



Colac Otway  
SHIRE

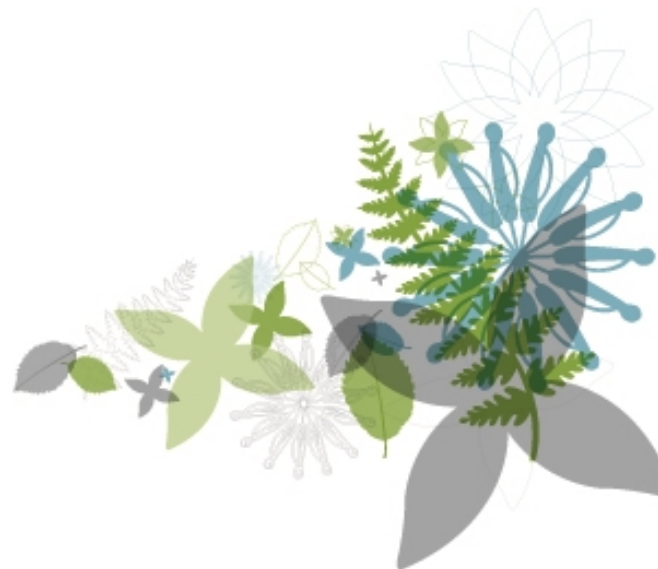
**PLANNING COMMITTEE MEETING**

**AGENDA**

**Wednesday 9 February 2022**

**at 4:00 PM**

**by videoconference**



# COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

Wednesday 9 February 2022

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## COLAC OTWAY SHIRE COUNCIL PLANNING COMMITTEE MEETING

NOTICE is hereby given that the next **PLANNING COMMITTEE MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held by videoconference on Wednesday 9 February 2022 at 4:00 PM.

### AGENDA

#### **1 DECLARATION OF OPENING OF MEETING**

##### **OPENING PRAYER**

*Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.*

AMEN

#### **2 PRESENT**

#### **3 APOLOGIES AND LEAVES OF ABSENCE**

#### **4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY**

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging and welcomes any descendants here today.

##### **RECORDING AND PUBLICATION OF MEETINGS**

Please note: All Council and Planning Committee meetings are live streamed and recorded (where it is practicably possible to do so), and the meeting location has the required equipment and internet capability. This includes the public participation sections of the meetings. However, matters identified as confidential items in the Agenda will not be live streamed or recorded.

By participating in open Planning meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council and Planning Committee meeting, the live stream recording will be accessible on Council's website. Recordings are also taken to facilitate the preparation of the minutes of open Council and Planning Committee meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Planning Meeting.

## **PUBLIC ATTENDANCE**

In response to current COVID-19 requirements this meeting will be held by videoconference and will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at [www.youtube.com](http://www.youtube.com)).

## **5 DECLARATIONS OF INTEREST**

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

## **6 CONFIRMATION OF MINUTES**

- **Planning Committee Meeting held on 8 December 2021.**

### **Recommendation**

***That the Planning Committee confirm the minutes of the Planning Committee Meeting held on 8 December 2021.***

## **7 VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS**

The Mayor is to read out the names of those applicants and objectors who have confirmed in writing that they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A time limit of five minutes will apply.

Item: 8.1

**PP329/2021-1 – 135 Great Ocean Road Apollo Bay –  
Packaged Liquor Licence, Alterations to Building Façade and  
Display of Business Identification and Internally Illuminated  
Signage**

<b>ADDRESS AND PROPERTY DETAILS</b>	135 Great Ocean Road APOLLO BAY  Pt 1 Lot 1, PS 516898 V/F: 10786/027, Parish of Krambruk	<b>APPLICATION NUMBER</b>	PP329/2021-1
<b>PROPOSAL</b>	Packaged Liquor Licence, Alterations to Building Façade and Display of Business Identification and Internally Illuminated Signage		
<b>PERMIT TRIGGERS</b>	<p>Clause 34.01-4 (Commercial 1 Zone) - A permit is required to alter a building</p> <p>Clause 43.02-2 (Design and Development Overlay) – A permit is required for buildings and works, including alterations to a building</p> <p>Clause 52.05 (Signs) - A permit is required to display a business identification sign exceeding 8sqm</p> <p>Clause 52.27 (Licenced Premises) - A permit is required for a packaged liquor licence</p>		
<b>TRIGGER FOR DETERMINATION BY COMMITTEE</b>	More than 3 objections (40 objections received)		
<b>ZONE</b>	Commercial 1 Zone (C1Z)	<b>OVERLAYS</b>	<p>Design and Development Overlay, Schedule 5 (DDO5): Apollo Bay – Town Centre)</p> <p>Parking Overlay, Schedule 2 (PO2): Apollo Bay Commercial Centre)</p>
<b>COVENANTS</b>	Not applicable		

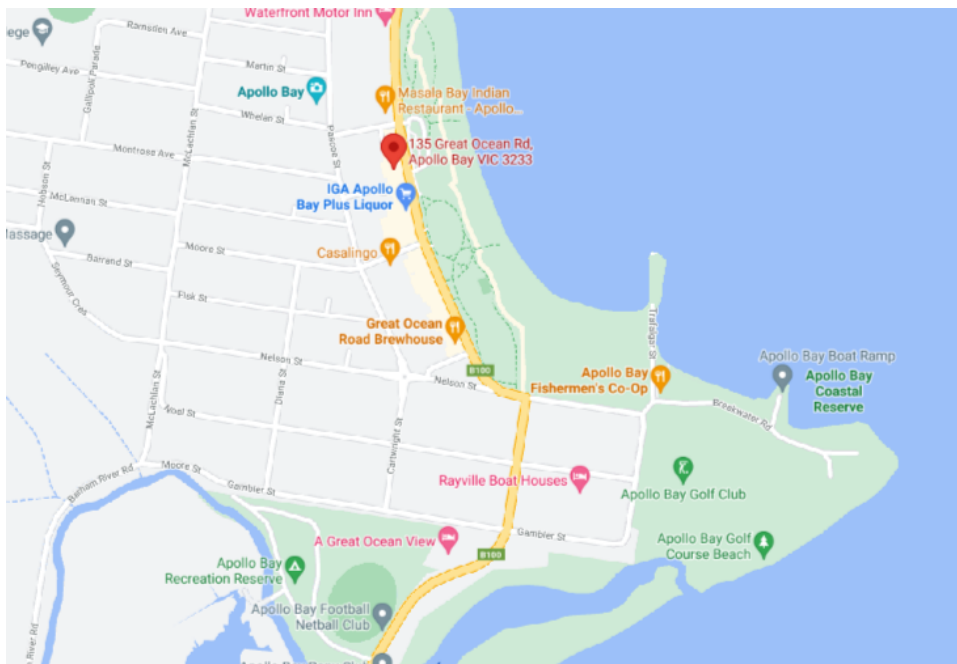
Item: 8.1

# PP329/2021-1 – 135 Great Ocean Road Apollo Bay – Packaged Liquor Licence, Alterations to Building Façade and Display of Business Identification and Internally Illuminated Signage

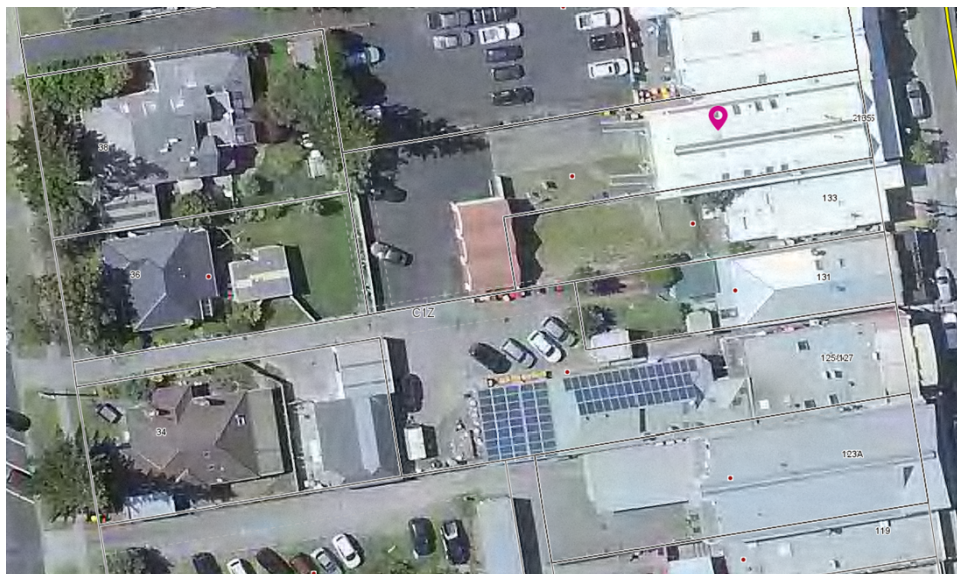
<b>CULTURAL HERITAGE</b>	Partially within an area of cultural heritage sensitivity		
<b>OFFICER</b>	Julia Repusic	<b>GENERAL MANAGER</b>	Ian Seuren
<b>DIVISION</b>	Development and Community Services		
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Plan of Subdivision [8.1.1 - 5 pages]</li><li>2. Owners Corporation [8.1.2 - 2 pages]</li><li>3. CURRENT Sign Plans [8.1.3 - 12 pages]</li><li>4. Proposed Licensed Area Plan [8.1.4 - 1 page]</li><li>5. Title [8.1.5 - 1 page]</li><li>6. Application Form [8.1.6 - 3 pages]</li></ol>		

## 1. LOCATION PLAN / AERIAL PHOTO

### LOCATION PLAN



## AERIAL PHOTO



## 2. RECOMMENDATION

***That Council resolves to issue a Notice of Decision to Grant a Permit for the use of land for the sale of liquor (Packaged Liquor Licence), alterations to building and display of business identification and internally illuminated signage at 135 Great Ocean Road, Apollo Bay (Pt 1, Lot 1 PS: 516898 V/F: 10786/027 Parish of Krambruk), subject to the following conditions:***

### ***Endorsed Plans***

- 1. The area in which liquor is allowed to be supplied under a licence must not be increased without the written consent of the Responsible Authority.***
- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 3. The location and details of the signage and any supporting structures, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.***

### ***Trading Hours***

- 4. The use hereby permitted must operate only between the hours of:***
  - a) Monday to Sunday between 9:00am and 9:00pm***
  - b) ANZAC Day between 12:00pm and 9:00pm***

***The premises must stay closed on Good Friday and Christmas Day.***

### ***Responsible Serving of Alcohol***

- 5. The permit holder must require that all employees of the premises engaged in the service of alcohol undertake a 'Responsible Serving of Alcohol' course.***
- 6. Prior to the use commencing, a Staff Operational Plan must be prepared by the permit holder and submitted to the Responsible Authority. The plan shall be used for the induction of all new staff, including in matters such as the duties and responsibilities of the holder of a***

***Packaged Liquor Licence, responsible serving of alcohol, mandatory signage and evidence of age documentation.***

***Once approved by the Responsible Authority, the use shall be operated in accordance with the Staff Operational Plan to the satisfaction of the Responsible Authority.***

#### **Rear Access**

- 7. *Public access to the site must be from the Great Ocean Road only, and customers must not be allowed to enter or exit the premises through the rear access to the building.***

#### **Amenity**

- 8. *Mechanical equipment associated with the use, including generators, must at all times comply with the Environment Protection Regulations 2021, Part 5.3 Division 3, in relation to noise limits from commercial, industrial and trade premises, and with EPA publication 'Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues' (Publication 1826.4 dated 20 May 2021, or as amended).***
- 9. *Prior to the commencement of the use hereby permitted, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must include:***
  - a) details of the types of waste generated by the use, and where waste would be stored***
  - b) details of collection arrangements***

***The site must be managed in accordance with the approved Waste Management Plan at all times and the prior written approval of the Responsible Authority must be sought for any changes to the approved arrangements.***

#### **Signage**

- 10. *All signage must be constructed and maintained to the satisfaction of the Responsible Authority.***

#### **Expiry**

- 11. *This permit will expire if one of the following circumstances applies:***
  - a) The use is not commenced within two years of the date of this permit.***
  - b) The development, including the signage, is not commenced within two years of the date of this permit.***
  - c) The development is not completed within four years of the date of this permit.***

***In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition.***

#### **Notes**

- 1. *The applicant is reminded that the provision of liquor is also subject to the issue of a Liquor Licence, pursuant to the provisions of the Liquor Control Reform Act 1988 (as amended), which must be obtained prior to the commencement of the use hereby permitted.***



### 3. PROPOSAL

The application seeks a planning permit for a packaged liquor licence, alterations to the building façade and the display of signage.

The proposed packaged liquor licence would be associated with the use of the premises as a 'bottle shop', which is defined in Clause 73.03 of the planning scheme as:

*"Land used to sell packaged liquor for consumption off the premises".*

'Bottle shop' is a type of 'shop' and nested under 'retail premises' in the planning scheme. There is no permit trigger under the provisions of the Commercial 1 Zone for the use of the land for a retail premises (including bottle shop). As such, in terms of the proposed use of the land, it is only the liquor licence that requires a planning permit. This is required under Clause 52.27 (Licensed Premises) of the planning scheme.

A packaged liquor licence authorises the holder to supply liquor in sealed containers, bottles or cans for consumption off the premises.

The proposed licenced area would be the whole of the ground floor area (Pt 1 of Lot 1). The applicant has advised that the retail premises would be open from 9am to 9pm, 7 days a week. It would be closed on Good Friday and Christmas Day, whilst on ANZAC Day the opening hours would be between 12pm and 9pm.

The proposed business identification signage would comprise five signs on the front façade of the building, including a verandah sign, an under-verandah sign (with two sides) and two window signs. The verandah sign would use the existing structure, with the sign measuring approximately 2.8sqm. The under-verandah sign would utilise the existing structure and would be partially illuminated (i.e., the logo). Each side would be 0.96sqm, totalling 1.92sqm. The southern front window would contain a 4.65sqm vinyl sign at the bottom, promoting '30 minute pick ups' for purchases, with the top of the window left as clear glazing. The northern front window would contain a 0.74sqm vinyl sign and a decal (transfer), approximately 0.21sqm in size, of the words 'Apollo Bay, drop in'. The rest of this window would be left uncovered.

