should be restricted. This includes cars hooning around the car park which are not providing 'surveillance'.	The antisocial behaviour and noise from the upper car park is likely to increase or worsen with restrictions to vehicles with juveniles etc. aware that cars cannot access this part of the development and to some extent have the ability to use this space without concern. To date, police, security cameras, restriction on access and security patrols have been unable to prevent this.

<p>The applicant justifies that the car park being 'open' will provide for surveillance, but anti-social behaviour is occurring there anyway.</p>	<p>A majority of the current anti-social behaviour that occurs in the upstairs car park is unfortunately caused by children aged 10-16; a number of which are on e-scooters. Closing the car park to cars will in no way restrict their access and is likely to lead to an increased frequency of juvenile visitation as they'll be aware cars are unable to access the area. The Landlord is well aware of anti-social issues caused by Juveniles and has increased security patrols, met on site with Local Councillors and Local Police to raise the issue and been in continued contact with the City of Joondalup over the last 12 months to see what can be done to reduce this impact on tenants and residents alike.</p>
<p><b>Bulkhead</b></p>	
<p>The 400mm rubber flap will not protect against headlight glare. It does not cover the same height that the bulkhead previously covered.</p>	<p>We don't consider headlight glare to be a considerable issue given the property being impacted has a considerable amount of screening in place already. The rubber flap will act to block headlight glare as shown in the cross section on the submitted plans.</p>
<p>A big black rubber hanging from the bar will make it look unsightly.</p>	<p>We would be happy to remove this but understand it provides an important function to block headlight glare.</p>
<p>The access to the upper floor does not cater for 3.5t ambulances. No details from a structural engineer have been provided to advise how this can occur.</p>	<p>Engineering commentary has been provided previously that the ramp is constructed to accommodate the occasional use by a large ambulance.</p>
<p><b>OMP</b></p>	
<p>The signage is a token gesture only and will not influence drunk patrons.</p>	<p>Signage in conjunction to staff reminders and attempts to manage behaviour we hope will control patrons.</p>
<p>The OMP contradicts itself by saying it is a restaurant focused facility, but dinner concludes at 9pm when a dance floor is created. This is not a restaurant focused venue. It also states that the tavern should not impact the peace and quiet of residents, but it does.</p>	<p>The dance floor is really only an incidental element on Friday and Saturday nights, the remainder of the time the tavern will close earlier than what is permitted in accordance with the Liquor Control Act and is primarily food focussed.</p>
<p>Party buses have arrived on multiple occasions, sometimes at the same time, parking on Mykinos View with engines running. This directs intoxicated people past residents to the bus.</p>	<p>Unless evidence of this is provided, we would consider this to be a lie as the Tavern does not permit party buses.</p>
<p>Past efforts to raise complaints from residents have not been dealt with in an appropriate manner with those making the complaints being treated poorly by management and then on Facebook.</p>	<p>A complaints procedure will be updated as part of the OMP with complaints to be made via the website and dealt with by management. If the complaint isn't dealt with effectively and is considered to have merit the complainant can lodge a complaint with DRGL and/or the police.</p>
<p><b>Other impacts</b></p>	
<p>Littering, rubbish, cigarettes butts are around the area including within the undercroft car park and not cleaned up.</p>	<p>Over the 12mths the centre's visitation has continued to increase and the landlord is constantly reviewing the approach to ongoing cleanliness and maintenance.</p>