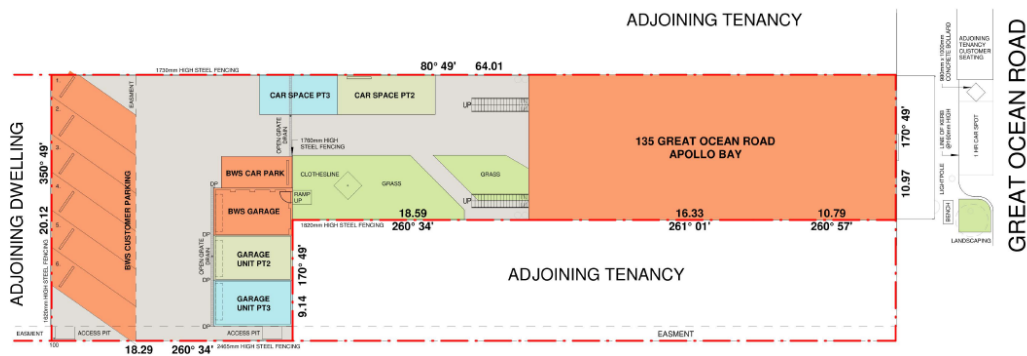
The total amount of signage on the front façade would be 10.32sqm.

The front façade would be tiled white over the existing brick, and the verandah structure and above the doors and windows would be painted dark grey.

In the car park behind the building, it is proposed to attach seven 0.5m x 0.3m signs to the fence opposite each car parking space. It is also proposed to paint these car parks orange. These signs and the painting do not trigger the requirement for a planning permit.

### 4. SUBJECT LAND & SURROUNDINGS

The subject site is located on the western side of the Great Ocean Road. The building contains three parts, being the commercial tenancy on the ground floor and two residential tenancies on the upper floor. This application relates to the commercial tenancy comprising Pt 1 of the site, which has a floor area of 257.28sqm. The building has a frontage of 10.7m to the Great Ocean Road.



At the rear of the building is a common property area, which contains rear access to the building, car parking and staircases to the residential tenancies. The car parking at the rear of the site has been allocated on title (as shown above). The commercial tenancy has an allocation of 2 car parking spaces (including a garage) and an additional area for car parking of approximately 128sqm. Each residence has 2 allocated car parking spaces.

Surrounding land is generally used for commercial purposes. Land on the opposite side of the Great Ocean Road to the east is located within the Public Park and Recreation Zone (PPRZ), whilst further east is the Apollo Bay beach.

## 5. PLANNING SCHEME PROVISIONS

### Planning Policy Framework

It is considered that the proposal generally meets the relevant objectives, strategies and policies of the Planning Policy Framework, notably clauses 11.01-1S and 11.01-1L (Settlement), 11.03-6L (Apollo Bay and Marengo), 13.07-1S (Land Use Compatibility), 15.01-5S (Neighbourhood Character), 15.03-2S (Aboriginal Cultural Heritage), 17.01-1S and 17.01-1R (Diversified Economy) and 17.02-1S (Business).

### Other relevant provisions

Clause 52.05 (Signs) is relevant to this application. This land is within the Commercial 1 Zone, which places signage within Category 1 (Commercial Areas - Minimum Limitation) of Clause 52.05. 'Business identification signage' over 8sqm and internally illuminated signage both trigger the requirement for a planning permit. Directional signage, such as the signage in the car park, does not require a permit.

Clause 52.06 (Car Parking) must also be considered. As the land has previously been used as a retail premises, and the proposed use would be a type of retail premises (bottle shop), there is no permit trigger under Clause 52.06 (Car Parking) for any alteration to the car parking provision.

### Relevant Planning Scheme amendments

Nil.

## 6. REFERRALS

### Internal Referrals

The application was referred to the Health Protection Unit, which recommended one condition.

## External Referrals

Notification of the application was sent to VicPolice on 29 November 2021. A response was received on 6 December 2021, advising that VicPolice has no objection to the proposal.

## 7. PUBLIC NOTIFICATION & RESPONSE

The application was advertised by means of letters to neighbours, a sign on site and notice in the local news sheet. Letters were sent on 1 December 2021, a sign was displayed on the front windows of the site on 2 December 2021 and notice was given through the Apollo Bay News sheet on 2 December 2021.

### COMMUNICATION

40 objections to the application have been received by Council.

The main concerns raised were as follows:

- Additional packaged liquor retail is not required.
- Social and health impacts of an additional liquor licence in town.
- Competition with local business.
- Impact on the local character of the area by having a 'chain' store.
- Impact on amenity from litter and people on beach.
- Car parking on site and access to building from rear would be insufficient.
- Car parking on street is insufficient, particularly noting a new loading zone in front of the site.
- Loading/unloading.
- Signage on windows would be too large and out of character.

An online Consultation Meeting, which was facilitated by Council and attended by the applicant and nearly half of the objectors, was held on 20 January 2022. Following that meeting, the applicant revised the signage on the window to reduce its size by approximately 40%. The applicant also provided written agreement to a condition preventing rear access to the premises by customers, and to conditions relating to waste management and the control of noise from mechanical equipment, generators, etc.

The concerns raised by objectors are addressed in the assessment section of this report.

### TIMELINE

The timeline for implementation of the permit, if ultimately granted, would be governed by whether an appeal is lodged. In the event a Notice of Decision to Grant a Permit is issued, objectors would have 21 days to lodge an application for review of Council's decision to the Victorian Civil and Administrative Tribunal (VCAT), whilst if a refusal is issued the applicant would have 60 days to appeal. Currently, it is generally taking more than 6 months for appeals to be scheduled. If a permit is granted, by Council or VCAT, it would ultimately be a matter for the applicant to decide when to implement the permit, as long as the commencement of the use and the proposed works were undertaken within the timeframes specified in the permit.

## 8. OFFICER'S ASSESSMENT

The proposal comprises three key elements – alterations to the building, the display of signage and the sale of alcohol from the site (Packaged Liquor Licence).

### Streetscape - Façade and Signs

The Apollo Bay Structure Plan, adopted on 26 April 2007, provides guidance on what is sought for the Apollo Bay town centre streetscape. The overall streetscape objective for the town centre is to:

*“Require new development and streetscape works in the Apollo Bay town centre to build on and reinforce the fishing village coastal character of the township, and contribute to the creation of a vibrant public realm.”*

Whilst much of the streetscape guidance relates to new built form, the relevant section of the Structure Plan notes that:

*“The uses in these buildings are also important, particularly at street level. Open shop fronts, restaurants and cafes create greater activity, and clear windows allow views between the shop and the street and create a greater sense of safety when there are fewer people in the street. Blank walls, tinted, reflective or covered windows, and inactive uses such as offices are less desirable at street level, and can reduce feelings of activity and safety, which in turn can discourage further activity.....*

*Signage on or associated with buildings can have a big impact on the streetscape. There is a wide array of signage styles in the commercial and retail area, resulting in the signage clutter and dominance of the built form in some areas. A more coordinated approach to signage is required, ensuring that signage is clear and simple, maintains clear views between buildings and the street, and is concentrated on or below verandahs to avoid dominating buildings or the street.”*

#### Alterations to Building Façade

It is considered that the proposed external alterations to the building would be acceptable and in keeping with the character of the area as they would not result in the building being too dissimilar to existing development, and there would be no impact on pedestrian areas. The Design and Development Overlay, Schedule 5 seeks to ensure buildings have simple details and a mix of textures and finishes. It is considered that the proposed use of tiles and dark grey paint would achieve this, and also comply with the objectives of the Structure Plan.

#### Signage

The proposed signage would be similar to other signage in the area, and would largely replace existing signage, as shown following.

**Existing Signage:**



**Proposed Signage:**



The adopted Structure Plan includes the following strategies for signage:

*“New signage should be designed to:*

- Provide simple business identification details*
- Relate to use of the building on which it is placed*
- Avoid contributing to signage clutter*
- Avoid dominating buildings or the streetscape (in terms of size, shape, colours or graphic style)*
- Avoid obscuring views between buildings and the street*
- Avoid obscuring views of the foothills*
- Minimise the need for signage above verandahs”*

The signage proposed by this application would utilise existing structures above the verandah and below the verandah, and it is considered that it would be compatible with existing signage in the surrounding area. As noted earlier in this report, following a Consultation Meeting the proposed window signage was reduced in size to try to address concerns raised by objectors. This would ensure reasonable views are provided between the shop and the street. Whilst one sign would be located above the verandah, this would be in a location historically used for signage on the building and likely created for that purpose.

It is not considered that the signage would significantly impact on the views from the Great Ocean Road. The signage would be relatively muted in tone, would be of reasonable size relative to the scale of the building and surrounding signage, and would not include any electronic or animated signs. The illuminated signage, which would be below the verandah, would be reasonably separated from the road so as to not have any impact on the safety of the Great Ocean Road.

#### Packaged Liquor Licence

The use of the subject site as a retail premises, which includes use as a bottle shop, does not require a planning permit. However, a Packaged Liquor Licence is required under Clause 52.27 (Licensed Premises) of the planning scheme. That clause specifies the decision guidelines for determining planning applications for liquor licences:

*“Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- The Municipal Planning Strategy and the Planning Policy Framework.*
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- The impact of the hours of operation on the amenity of the surrounding area.*
- The impact of the number of patrons on the amenity of the surrounding area.*
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.”*

Those are the key matters for consideration in the assessment of this planning application for the proposed Packaged Liquor Licence.

#### Amenity of the Surrounding Area

A Packaged Liquor Licence allows the sale of alcohol in sealed containers, bottles or cans for consumption off the premises. It is not considered that allowing the sale of packaged liquor at the subject site would detrimentally impact on the amenity of the surrounding area. This type of liquor licence does not allow the consumption of alcohol on the premises and therefore does not result in

the type of disturbance that can sometimes occur with premises in which alcohol is consumed, such as pubs and nightclubs. The main form of nuisance generally associated with licensed premises is noise and anti-social behaviour from intoxicated persons. Where alcohol is consumed on a premises, it can sometimes result in large numbers of patrons exiting the premises at the same time, congregating publicly and causing disturbance in an area. Premises with packaged liquor licences sell liquor for consumption elsewhere and it would be very unusual for such a premises to result in groups of people congregating publicly in the vicinity or causing disturbance.

It is noted that there is concern that granting a permit for the proposed packaged liquor licence could lead to people drinking on the beach or foreshore. Such activity would, however, be unlawful. Local Law No. 1 - Consumption of Liquor in Public Places (2013) - prohibits the consumption of alcohol in a public place without a permit. The police enforce this local law and can issue an on-the-spot infringement (\$200). The concern that the proposal could result in groups drinking alcohol on the beach or foreshore would therefore be addressed under separate legislation if it occurred, rather than being a reason for refusing this application. It is not considered that the proposal could reasonably be resisted on the grounds that there may be some risk of people behaving unlawfully, as such a reason would not be a valid planning reason for refusal. As noted earlier in this report, VicPolice was notified of the application (as with all applications for liquor licences) and raised no objection to the proposal.

Given the nature of the proposed liquor licence, and the restrictions on the public consumption of alcohol in Apollo Bay, it is considered unlikely the proposed liquor licence use would result in any significant increase in litter or noise. It is not considered that it could reasonably be demonstrated that such impacts would result from the use, or warrant a refusal of the application.

#### Hours of Operation

The general hours of operation would be 9am to 9pm, and the applicant has agreed to a condition limiting the hours accordingly. It is considered that these hours would not have any material impact on the amenity of the area. The premises would not operate at unsocial hours and it is noted that the two existing premises in Apollo Bay with packaged liquor licences can trade until 11pm. As noted above, given the nature of the use it is not considered that there would be a significant number of customers at the site at any time, or that customers would materially impact on the amenity of the area.

#### Number of Patrons

Unlike licensed premises where alcohol is sold for consumption, packaged liquor licences only allow the sale of alcohol in sealed containers for consumption elsewhere (with only free tastings permitted within the licensed area under this type of liquor licence). As such, patron numbers tend to be low, with customers only making purchases rather than spending extended time at the premises (as at any retail premises). It is also noted that it is proposed that the premises would close at 9pm and, as such, there would be no sales late at night when the potential for nuisance and anti-social behaviour is at its highest.

#### Cumulative Impact

It is acknowledged that there are currently 37 liquor licences within Apollo Bay and 1 pending liquor licence (Wildlife Wonders). Thirty (30) of these licences are on the Great Ocean Road, with most of those within the CBD area. Two of the licences within Apollo Bay are Packaged Liquor Licences, at the Foodworks and IGA; and an additional five licences are General Licences, which allow liquor to be sold for consumption on or off the premises. The General Licences include the Apollo Bay Hotel, the Apollo Bay Motel and Apartments, and the Great Ocean Road Brewhouse.

Planning Practice Note 61, *'Licensed Premises: Assessing Cumulative Impact'*, explains cumulative impact in relation to licensed premises in the planning system and provides guidelines for the assessment of applications. It notes that cumulative impact can be both positive and negative, listing the following examples:

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

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

*Positive cumulative impact can include:*

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

Many of the listed impacts, both negative and positive, are most applicable to premises on which alcohol is consumed. That most relevant to a Packaged Liquor Licence is arguably the positive impact of the increase in consumer choice.

The Planning Practice Note notes that the assessment of cumulative impact required by Clause 52.27 should be proportional to the likely impact of the proposal. It also provides advice on when the guidelines should be used:

*"The guidelines may be used for any planning application that would benefit from their use; however they should be used for all applications for a new or expanded licensed premises that:*

- 1. will be licensed and open after 11pm; **and***
- 2. is in an area where there is a cluster of licensed premises."* [emphasis added]

Whilst the Practice Note indicates that the guidelines need not be applied in this particular case, it is noted that it also observes elsewhere that:

*"Licensed premises with a patron capacity over 200 may pose a greater risk of alcohol-related harm and result in a negative cumulative impact.*

*A packaged liquor outlet located within the surrounding area provides an opportunity for patrons to purchase and consume alcohol before, in between, or after entering licensed premises. These activities, particularly in excessive quantities, can increase the likelihood of anti-social behaviour and public disturbances in some areas."*

As noted above, in this case it is proposed that the premises would close at 9pm. This would also be controlled by a condition, in the event a planning permit is issued. In terms of the comment above from the Practice Note it is noted that, whilst the proposed outlet would provide an additional option for people, packaged liquor can already be purchased from other premises in the town, with the two other premises with Packaged Liquor Licences allowed to trade until 11pm.



Given the proposed hours of operation at the subject site, and the fact that the use should not generate any significant congregation of customers (including large intoxicated groups), it is considered that the proposed addition of this packaged liquor outlet to the town would be acceptable from a cumulative impact perspective. This is supported by the fact that the Practice Note also mentions as a matter for consideration the existence of any local laws regulating consumption of liquor in public spaces; it has already been noted that there is such a law that applies in Apollo Bay.

The fact that VicPolice was notified of the application and raised no objection also indicates that the police do not consider the proposal should result in a cumulative impact.

### Loading/Unloading

As noted earlier in this report, the retail use of the premises does not require a planning permit. It is also noted that this is the purpose for which the premises had been used prior to this application being received. It is acknowledged that the historic loading/unloading arrangements to the rear of the premises are not ideal and the applicant has advised that the current BWS strategy is to use a loading zone at the front, which allows loading from 5am-9am. Below are photographs showing the current layout:





The owner has had discussions with Council's Infrastructure Department about loading/unloading because of the issues with manoeuvring in the rear car park. On a temporary basis, the Infrastructure Department has currently agreed to the use of a loading bay (formerly a parking space) in front of the premises, including a future increase in the length of the loading zone space (by modifying the adjacent parklet). This work would be paid for by BWS, in the event a planning permit is issued and, following further consultation with local businesses, the loading bay is made permanent.

As noted above, the subject site can be used as a retail premises without a permit, so the issues with the use of the rear car park for loading/unloading would potentially arise with any operator at the premises. Given this, it would be difficult to try to justify a reason for refusal based on loading/unloading associated with the retail premises.

#### Car Parking

Access to the car parking area is via a carriageway easement benefitting the site, located between Nos. 34 and 36 Pascoe Street.

The subject site has been used historically as a retail premises and the proposed bottle shop use, which is nested under 'retail premises' in the planning scheme, would not alter the car parking requirement.

The applicant has advised that one staff member would be on site during normal trading times, with 1 - 2 staff present during peak times. Given the location of the car parking area, it appears likely that staff, the residents of the two units above the proposed BWS and a small number of local residents who are aware of the car parking to the rear would be the main users of the rear car parking area. It is very unlikely that the parking area would be used by visitors to the town.

Preventing rear access to the building by customers, as suggested by objectors during the Consultation Meeting and agreed by the applicant, would also be likely to limit the use of the car parking area, reducing the potential for conflicts with existing businesses that use the rear access. However, it must be noted that there is also a strong argument that customers should be allowed to

access the rear car park of this retail premises, given the fact that this is a commercial premises in a Commercial 1 Zone and some limited use of this car parking area by customers could reduce on-street parking demand. It is noted from historic files relating to the development of the site that, whilst it appears that it was anticipated that the car parking for the retail premises would be used by both staff and customers, no permit condition was imposed designating users of those parking spaces. Given the discussions at the Consultation Meeting, a condition has been recommended to restrict rear access by customers to the premises, though it is noted that restricting rear access would not address the main issues raised by objectors.

In terms of the impact for on-street parking, it is unlikely that the proposed packaged liquor outlet would generally be a destination in its own right, being more likely to be visited by people in the town for other reasons as well. As such, the actual increased demand for on-street parking should be limited.

#### Number of Objections

Section 60(1)(f) of the *Planning and Environment Act 1987* (the Act) requires the responsible authority to have regard to any significant social effects and economic effects which the responsible authority considers the use or development may have. The Act also requires the Victorian Civil and Administrative Tribunal (VCAT) and “responsible authorities (where appropriate) to have regard to the number of objectors to a permit application in considering whether a proposed use or development may have a significant social effect”.

However, the number of objections alone does not demonstrate that there would be a significant social effect from a use or development. A number of VCAT cases have addressed this issue, and provide guidance on how objections should be considered in the decision-making process. In *Backman & Company Pty Ltd v Boroondara CC [2015] VCAT 1836*, for example, whilst 453 objections were received to an application for an apartment building containing 16 dwellings, it was found that opponents of the proposal had not demonstrated a social effect would likely result from the proposal. VCAT cases have found that consideration of social effects should be based on a proper evidentiary basis or empirical analysis, and that the social or economic effect must be sufficiently probable to be significant, with both positive and adverse effects considered. It has also been noted that the social effect must be balanced alongside all other relevant planning considerations, as part of an overall assessment of the proposed use or development, in deciding whether or not to grant a permit.

#### Objections – Additional Liquor Licence Not Required; Social and Health Impacts of an Additional Liquor Licence

As noted above, under section 60(1)(f) of the Act the responsible authority must have regard to any significant social effects and economic effects which the responsible authority considers the use or development may have. Amongst other matters - such as the relevant planning scheme, the objectives of planning in Victoria, objections and submissions, and referral responses - the Act also requires the responsible authority to consider strategic plans, policy statements, codes or guidelines adopted by a Minister, government department, public authority or municipal council.

In recommending that a permit be issued in this case, it must be acknowledged that municipal plans and strategies include policies seeking to reduce harmful alcohol use. In the Council Plan 2021-2025, for example, Council is listed as an advocate partner on the health and wellbeing priority of reducing harmful alcohol and drug use to help achieve the objective of being a safe, equitable and inclusive community. Council’s Municipal Public Health and Wellbeing Plan 2017-2021 also prioritised the reduction of harmful alcohol use, with specified actions being to develop an alcohol management plan to address alcohol-related harm in the community; to review and improve the amenity of public areas around licensed venues to reduce the risk of alcohol-related harm; to use the VicHealth Alcohol

Culture Framework to develop strategies to change alcohol cultural norms, beliefs and attitudes that influence alcohol consumption; and to collaborate with others including councils, sporting clubs, police, licensees, community and health services to coordinate efforts and share resources and lessons for an integrated approach to the management of alcohol related harm.

Many of these objectives and actions seek to educate and to change alcohol cultural norms, working with others as appropriate. It is not considered that permitting the proposed packaged liquor licence in Apollo Bay would prejudice these objectives and actions, which remain key priorities for Council.

The extracts from the VCAT cases below discuss how matters such as social effects, cumulative impact and need should be assessed from a planning perspective.

#### Victorian Civil and Administrative Tribunal (VCAT) Decisions

In the case of Morraine Nominees Pty Ltd v Port Phillip CC [2017] VCAT 698 (17 May 2017), the Tribunal reviewed a Council decision to refuse a permit to allow the sale of liquor at an existing shop (packaged liquor sales) in a Commercial 1 Zone. The subject land in that case was occupied by a three-storey building with retail/commercial space at ground level, and with accommodation on the first and second floor. The Council refused the application on the following grounds:

- a. *The proposal would be inappropriately located in the context of the community service focus for the area and the socio economic status of persons largely served by those services.*
- b. *The proposal would be inappropriately exposed and non discrete in the context of the community service focus for the area and the social economic status of persons largely served by those services.*
- c. *There would be a negative cumulative social and public amenity impacts resulting from the proposal in the context of the number of packaged liquor outlets in the immediate area, which would outweigh any social benefits arriving from the proposal.*

The Tribunal Member found that:

- *the site is suitably zoned and well located for the sale of packaged liquor;*
- *the proposed hours of operation [which included 9pm closing] are both reasonable and satisfactory; and*
- *the council's concerns around negative cumulative impact have not been substantiated*

In reaching this conclusion, the Tribunal Member noted the purpose of the Commercial 1 Zone, and that the proposed use falls within the definition of a 'shop' and does not require a planning permit for use within this zone. He noted that Council's concerns about the proposal essentially centred on the following two matters:

- *The proximity of a number of community facilities including boarding houses and the vulnerability of its residents.*
- *The inclusion of a new liquor outlet in an area that already has significant access to other outlets as identified in the delegate (council) report. (Tribunal emphasis added)*

In deciding that the proposal would be acceptable in the area, the Member noted that the area contains a varied mix of commercial and retail uses, cafes, convenience shops, residential accommodation in the form of detached and medium density housing and apartments, hotel, boarding houses, entertainment and community services and supporting facilities. He also noted there were two existing bottle shops in the area.

It was noted that the Council delegate report identified a number of business and service premises that provide outreach services for health, mental, alcohol and other drug treatment services in this particular area. That Council report concluded that a key concern was that if another packaged liquor licensed premises was added into this mix it would potentially result in an increase of anti-social behaviour and public disturbances in the area.

Both the police and the Council's Health Department raised concerns about the proposal.

At the Hearing, the Council made reference to the fact that the Tribunal had previously found that, in particular circumstances, the context of an area could lend itself to being inappropriate for the inclusion of a new liquor outlet. The Tribunal Member made the following comments in response:

*"The council did not lead any evidence to support this particular assertion. Nor did it provide any more detail on how this potential adverse outcome would be specifically activated by the proposal before me. I consider this unfortunate given the following comments made by Deputy President Mark Dwyer in that decision and also quoted in the council's submission:*

*[20] There would usually need to be evidence of a very high probative value (rather than a mere assertion) demonstrating a particular and significant social effect that is relevant in a planning context, arising from a particular location of the proposed licensed premises in question.*

*[21] To this end, a person alleging that there was a particular and significant negative social effect relevant to the decision about licensed premises under clause 52.27 would ordinarily need to provide evidence of that negative effect within the context of a balanced social-economic assessment of all relevant positive and negative effects so that a balanced 'net community' decision could be made.*

*I agree with Deputy President Mark Dwyer's statements above. Without the benefit of any further detailed socio-economic analysis that links and proves that an additional packaged liquor licensed premises will increase anti-social behaviour associated with the current licensed premises, I find I cannot ascertain the veracity (or otherwise) of the council's concerns regarding additional adverse impact of a new packaged liquor sales shop in Fitzroy Street.*

*[Council] referred me to the council delegate's report that notes a number of existing packaged liquor sales outlets that exist in Fitzroy Street and surrounds, including the two premises I noted during my inspection and another at No. 64 Fitzroy Street (BWS St Kilda). Again, I was not presented with any direct evidence that indicated these particular premises were creating adverse impact on the amenity of the areas within which they were located. I find this is a significant shortfall in the council's submission on these matters. I can only base my decision and findings on the submissions and evidence (or lack thereof) presented to me by the parties."*

It is considered that the comments made in the VCAT decision about the existence of existing packaged liquor outlets and the potential social impacts of an additional packaged liquor outlet are of direct relevance to the current application. It is not considered that there is any direct evidence that the establishment of the proposed additional packaged liquor outlet in Apollo Bay would result in social or health impacts warranting a refusal of the planning application.

In the case of *Yunchun Pty Ltd v Banyule CC [2016] VCAT 1597 (23 September 2016)*, VCAT overturned the Council's decision to refuse an application for a packaged liquor licence at an IGA. The Tribunal Member discussed the 'need' for an additional liquor licence and dismissed this as a concern. Whilst that planning application had various petitions (totalling about 400 signatures), the Member was not

persuaded that the fact that there was a level of concern expressed to the Council was indicative of a significant social effect.

In *Coles Group Property Developments Ltd v Mornington Peninsula SC (Correction)* [2012] VCAT 600 (25 May 2012), VCAT overturned a Council refusal for the construction of a bottle shop (including a packaged liquor licence) and determined that a planning permit should be issued. Whilst this case is in Rosebud, it has a somewhat similar context to Apollo Bay as it is a beachside area where there is a large tourist population in summer. The land in question was in the Business 1 Zone, of which the Commercial 1 Zone is the current equivalent. Below are some comments made by the Tribunal Member, though it should be noted that the provisions of the Act subsequently changed to allow consideration of the number of objectors (“where appropriate”) when assessing whether a proposed use or development may have a significant social effect.