	<ol style="list-style-type: none"> <li>1. The frequency of common area (general) cleaning has recently been increased to 3x weekly.</li> <li>2. Mid way through 2022 a new specialist contractor was also appointed to carry out quarterly high-pressure cleaning of ALL carpark, walkways and stairwell. In addition, ad-hoc spot detail cleaning of the carpark and walkways is regularly undertaken.</li> <li>3. The number of commercial bins on site has now increased to x8 and last year the frequency of waste collection was lifted to x6 weekly to prevent the accumulation of any litter and smells.</li> </ol> <p>Separately, Iluka Tavern also commits staff and resource to spot cleaning rubbish and collection of cigarette butts from the directly surrounding area.</p> <p>The cumulative costs of these measures alone was roughly \$60,000 over the last 12 months.</p>
<p>There are already intoxicated drivers. Opening the tavern until later will likely mean even more intoxicated drivers. This will have a safety impact on those living in the area.</p>	<p>This is a police matter, the Tavern abides by the responsible service of alcohol and encourages alternative modes of transport for those who have been drinking.</p>
<p><b>Other</b></p> <p>The tavern is already overstepping the requirements put on it (including hours of operations and promoting live music). The overall development has not been upkept in accordance with the approvals (just look at the green wall facing Calis that was meant to be implemented). There is no trust that the owners are going to adhere to any requirement.</p>	<p>The OMP and acoustic analysis completed will provide additional powers to ensure the operation of the Tavern is in keeping with the expectations of any approvals that are granted.</p> <p>In regards to the green wall, the Landlord has continued efforts to see this established on the wall trellis that was installed at the time of construction. In mid 2022 the original landscaper was replaced and a new contractor identified issues with the acidic profile of the soil, caused by localised limestone deposits, and it's impact on the Star Jasmine that had been planted to create the 'green wall'. Subsequently, in August 2022 a native plant (Hardenbergia) was introduced to replace the Jasmine. Whilst slow growing, this appears to be growing far quicker and the Landlord will continue to monitor.</p>
<p>The car park smells that impacts surrounding residents.</p>	<p>See Response above in regards to additional cleaning committed to over the last 12 months.</p>
<p>Opening until midnight has higher levels of traffic using the area, leaving at late hours of the night and making loud noises.</p>	<p>We would contend that the number of patrons attending the premises is not likely to increase due to the increased operating hours. Instead it will provide a longer time for people to disperse which will hopefully limit the impact on the surrounding area.</p>

Summary of submissions and City of Joondalup response – Iluka Tavern (SAT Reconsideration) Concluded 17 April 2023

Submission/Issue/Comment	City of Joondalup submission
The revised proposal for this application still does not sufficiently or adequately address the negative impact on the amenity of surrounding residential properties.	The City is of the view that the additional information provided by the applicant sufficiently demonstrates management practices and strategies that will reduce the negative impact on the surrounding residential properties and local centre. This is discussed in the body of the report.
We welcome those steps the Applicant proposes that will partially address some of our current complaints. However, these proposed steps definitely do not justify modifications to the previous approvals and the modifications to the previous approvals requested will cause further unreasonable disturbance to nearby residents' enjoyment of their properties and diminish their quality of life.	The measures to be implemented within the Operational Management Plan (OMP) and Noise Management Plan (NMP) are considered to have a significant reduction on the external impacts from the land use. This is discussed in the body of the report.
Residents have had to explain why this is a bad outcome so many times. All the comments that were previously provided are still valid.	The previous concerns of surrounding residents determined the items covered by the OMP and NMP.
The tavern itself is not in line with the objectives of the structure plan. Opening later is even less so.	The Tavern is already an approved land use on the subject lot. As above, the proposal is now considered to sufficiently mitigate the impacts of the tavern so that it will not impact the surrounding residents thereby meeting the objectives of the structure plan.
<b>Noise</b>	
There are still intoxicated people yelling/screaming when leaving the premises. This includes talking loudly in front of houses and yelling at surrounding residents.	The measures to be implemented within the Operational Management Plan (OMP) and Noise Management Plan (NMP) are considered to have a significant reduction on the external impacts from the land use. This is discussed in the body of the report.
The tavern still generates too much noise for being within a predominantly residential area.	The NMP is aimed at decreasing the impact the tavern has by the way of noise from the venue. In addition, the OMP and NMP include more robust processes to advise the tavern of the impacts being caused.
The acoustic assessment identified that doors and windows are to be normally closed but this does not happen, particularly in the summer months.	This requirement is to be upheld in accordance with the NMP and OMP.
There are loud noises heard from the movement of Kegs within the underground storage unit (including late into the evening). Later hours could result in this noise being even later.	<p>The applicant has advised that kegs are moved on an as needed basis and therefore they cannot always pre-empt the movement of kegs. The City considers that the manner in which they are moved should be considered to minimise any outside impact from this occurring.</p> <p>In this regard it is recommended that the OMP be updated to include specific measures relating to the noise mitigation from the movement of Kegs.</p>
<b>Restrictions on car park</b>	