**“Scope of clause 52.27**

27. *The purposes of clause 52.27 (the **clause**) relate to ensuring licensed premises are in an ‘appropriate location’ and to considering the impact on ‘the amenity of the surrounding area’. The focus on ‘amenity of the surrounding area’ is repeated in decision guidelines relating to sale or consumption of liquor, hours of operation and numbers of patrons.*
28. *The clause therefore does not authorise a scope of inquiry into all possible impacts of the sale of liquor on the community, including public health or crime impacts, unless an impact manifests itself into an amenity impact on the surrounding area. This is contrasted to the wider inquiry permitted under the LCR Act to which I have referred and which specifically relate to the harm minimisation purposes of that Act.*
29. *The clause directs consideration of three matters. First, policy context. Second, impact of sale or consumption, hours and patron numbers on amenity. Third, cumulative impact of existing licensed premises and the bottle shop on amenity.....*
38. *The liquor licence does not permit consumption on the premises. Hence, the relevant direct impacts are those from sale only. Some sales will be to southern peninsula residents and visitors to that area who arrive and depart the bottle shop by car. Some sales will be to residents or visitors living in or visiting the MAC (Major Activity Centre) who arrive and depart the bottle shop on foot. Some of the latter will be people camping on the foreshore and their visitors during the summer holidays. The distribution in sales volume between the two broad groups is difficult to estimate, but I accept the opinion ... that most customers of large-format bottle shops arrive by car.*
39. *Amenity impacts for sale are essentially those for the retail of any goods. The impacts are reasonable in the policy context of a MAC, even if land on the south side of McCombe Street is zoned and used for residential purposes.....*
40. *Amenity impacts for consumption of liquor purchased at the bottle shop are more problematic to assess. I accept that some customers arriving on foot may consume their purchases nearby and inside the MAC, including in the foreshore reserve. I accept there is or has been public nuisance associated with consumption in the MAC. The local law would not exist if it were not so.*

#### Hours

41. *The bottle shop will close at 10 pm each day. This is less than ordinary hours under the LCR Act. It means that there will be no sales late at night when the potential for nuisance and anti-social behaviour is at its highest.*
42. *In relation to numbers of patrons, there will very limited impact because there can be no patrons consuming liquor at the bottle shop. There are only customers making purchases. Numbers of patrons are not an issue. The liquor licence does not restrict patron or customer numbers.*
43. *It is relevant that there are four existing packaged liquor outlets within 500 m of the subject land (to which I refer in more detail shortly) and all are licensed to trade one hour later, until 11 pm.*

#### Conclusion

44. *The amenity impacts in relation to these three factors are limited and do not justify the refusal of a permit.”*

In terms of cumulative impact, the Tribunal Member commented as follows:

#### *“Surrounding land use*

52. *The nature and mix of most of the land use in the assessment area is mainly mixed commercial. It does not function as a late night entertainment destination. It functions as a tourism destination to the extent that it forms part of the popular southern peninsula summer holiday destination and includes the Rosebud foreshore reserve camping area....*
61. *The Council submitted that the availability of packaged liquor in ten licensed premises in the MAC area results in a saturation of such premises in the area of which the subject land forms part. The research relied upon the Council of the link between outlet density and alcohol-related harm recognises itself that the research is inconclusive, especially in relation to packaged liquor. There is also inconclusive research on the link between the number of packaged liquor outlets and overall consumption of liquor. Even if it did, the research would need, for present purposes, to also have a direct relationship to amenity impacts.*
62. *The Council also relied on the impact of the bottle shop on additional public health problems of alcohol abuse in the context of the surrounding area having higher socio-economic disadvantage. There was no evidence or submission as to the impact of this bottle shop on the amenity of the surrounding area arising from its location in such an area. In any event, the SEIFA data relating to disadvantage in the immediate ABS collector’s district is inconclusive having regard to unassessed impact of the high numbers of self-funded retirees owning their own housing in the relevant collector’s district. The Council also relied on family violence and crime incident reporting, but there was again no link to amenity around the subject land. As well, spikes in incident report numbers could be explained not by greater alcohol abuse but by other factors such as greater police enforcement....*
71. *The bottle shop will have some positive impacts, such a market diversity, increased product range, added vitality within the MAC due to development of a vacant lot, and additional employment. The Council’s reliance on an [sic] report from its social planning department that unequivocally concluded there was no material positive impact whatsoever diminished the Council’s submissions.”*

It is considered that the VCAT cases referred to above have relevance to the planning application that forms the subject of this report. Whilst the cases are in a variety of different locations, it is considered some of the key principles discussed are applicable to this case.

#### Objection – Competition

It is a long-established principle of planning law that it is not the role of planning to regulate competition. In the High Court of Australia decision on *Kentucky Fried Chicken Pty Ltd v Gantidis [1979] HCA 20*, for example, it was stated that “... it is my opinion that economic competition feared or expected from a proposed use is not a planning consideration within the terms of the planning ordinance governing this matter”.

It is not considered that the current proposal can be reasonably be resisted on the basis of competition with existing licensed premises in Apollo Bay.

## **9. OFFICER DIRECT OR INDIRECT INTEREST**

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.





## Imaged Document Cover Sheet

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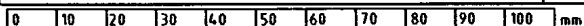
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Document Identification	<b>PS516898T</b>
Number of Pages (excluding this cover sheet)	<b>4</b>
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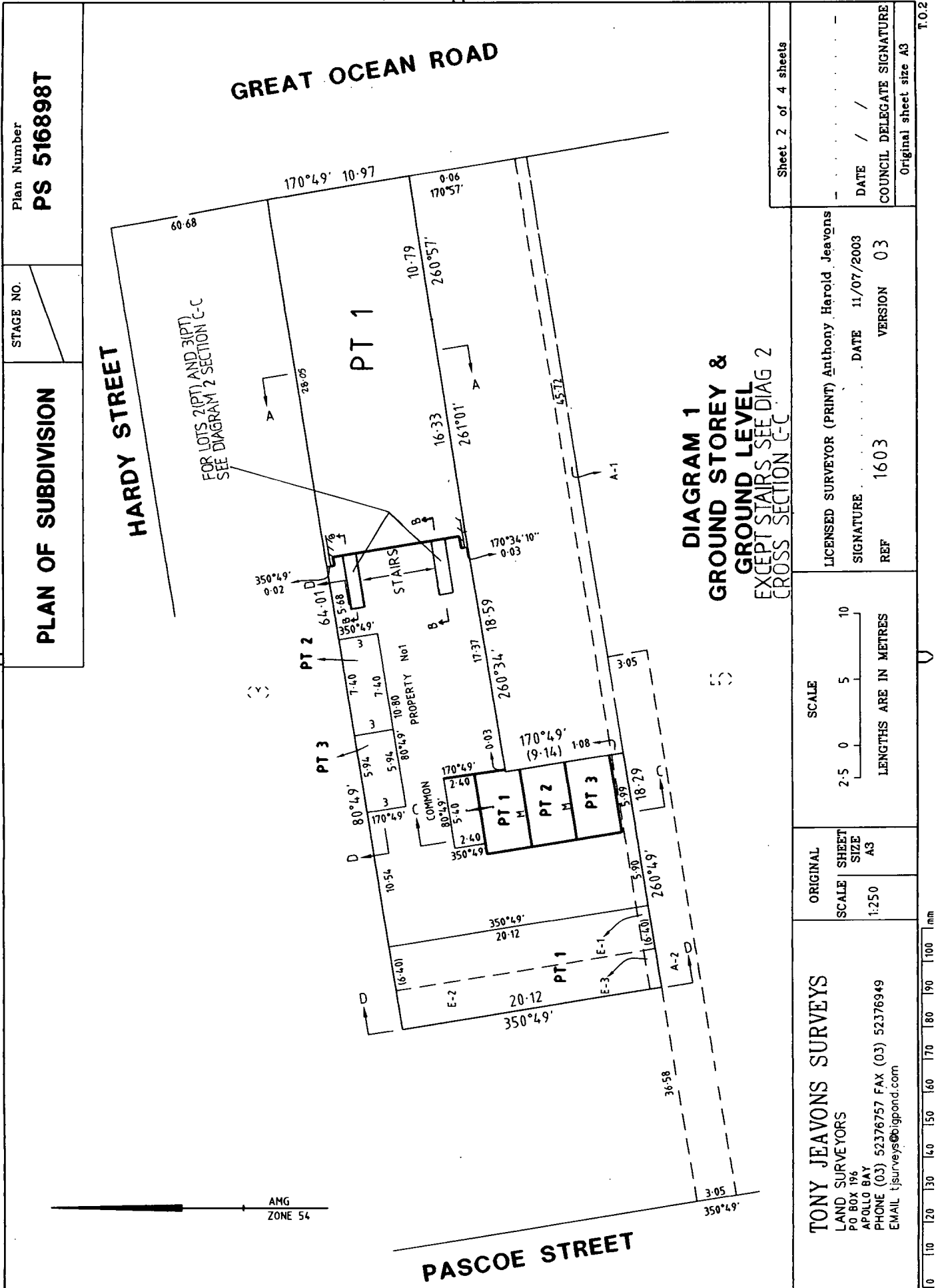
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<b>PLAN OF SUBDIVISION</b>		STAGE NO.	LR use only <b>EDITION 1</b>	Plan Number <b>PS 516898T</b>
<p style="text-align: center;"><b>Location of Land</b></p> <p>Parish: KRAMBRUK</p> <p>Township: APOLLO BAY</p> <p>Section: 8</p> <p>Crown Allotments: 4 (PART)</p> <p>Crown Portion:</p> <p>Title Reference: VOL 9037 FOL 680</p> <p>Last Plan Reference: LOT 2 ON LP 99654</p> <p>Postal Address: 135 GREAT OCEAN ROAD</p> <p>(at time of subdivision) APOLLO BAY, 3233</p> <p>AMG Co-ordinates: E 731 780 Zone: 54</p> <p>(of approx. centre of land in plan) N 5 706 765</p>		<p style="text-align: center;"><b>Council Certification and Endorsement</b></p> <p>Council Name: COLAC OTWAY SHIRE COUNCIL Ref.S38/03</p> <p>1. This plan is certified under section 6 of the Subdivision Act 1988.</p> <p>2. <del>This plan is certified under section 11(7) of the Subdivision Act 1988.</del> Date of original certification under section 6 / /</p> <p>3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.</p> <p style="text-align: center;"><u>OPEN SPACE</u></p> <p>(i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made.</p> <p>(ii) <del>The requirement has been satisfied.</del></p> <p>(iii) <del>The requirement is to be satisfied in Stage.</del></p> <p>Council Delegate Council Seat Date 12 / 11 / 2003</p> <p><del>Re-certified under section 11(7) of the Subdivision Act 1988.</del></p> <p>Council Delegate Council Seat Date / /</p>		
<b>Vesting of Roads and/or Reserves</b>				
Identifier	Council/Body/Person			
NIL	NIL			
<b>Notations</b>				
<b>Staging</b>		This is/is not a staged subdivision Planning Permit No. P02/333		
<b>Depth Limitation</b>		DOES NOT APPLY BOUNDARIES SHOWN BY THICK CONTINUOUS LINES ARE DEFINED BY BUILDINGS		
<b>Location of Boundaries Defined By Buildings:</b>		MEDIAN: BOUNDARIES MARKED M EXTERIOR FACE: ALL OTHER BOUNDARIES		
<b>LOTS IN THIS PLAN MAYBE AFFECTED BY ONE OR MORE CORPORATIONS FOR CURRENT OWNERS CORPORATION DETAILS SEE OWNERS CORPORATION SEARCH REPORT</b>				
COMMON PROPERTY No 1 IS ALL THE LAND IN THE PLAN EXCEPT LOTS 1 TO 3 (INCLUSIVE)				
<b>Survey</b>		This plan is/is not based on survey This survey has been connected to permanent marks no(s) 6 In Proclaimed Survey Area No. 78		
<b>Easement Information</b>				LR use only
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement(Road)				Statement of Compliance/ Exemption Statement
SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLIES TO ALL THE LAND IN THIS PLAN				Received <input checked="" type="checkbox"/>
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1 & E-3	DRAINAGE	0.91	LP 20608	LOTS ON LP 20608
E-2 & E-3	SEWERAGE	3	THIS PLAN	BARWON WATER
A-1	DRAINAGE	0.91	LP 20608	LAND IN THIS PLAN
A-2	DRAINAGE AND SEWERAGE CARRIAGEWAY	0.91 3.05	C/E 2266163 C/E 2213641	VOL.7019 FOL741 LAND IN THIS PLAN
				Date 13 / 02 / 2004
				LR use only
				PLAN REGISTERED
				TIME 2.25 PM
				DATE 27.12.2004
				Assistant Registrar of Titles
				Sheet 1 of 4 sheets
<p><b>TONY JEAVONS SURVEYS</b></p> <p>LAND SURVEYORS</p> <p>PO BOX 196</p> <p>APOLLO BAY</p> <p>PHONE (03) 52376757 FAX (03) 52376949</p> <p>EMAIL tjsurveys@bigpond.com</p>		<p>LICENSED SURVEYOR (PRINT) ANTHONY HAROLD JEAVONS</p> <p>SIGNATURE _____ DATE 11/07/2003</p> <p>REF 1603 VERSION 03</p>		<p>DATE 12 / 11 / 2003</p> <p>COUNCIL DELEGATE SIGNATURE</p> <p>Original sheet size A3</p>





Plan Number  
**PS 516898T**

STAGE NO.

**PLAN OF SUBDIVISION**

Sheet 2 of 4 sheets

DATE / /

COUNCIL DELEGATE SIGNATURE

Original sheet size A3

**DIAGRAM 1**  
**GROUND STOREY &**  
**GROUND LEVEL**  
EXCEPT STAIRS SEE DIAG 2  
CROSS SECTION C-C

LICENSED SURVEYOR (PRINT) Anthony Harold Jeavons

SIGNATURE DATE 11/07/2003

REF 1603 VERSION 03

SCALE

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LENGTHS ARE IN METRES

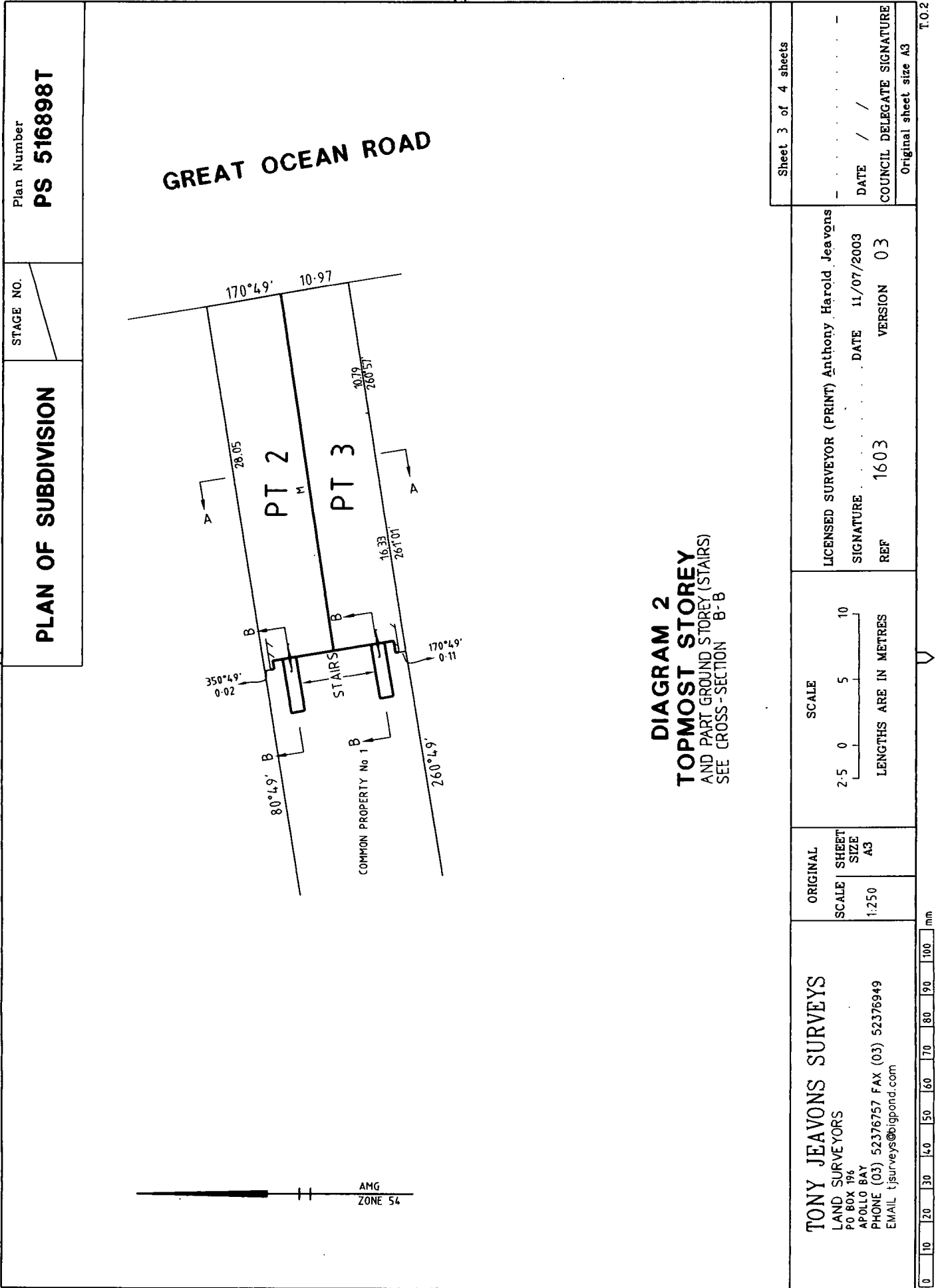
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1:250 A3

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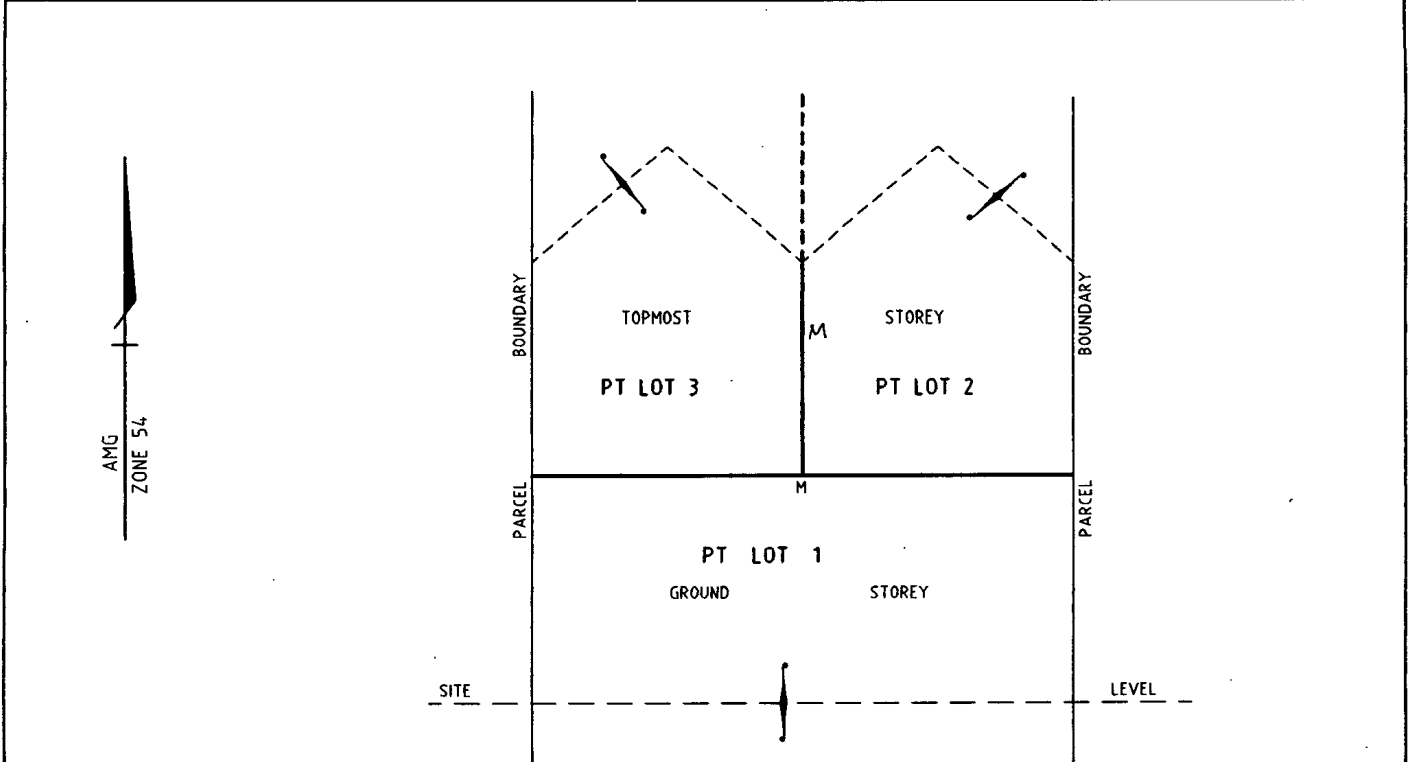
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T.O.2

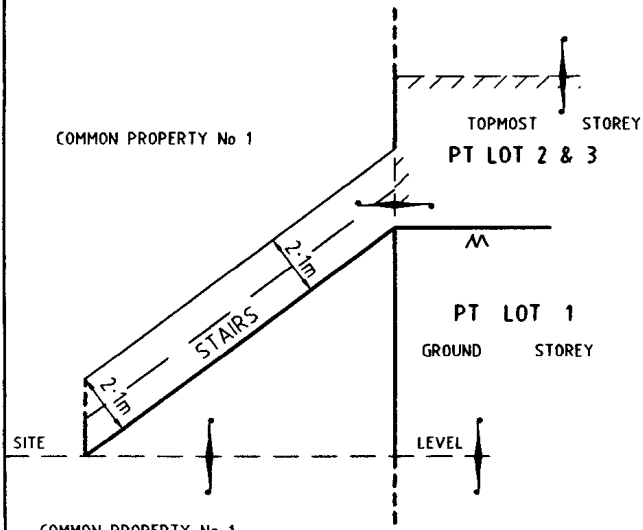


<p>Plan Number <b>PS 516898T</b></p>		<p>STAGE NO.</p>		<p>Sheet 3 of 4 sheets</p>	
<p><b>PLAN OF SUBDIVISION</b></p>		<p>LICENSED SURVEYOR (PRINT) Anthony Harold Jeavons</p>		<p>DATE / /</p>	
<p><b>DIAGRAM 2 TOPMOST STOREY AND PART GROUND STOREY (STAIRS) SEE CROSS-SECTION B-B</b></p>		<p>SIGNATURE</p>		<p>DATE 11/07/2003</p>	
<p>AMG ZONE 54</p>		<p>REF 1603</p>		<p>VERSION 03</p>	
<p>ORIGINAL SCALE 1:250 SHEET SIZE A3</p>		<p>SCALE 2.5 0 5 10 LENGTHS ARE IN METRES</p>		<p>COUNCIL DELEGATE SIGNATURE</p>	
<p>TONY JEAVONS SURVEYS LAND SURVEYORS PO BOX 196 APOLLO BAY PHONE (03) 52376757 FAX (03) 52376949 EMAIL tjsurveys@bigpond.com</p>		<p>Original sheet size A3</p>		<p>T.O.2</p>	

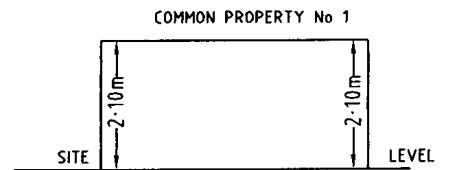
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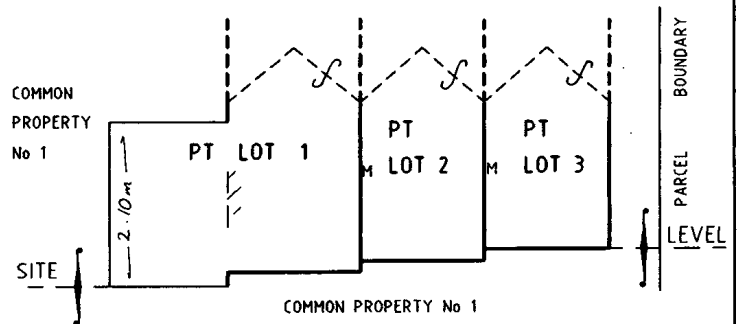
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**TYPICAL CROSS - SECTION B-B**  
NOT TO SCALE



**TYPICAL CAR SPACE ELEVATION D-D**  
NOT TO SCALE



**CROSS - SECTION C-C**  
NOT TO SCALE

**TONY JEAVONS SURVEYS**

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EMAIL tjsurveys@bigpond.com

Sheet 4 of 4 sheets

ORIGINAL	SCALE	<p>LENGTHS ARE IN METRES</p>
SCALE	SHEET SIZE A3	

LICENSED SURVEYOR (PRINT) ANTHONY HAROLD JEAVONS  
SIGNATURE ..... DATE 11/07/2003  
REF 1603 VERSION 03

DATE / /  
COUNCIL DELEGATE SIGNATURE  
Original sheet size A3



T.O.2



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

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**OWNERS CORPORATION 1**  
**PLAN NO. PS516898T**

The land in PS516898T is affected by 1 Owners Corporation(s)

### Land Affected by Owners Corporation:

Common Property 1, Lots 1 - 3.

### Limitations on Owners Corporation:

Unlimited

### Postal Address for Services of Notices:

2315 BIRREGURRA-FORREST ROAD FORREST VIC 3236

PS516898T 27/02/2004

### Owners Corporation Manager:

NIL

### Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

### Owners Corporation Rules:

1. PS516898T 27/02/2004
2. AF179869L 02/08/2007

### Additional Owners Corporation Information:

NIL

### Notations:

NIL

### Entitlement and Liability:

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

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 1	54	54
Lot 2	23	23
Lot 3	23	23
<b>Total</b>	<b>100.00</b>	<b>100.00</b>

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan,



# Department of Environment, Land, Water & Planning

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## Owners Corporation Search Report

Produced: 28/10/2021 04:06:49 PM

**OWNERS CORPORATION 1**  
**PLAN NO. PS516898T**

Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

**BWS**

**APOLLO BAY**

135 GREAT OCEAN RD  
APOLLO BAY VIC

**DA APPLICATION DRAWING SET**

20/01/2022  
1-REVISION 4



2 Clayton Road, Notting Hill, VIC 3168  
1800 620 911  
www.programmed.com.au



**BWS**  
APOLLO BAY VIC

**DA APPLICATION DRAWING SET**

**DATE** : 20/01/2022  
**REVISION** : 1-REVISION 4  
**AUTHOR** : [REDACTED]  
**REFERENCE** : CIM No. 46680 JOB No. 46893  
**SCALE** : NTS @ A3

**ARTWORK REVISION LOG**

<b>22/09/2021</b>	<b>ORIGINAL ART</b>	
		- FIRST ISSUE OF ARTWORK
<b>27/09/2021</b>	<b>REVISION 1</b>	
		- BWS CAR PARKING SIGNS & LINEMARKING ADDED TO SCOPE
<b>29/09/2021</b>	<b>REVISION 2</b>	
4A		- 1 HOUR DELIVERY REMOVED FROM WINDOW GRAPHIC
4B		- 1 HOUR DELIVERY REMOVED FROM WINDOW GRAPHIC
<b>22/10/2021</b>	<b>REVISION 3</b>	
4B		- REMOVED FULLCOVERAGE WINDOW GRAPHIC & APPLIED NEW PICK UP WINDOW GRAPHIC
<b>20/01/2022</b>	<b>REVISION 4</b>	
4A		- REDUCED WINDOW GRAPHIC SIZE
4B		- REDUCED WINDOW GRAPHIC SIZE



SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

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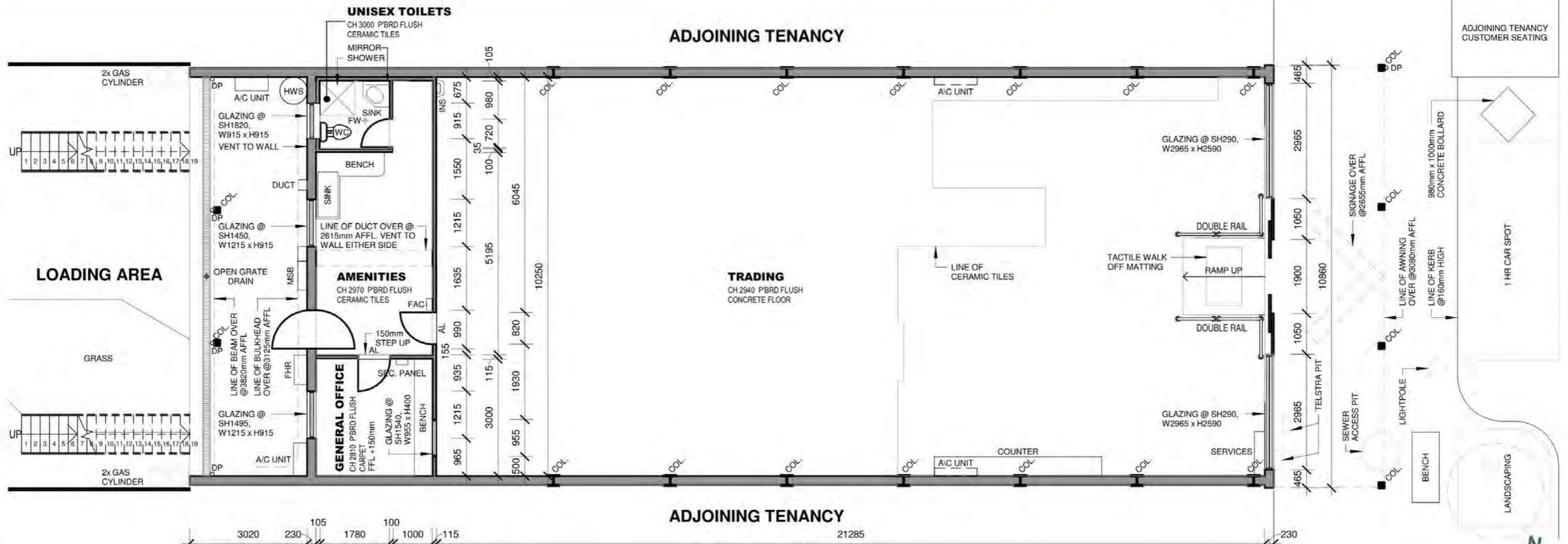
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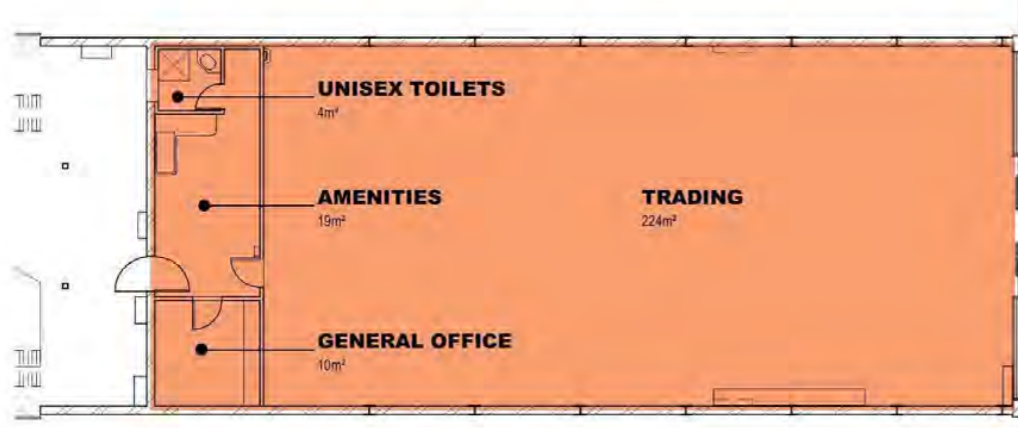
**BWS**  
APOLLO BAY VIC

**DA APPLICATION DRAWING SET**

DATE : 20/01/2022  
 REVISION : 1-REVISION 4  
 AUTHOR : XXXXXXXXXX  
 REFERENCE : CIM No. 46680 JOB No. 46893  
 SCALE : NTS @ A3



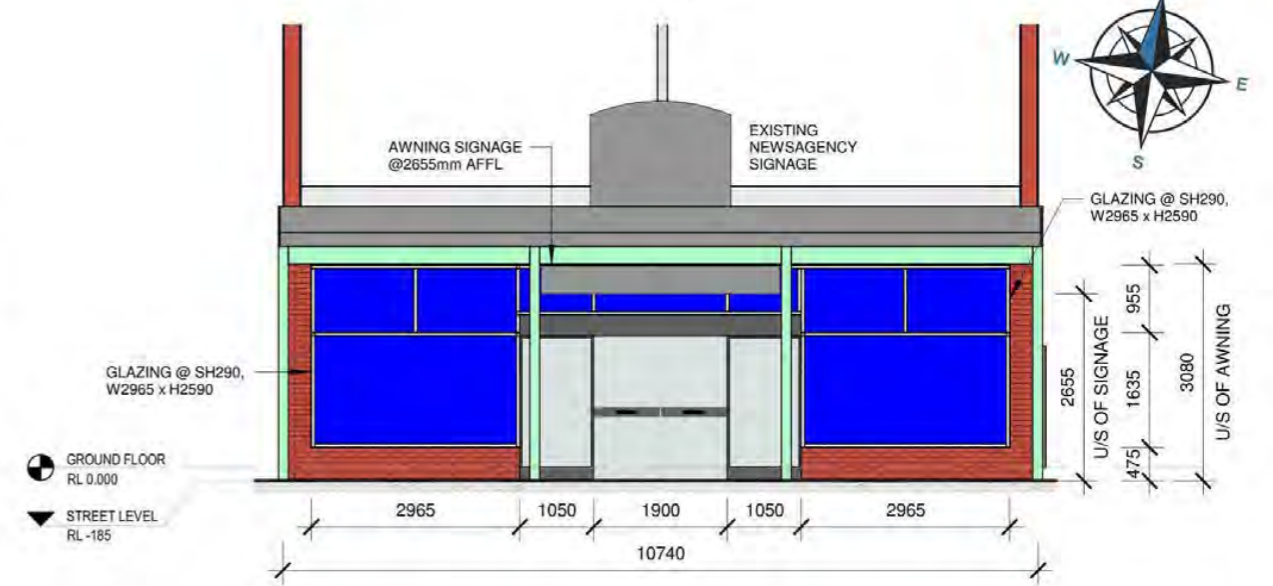
1 Existing Plan - Ground Floor  
1 : 100



2 Area Plan - Ground Floor  
1 : 200

ROOM SCHEDULE	
NAME	AREA
UNISEX TOILETS	4.11 m <sup>2</sup>
GENERAL OFFICE	10.03 m <sup>2</sup>
AMENITIES	18.98 m <sup>2</sup>
TRADING	224.17 m <sup>2</sup>
<b>Total</b>	<b>257.28 m<sup>2</sup></b>

BWS - AREA - RATIO - ...		
Type	Area	Ratio
Trading	224.17 m <sup>2</sup>	87%
Non-Trade	33.12 m <sup>2</sup>	13%
<b>Total</b>	<b>257.28 m<sup>2</sup></b>	



3 SHOPFRONT ELEVATION  
1 : 100

**PROGRAMMED** zero/harm  
Property Services

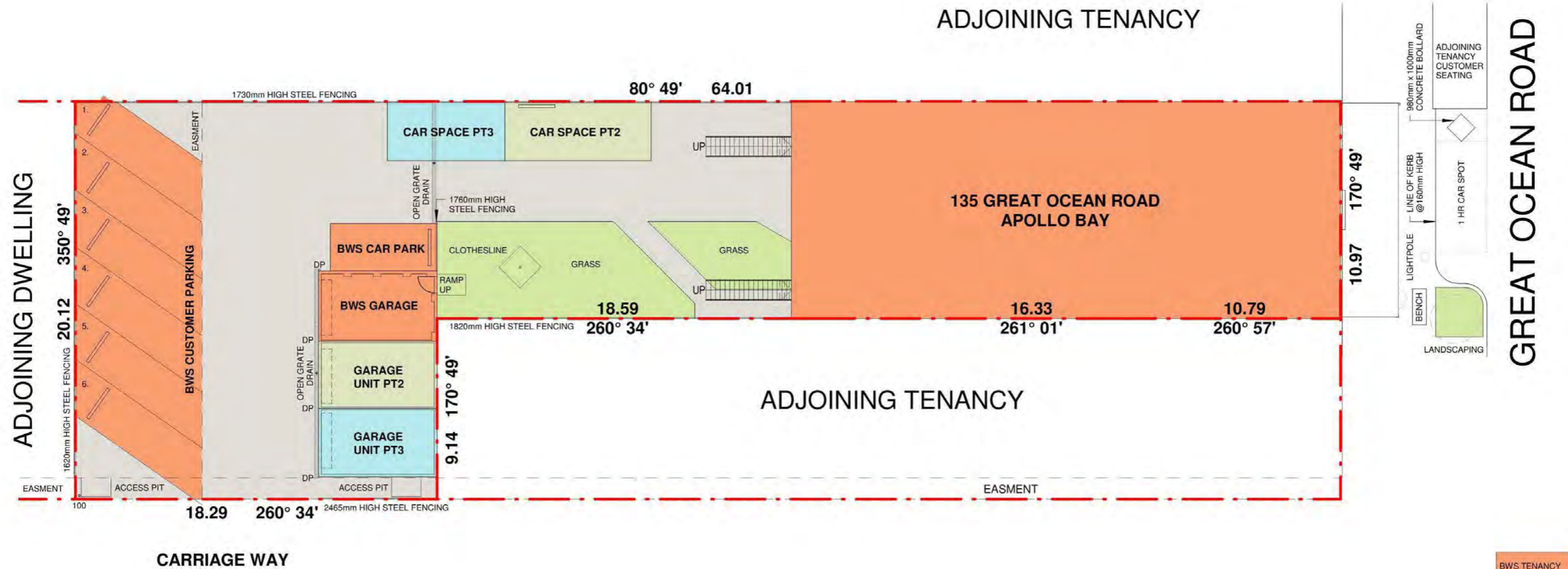
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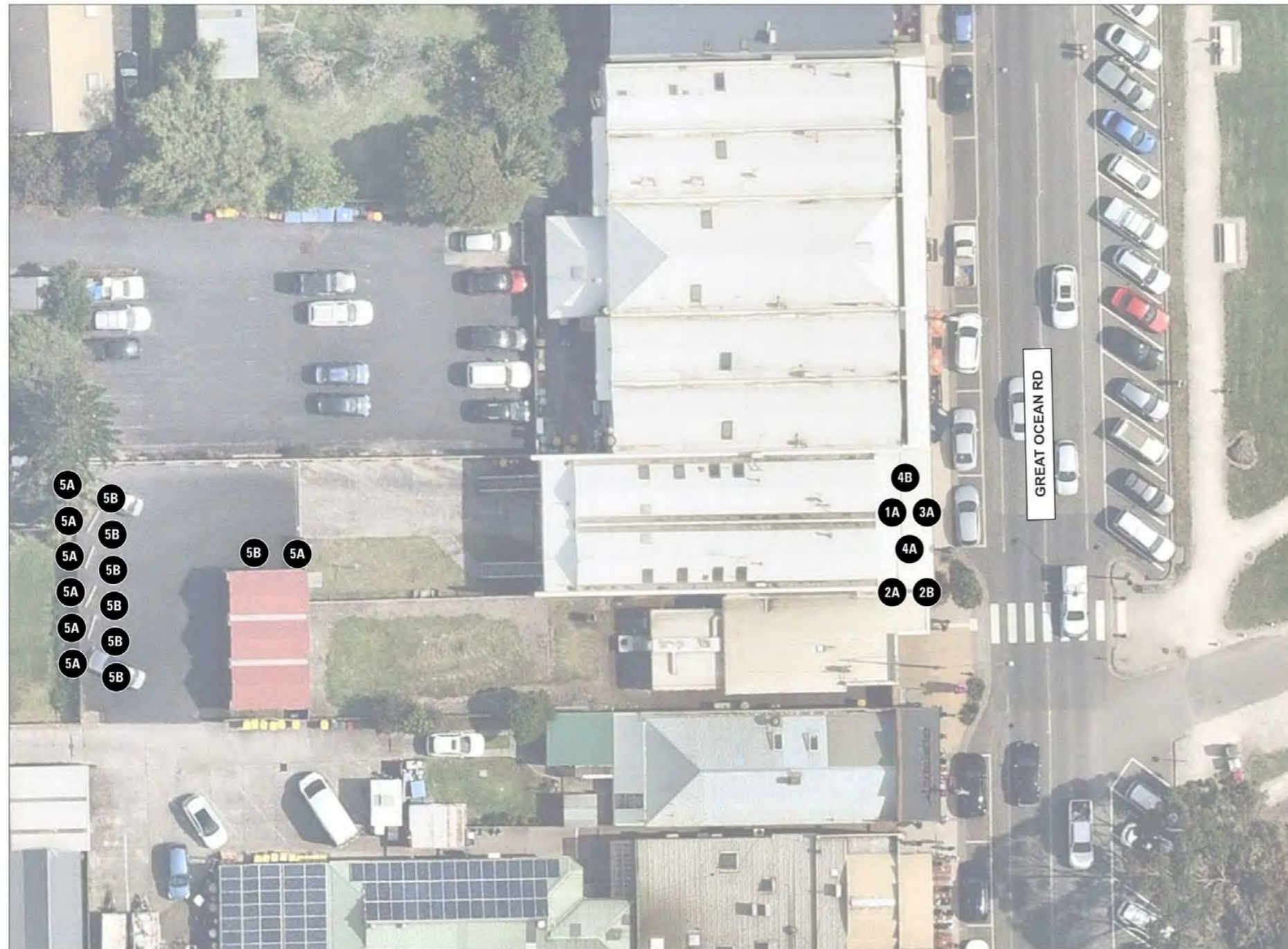
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APOLLO BAY VIC

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**REVISION** : 1-REVISION 4  
**AUTHOR** : [REDACTED]  
**REFERENCE** : CIM No. 46680 JOB No. 46893  
**SCALE** : NTS @ A3