Noises coming from car park occurs late into the evenings and should be restricted. This includes cars hooning around the car park which are not providing 'surveillance'.	The City considered the access to the upper floor car park should remain restricted as discussed in the body of the report.
The applicant justifies that the car park being 'open' will provide for surveillance, but anti-social behaviour is occurring there anyway.	As above, the City considered the access to the upper floor car park should remain restricted as discussed in the body of the report.
<b>Bulkhead</b>	
The 400mm rubber flap will not protect against headlight glare. It does not cover the same height that the bulkhead previously covered.	While noting the proposed flap is not the same size as the previous bulkhead, the applicant has demonstrated the extent of the flap provided will reduce the impact of headlight glare onto adjoining properties.
A big black rubber hanging from the bar will make it look unsightly.	The rubber flap will provide protection to the adjacent residential property from headlight glare, whilst still allowing ambulances to access the upper floor carpark if required to do so. The treatment is considered appropriate for this purpose in this location.
The access to the upper floor does not cater for 3.5t ambulances. No details from a structural engineer have been provided to advise how this can occur.	The applicant has advised that the upper floor has been designed to be able to accommodate an ambulance. Specific engineering advice on this matter is not required to be submitted at the planning stage.
<b>OMP</b>	
The signage is a token gesture only and will not influence drunk patrons.	Items including signage for patrons are part of a suite of methods aimed at reducing the overall impact from the tavern to adjoining residential properties. The development will be required to operate in accordance with the OMP and NMP which provide broader management strategies across the evening and not solely at closing time.
The OMP contradicts itself by saying it is a restaurant focused facility, but dinner concludes at 9pm when a dance floor is created. This is not a restaurant focused venue. It also states that the tavern should not impact the peace and quiet of residents, but it does.	The measures to be implemented within the Operational Management Plan (OMP) and Noise Management Plan (NMP) are considered to have a significant reduction on the external impacts from the land use. This is discussed in the body of the report.
Party buses have arrived on multiple occasions, sometimes at the same time, parking on Mykinos View with engines running. This directs intoxicated people past residents to the bus.	The OMP identifies that staff will decline requests for such buses if a query is made. It is noted that the operator cannot legally prevent buses and other vehicles parking within the surrounding area. The OMP outlines that patrons of any known party buses will be denied entry to the venue.
Past efforts to raise complaints from residents have not been dealt with in an appropriate manner with those making the complaints being treated poorly by management and then on Facebook.	The OMP and NMP provides a formalised complaints process which includes multiple options for surrounding residents to raise concerns with the operators and the procedure/process to be followed.
<b>Other impacts</b>	
Littering, rubbish, cigarettes butts are around the area including within the undercroft car park and not cleaned up.	The OMP includes provisions that the tavern undertakes cleaning of the area. The cleanliness of the lower car parking is the responsibility of centre management and not the tavern.

<p>There are already intoxicated drivers. Opening the tavern until later will likely mean even more intoxicated drivers. This will have a safety impact on those living in the area.</p>	<p>Driver behaviour and vehicle noise cannot be regulated under the planning framework and are therefore not considered to be relevant planning matters that should be taken into account as part of decision-making.</p>
<p><b>Other</b></p>	
<p>The tavern is already overstepping the requirements put on it (including hours of operations and promoting live music). The overall development has not been upkept in accordance with the approvals (just look at the green wall facing Calis that was meant to be implemented). There is no trust that the owners are going to adhere to any requirement.</p>	<p>The conduct of the owners or previous approvals is not a valid planning matter that should be taken into account as part of decision-making.</p> <p>Notwithstanding, the OMP provides a framework for complaints to be dealt with and therefore provide structure to ongoing communications between the residents and the tavern.</p>
<p>The car park smells that impacts surrounding residents.</p>	<p>The cleanliness of the lower car parking is the responsibility of centre management and not the tavern.</p>
<p>Opening until midnight has higher levels of traffic using the area, leaving at late hours of the night and making loud noises.</p>	<p>The increased operation is not likely to lead to greater patronage than currently uses the site therefore there is not considered to be a greater impact by way of traffic.</p>