**SITE OVERVIEW**

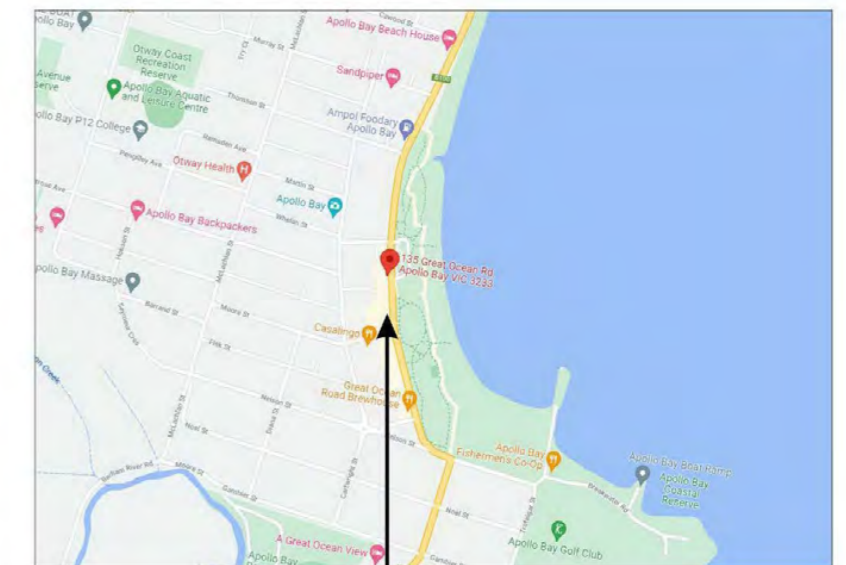
135 Great Ocean Rd, Apollo Bay VIC 3233



**PROPOSED SIGNAGE**

- 1A LOGO SIGN ABOVE AWNING
- 2A PAINTING
- 2B TILING
- 3A UNDER AWNING SIGN
- 4A WINDOW SIGN
- 4B WINDOW SIGN
- 5A FENCE SIGNS
- 5B BWS PARKING BAY LINE MARKING

**LOCALITY PLAN**



**SITE LOCATION**

**NOT TO SCALE**



SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

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SCALE : NTS @ A3



**A DETAILED CHECK MEASURE MAY BE REQUIRED TO CONFIRM MEASUREMENTS & FIT PRIOR TO MANUFACTURE**



**zero/harm**

SIGNATURE: \_\_\_\_\_

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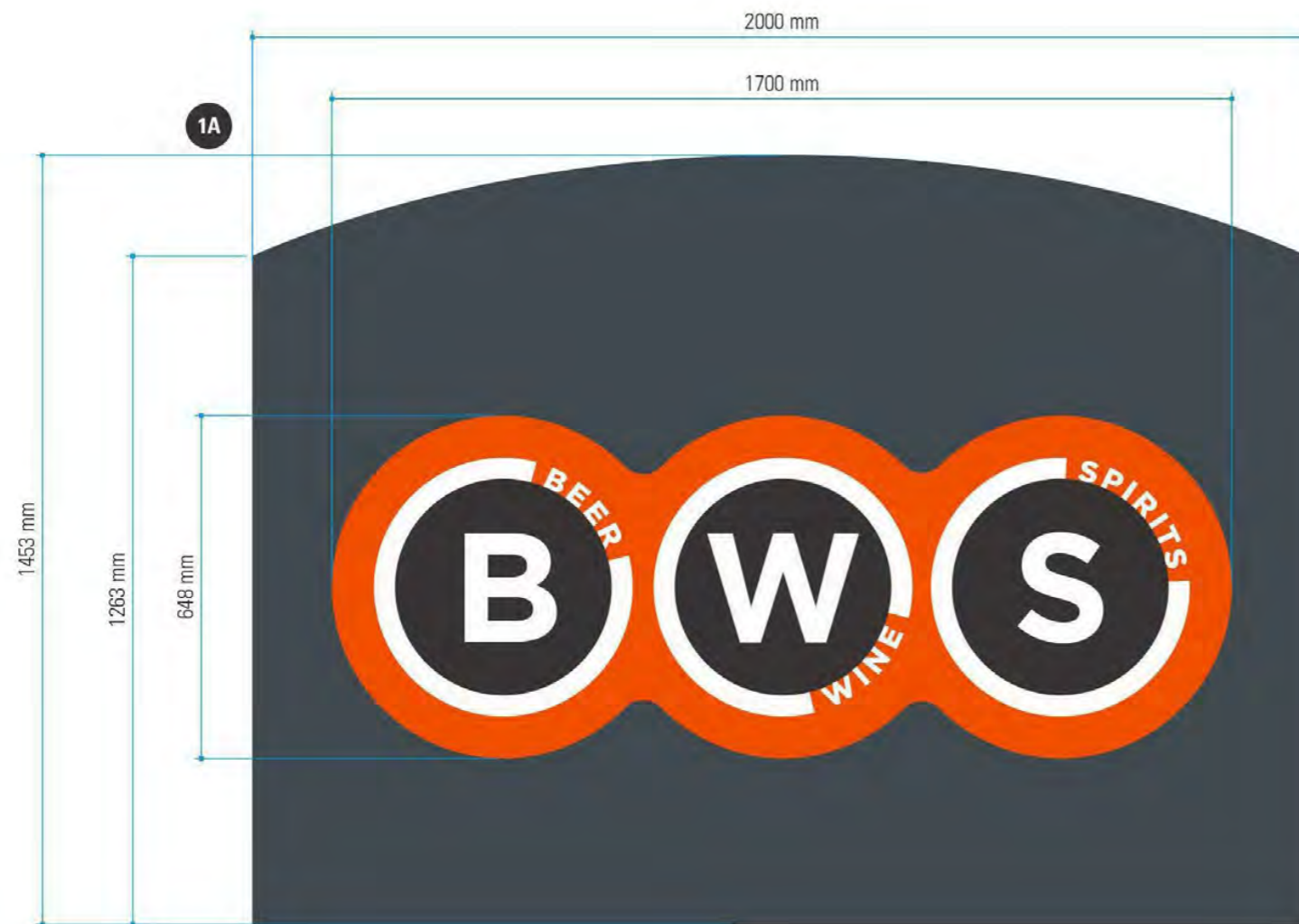
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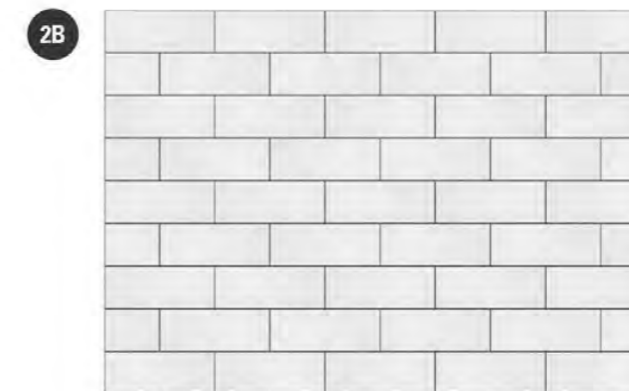
**DATE** : 20/01/2022  
**REVISION** : 1-REVISION 4  
**AUTHOR** : XXXXXXXXXX  
**REFERENCE** : CIM No. 46680 JOB No. 46893  
**SCALE** : NTS @ A3



**1A | LOGO SIGN ABOVE AWNING**  
**FRAME**  
 : EXISTING  
**SIGN PANEL**  
 : FLAT ACM PANEL  
**LOGO**  
 : PROFILE CUT ACM WITH VINYL DECORATION



**2A | PAINTING**  
 PAINT AWNING FASCIA & POSTS  
 PAINT BULKHEAD ABOVE DOORS/WINDOWS (UNDER AWNING)



**2B | WHITE TILE**  
 : WOOLWORTHS WHITE CERAMIC TILES  
 (STRETCHER BOND PATTERN)

**A DETAILED CHECK MEASURE MAY BE REQUIRED TO CONFIRM MEASUREMENTS & FIT PRIOR TO MANUFACTURE**



SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED AS IS

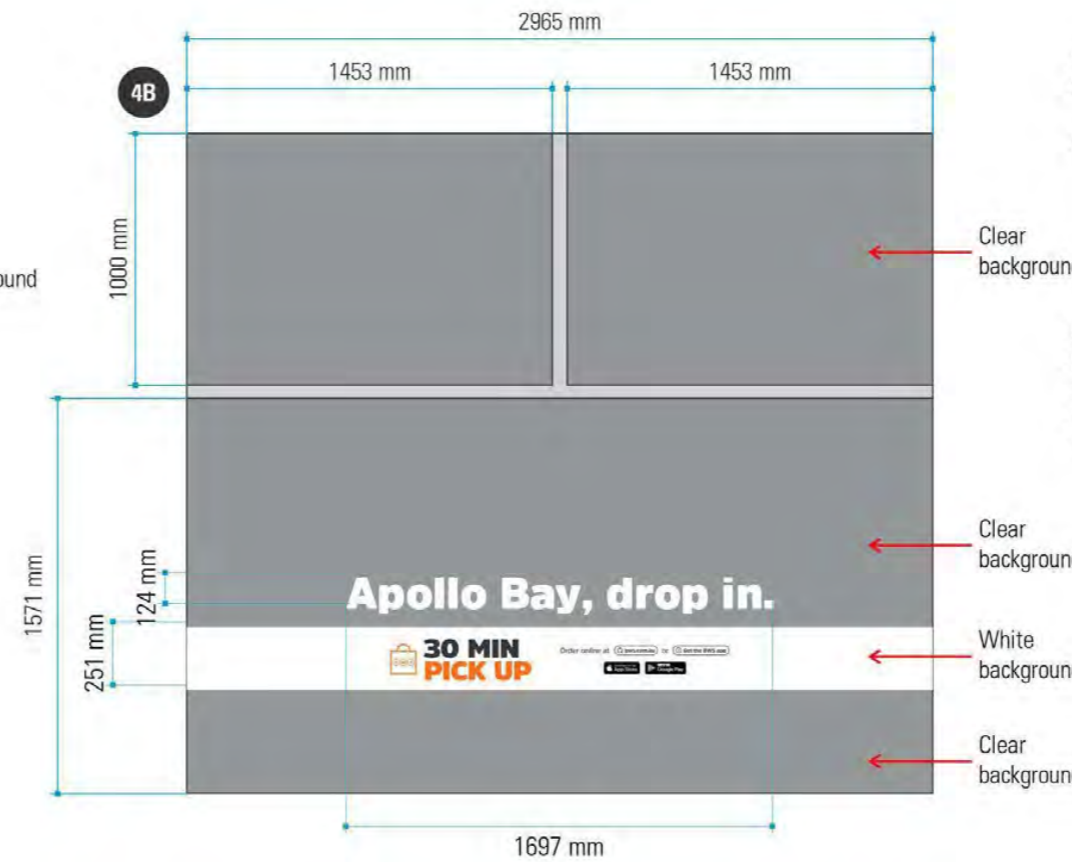
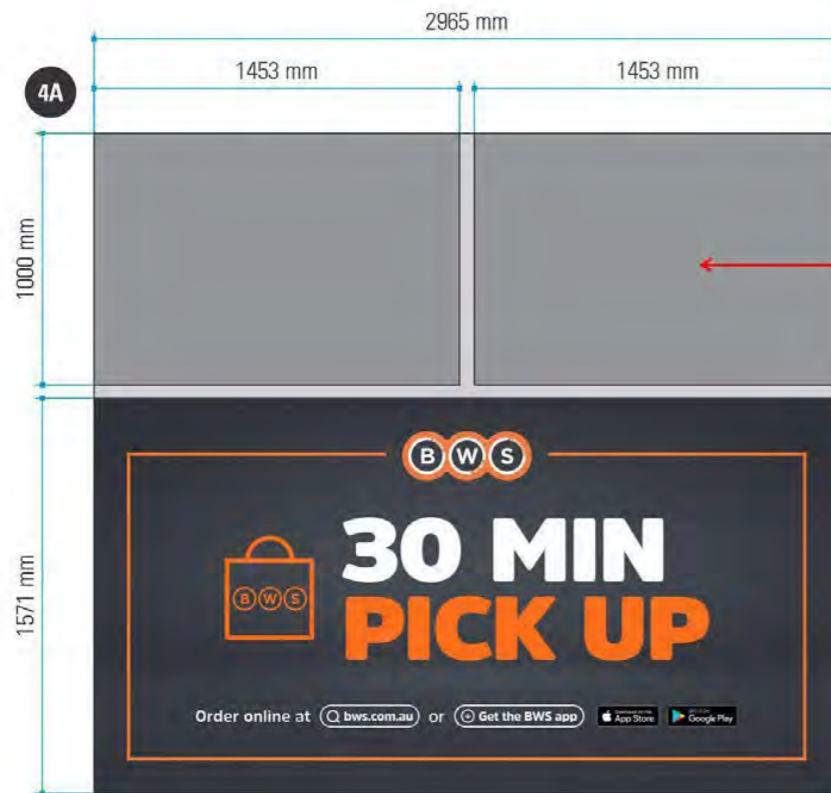
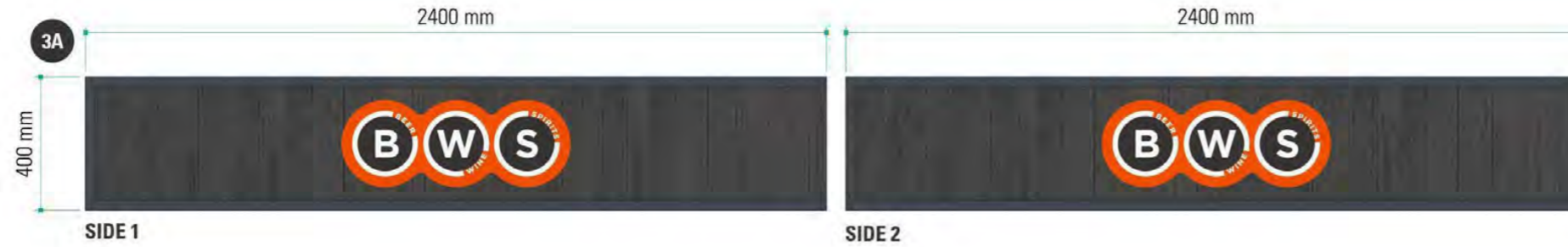
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**zero/harm**

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED AS IS

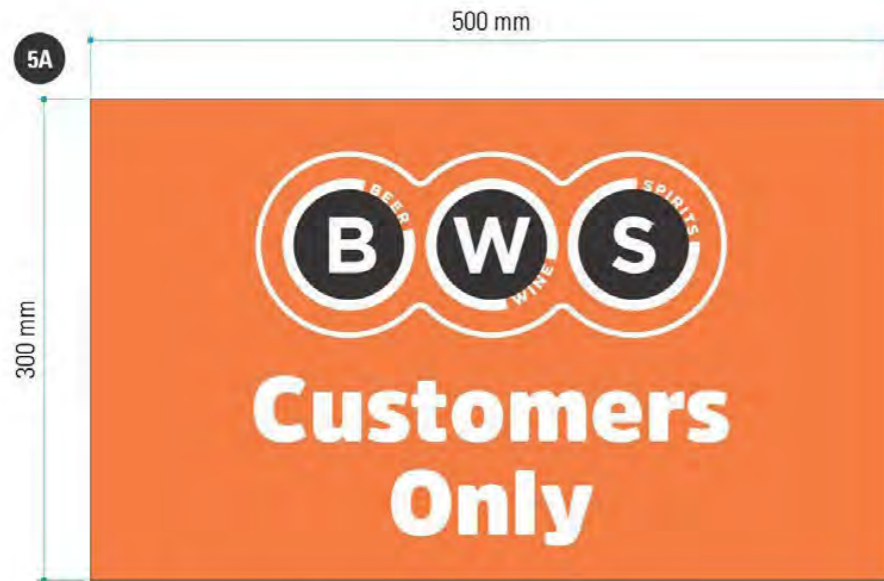
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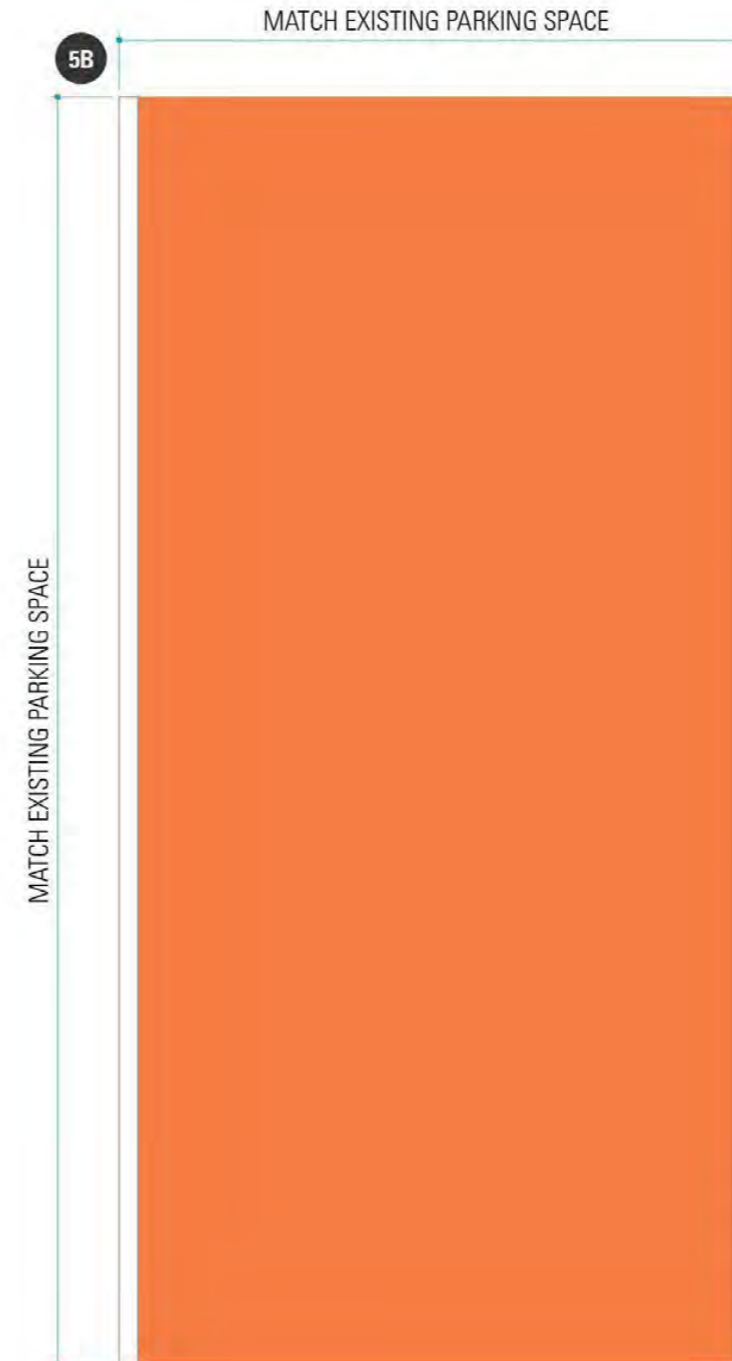
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AUTHOR : [REDACTED]  
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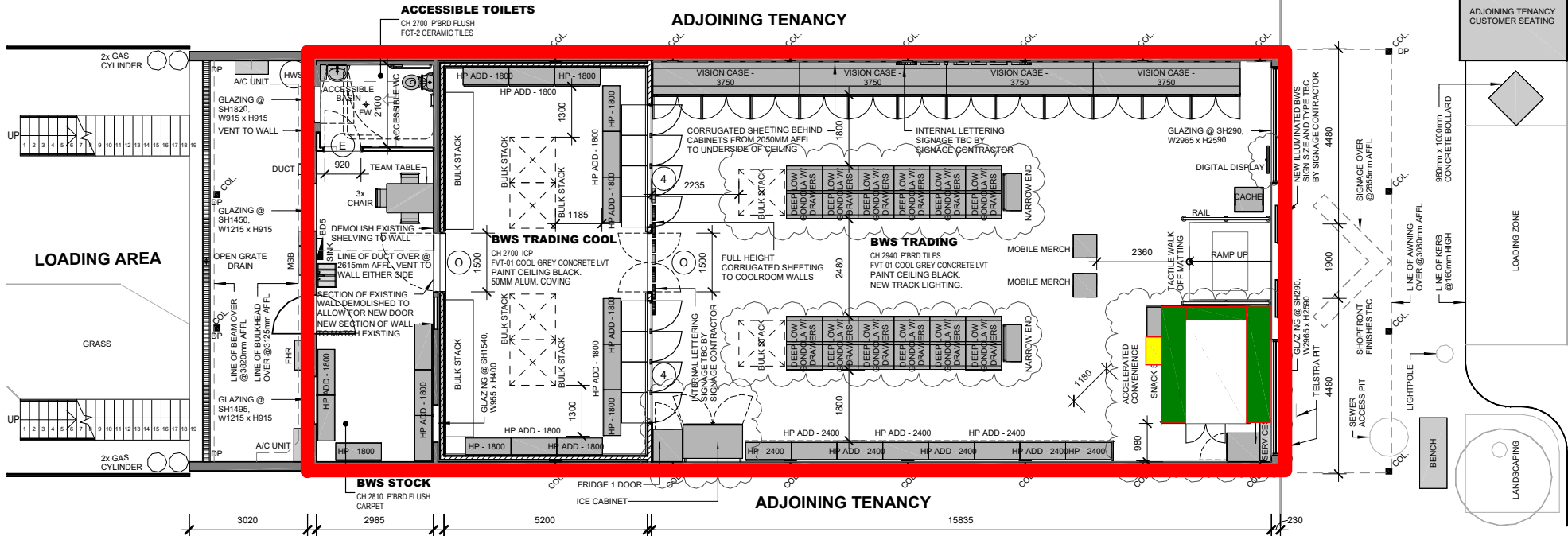


**5A | FREESTANDING BWS CUSTOMERS ONLY SIGN**  
**PANEL**  
 : ACM  
**GRAPHICS**  
 : DIGITALLY PRINTED VINYL WRAP  
**NOTE**  
 : QTY 7



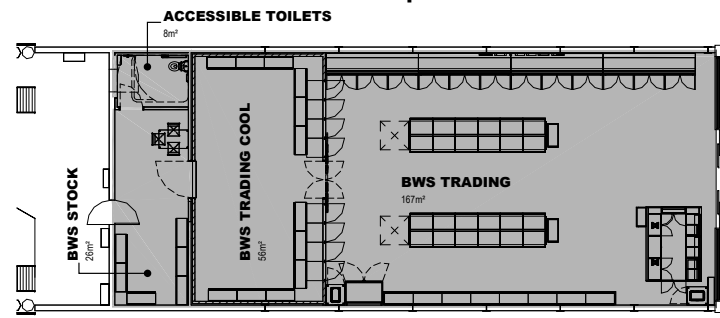
**5B | BWS PARKING BAY LINEMARKING**  
 : LINE MARKING TO ALLOCATED PARKING BAYS  
**NOTE**  
 : QTY 7  
 : RETAIN EXISTING CONCRETE WHEEL STOPS

**A DETAILED CHECK MEASURE MAY BE REQUIRED TO CONFIRM MEASUREMENTS & FIT PRIOR TO MANUFACTURE**



1 SIGN OFF PLAN - GROUND FLOOR  
1: 100

**Proposed Licence Area**



2 AREA PLAN - GROUND FLOOR  
1: 200

ROOM SCHEDULE	
NAME	AREA
ACCESSIBLE TOILETS	7.70 m <sup>2</sup>
BWS STOCK	26.48 m <sup>2</sup>
BWS TRADING COOL	56.07 m <sup>2</sup>
BWS TRADING	166.97 m <sup>2</sup>
<b>Total</b>	<b>257.22 m<sup>2</sup></b>

BWS - AREA - RATIO		
Type	Area	Ratio
Trading	223.04 m <sup>2</sup>	87%
Non-Trade	34.18 m <sup>2</sup>	13%
<b>Total</b>	<b>257.22 m<sup>2</sup></b>	



PROPOSED BWS APOLLO BAY

3 LOCATION PLAN  
Not to Scale

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No.	REVISIONS	DATE	BY	PROJECT :	DRAWING :	DRAWING No :
A	BWS - SIGN OFF - FIRST ISSUE	14/10/2021	PL/RN -TRG	<b>APOLLO BAY</b>	Sign Off Plan	BA101
B	BWS - SIGN OFF PLAN - SECOND ISSUE	21/10/2021	CM-WW		PROJECT ADDRESS :	STATE VIC
				KIT ISSUE :	DRAWN BY :	PROJECT MGR :
				BWS 2019.1 -	PL-TRG	TBC
				STORE No.	PLANNING MGR :	ISSUE DATE :
				0000	F.ROMANI	21/10/2021
					PROJECT No :	AMEND. No :
					0000	B
					SCALE :	
					As indicated @ A3	

RI

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

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

Page 1 of 1

VOLUME 10786 FOLIO 027

Security no : 124093392155R  
Produced 28/10/2021 04:01 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 516898T.  
PARENT TITLE Volume 09037 Folio 680  
Created by instrument PS516898T 27/02/2004

REGISTERED PROPRIETOR

Estate Fee Simple  
Joint Proprietors

both of [REDACTED]  
AE050942G 09/12/2005

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PS516898T FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

Street Address: 135 GREAT OCEAN ROAD APOLLO BAY VIC 3233

OWNERS CORPORATIONS

The land in this folio is affected by  
OWNERS CORPORATION 1 PLAN NO. PS516898T

DOCUMENT END

**Office Use Onl**

Application No.:

Date Lodged: / /

# Application for a Planning Permit

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

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

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

**⚠** If the space provided on the form is insufficient, attach a separate sheet

**i** Click for further information.

Clear Form

## The Land **i**

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

**Street Address \***

Unit No.:	St. No.: 135	St. Name: GREAT OCEAN ROAD
Suburb/Locality: APOLLO BAY		Postcode: 3233

**Formal Land Description \***

Complete either A or B.

**⚠** This information can be found on the certificate of title.

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

A	Lot No.: 1	<input type="radio"/> Lodged Plan	<input type="radio"/> Title Plan	<input checked="" type="radio"/> Plan of Subdivision	No.: 516898T
<b>OR</b>					
B	Crown Allotment No.:		Section No.:		
Parish/Township Name:					

## The Proposal

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

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

USE OF THE LAND TO SELL PACKAGED LIQUOR. BWS BUSINESS ADVERTISING, CARPARK PAVEMENT, WAYFINDING AND INSTRUCTIONAL SIGNAGE. AS SHOWN ON THE DOCUMENTS SUBMITTED WITH THIS TOWN PLANNING APPLICATION.

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

Cost \$ 40,000

**⚠** You may be required to verify this estimate. Insert '0' if no development is proposed.

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

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



## Existing Conditions i

### Describe how the land is used and developed now \*

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

EXISTING SHOP

Provide a plan of the existing conditions. Photos are also helpful.

## Title Information i

### Encumbrances on title \*

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

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

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

## Applicant and Owner Details i

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

### Applicant \*

The person who wants the permit.

Name:		
Title: MR	First Name: [REDACTED]	Surname: [REDACTED]
Organisation (if applicable): ENDEAVOUR DRINKS GROUP PTY LTD		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.: 522	St. Name: WELLINGTON ROAD
Suburb/Locality: MULGRAVE	State: VIC	Postcode: 3170

Please provide at least one contact phone number \*

<b>Contact information for applicant OR contact person below</b>	
Business phone:	Email: [REDACTED]@bigpond.net.au
Mobile phone: [REDACTED]	Fax:

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

<b>Contact person's details*</b>		Same as applicant <input type="checkbox"/>
Name:		
Title: MR	First Name: [REDACTED]	Surname: [REDACTED]
Organisation (if applicable): KEN WADDELL AND PARTNERS PTY LTD		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name: PO BOX 4268
Suburb/Locality: KNOX CITY CENTRE	State: VIC	Postcode: 3152

### Owner \*

The person or organisation who owns the land

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

<b>Owner *</b>		Same as applicant <input type="checkbox"/>
Name:		
Title:	First Name:	Surname:
Organisation (if applicable): [REDACTED]		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	[REDACTED]	
Suburb/Locality:	[REDACTED]	
Owner's Signature (Optional):	Date:	
	day / month / year	



# Declaration i

**This form must be signed by the applicant \***

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

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

Signature: [REDACTED]

Date: 28.10.21  
day / month / year



