

# 2 USE AND DEVELOPMENT OF THE LAND, IN STAGES, FOR A PLACE OF ASSEMBLY (CINEMA), FOOD & DRINK PREMISES, MEDICAL CENTRE, SHOPS (INCLUDING DISCOUNT DEPARTMENT STORE AND SUPERMARKET), CREATION OF EASEMENTS, SIGNAGE, REDUCTION IN CAR PARKING, SALE & CONSUMPTION OF LIQUOR AND, TO CREATE & ALTER ACCESS TO A ROAD ZONE CATEGORY 1 AT LOT 1 PC356180X, 900 PRINCES HIGHWAY, PAKENHAM VIC 3810 & RESERVE 1 PS531572Q.

FILE REFERENCE INT1965433

**RESPONSIBLE GENERAL MANAGER** Tracey Parker

**AUTHOR** Emily Cook

# RECOMMENDATION

That a Refusal to Grant Planning Permit **T180454** be issued for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1 at Lot 1 PC356180X, 900 Princes Highway, Pakenham VIC 3810 & Reserve 1 PS531572Q on the following grounds:

- The proposal is contrary to the aims and objectives of the State Planning Policy Framework as it relates to Clause 11 Settlement, Clause 15 Built Environment & Heritage and Clause 17 Economic Development as it detracts from the economic viability of existing and planned activity centres and, results in poor urban design outcomes.
- The proposal is contrary to the aims and objective of the Local Planning Policy Framework as it relates to Clause 21.01 Cardinia Shire Key Issues and Strategic Vision, Clause 21.03 Settlement and Housing and Clause 21.04 Economic Development as it does not reflect the hierarchy of existing and planned activity centres, the required format of activity centres and unduly impacts existing and planned activity centres.
- The proposal is not generally in accordance with the Cardinia Road Precinct Structure Plan (September 2008) as it does not reflect requirements for peripheral commercial land and does not provide for required built form outcomes.
- The proposal is contrary to orderly planning as it does not reflect the hierarchy of activity centres, detracts from existing activity centres, inhibits development of future activity centres and results in poor urban design outcomes.

# Attachments

1	Locality Map	2 Pages
2	Development Plans	11 Pages
3	3D Renders of the Proposed Development	8 Pages

# EXECUTIVE SUMMARY:

APPLICATION NO.:

T180454

APPLICANT:

Roberts Day Pty Ltd/Anthony Msonda-Johnson



LAND:	Lot 1 PC356180X, 900 Princes Highway, Pakenham VIC 3810 & Reserve 1 PS531572Q.
PROPOSAL:	Use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1
PLANNING CONTROLS:	Mixed Use Zone Development Contribution Plan Overlay – Schedule 1 Clause 52.02 Easements, Restrictions and Reserves Clause 52.05 Signs Clause 52.06 Car Parking Clause 52.27 Licenced Premises Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road Clause 65 Decision Guidelines Cardinia Road Precinct Structure Plan (September 2008)
NOTIFICATION & OBJECTIONS:	Six (6) objections received.
KEY PLANNING CONSIDERATIONS:	Hierarchy of Activity Centres Activity Centre Planning/Design Economic Impact and Viability Urban Design Precinct Structure Planning
RECOMMENDATION:	Planning permit application T180454 be refused on the grounds outlined by this report.

# **BACKGROUND:**

Planning permit application T160498, which sought the development of the subject site for shops, restricted retail premises, indoor recreation facility, convenience restaurant, signage and associated buildings and works, waiver of loading bay in association with a restaurant and access to a Road Zone Category 1 was lodged in August 2016. VicRoads objected to this application including the proposed access to the Princes Highway. This application was subsequently withdrawn in September 2017.

Since that time the applicant has entered into discussions and negotiations with VicRoads.

Council received the current planning permit application in July 2018.

# SUBJECT SITE

The site is located on the northern and western sides of Olympic Way and, the southern side of the Princes Highway.

There are no existing crossovers to the land and no easements within the site.

A reserve with a width of 0.1m adjoins entire length of the site's southern boundary (229.34 metres). This 'revenge strip' runs parallel between the site and Olympic Way, preventing legal access from Olympic Way to the site.

The site currently is vacant and the topography of the land is flat.

The main characteristics of the surrounding area are:



NORTH	Princes Highway, Michael Street, the Pakenham Homemaker Centre and the Pakenham (Purton Road) Industrial Park.
SOUTH	Olympic Way, Cardinia Life (gym and Toomuc Recreation Reserve).
EAST	Olympic Way and Toomuc Recreation Reserve.
WEST	Undeveloped land, Dan Murphy's, Lakeside Boulevard Activity Centre and O'Brien Parade.

# PROPOSAL

The proposal is for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1.

#### <u>Uses</u>

Use	Area/Details
Place of Assembly (cinema, includes outdoor	5,150sqm
errace).	8 screens
	1060 seats
Medical Centre	379sqm
	5 practitioners
Supermarket (Coles)	4,112sqm
Shops (including bottle shop, kiosks, speciality retail and food/drink premises)	2,502sqm
Discount Department Store (Kmart)	6,391sqm

## **Buildings and Works**

The proposal includes the construction of a multi storey development to accommodate the above uses in 2 stages. The development is an internalised shopping centre which is rectangular in shape and covering the entire site. Internally, the development is designed around a central entry/foyer at ground level.

# Stage 1

The western portion of the ground floor level includes the supermarket and associated bottle shop. The eastern portion of the ground floor level includes the discount department store. Shops, as well as food and drink premises, are located in the centre of this level. The proposal allows for a pedestrian thoroughfare through the ground floor level from the Princes Highway to Olympic Way. An outdoor seating area is proposed adjoining Olympic Way.

# Stage 2

Second/upper storey of the development comprising of the cinema and medical centre.

# Car Parking, Access, Pathways

Vehicular access to the development is proposed via two access points, one to the Princes Highway and one to Olympic Way. The Princes Highway access includes a single left-in-left out access (and does not include any changes to the existing Princes Highway median). Access to Olympic Way includes full entry and exit in both directions.

The proposal includes a total of 657 car parking spaces. The development includes an underground/basement car park comprising of 597 car parking spaces. The basement car park allows for vehicular circulation with pedestrian access via centralised escalators and lifts.



The proposal also includes an at-grade car park comprising of 61 car parking spaces adjoining the Princes Highway.

A total of 74 bicycle parking spaces are proposed; 40 spaces within the underground/basement car park and 34 spaces within the at-grade car park.

The proposal includes the construction of new pedestrian footpaths along the southern and eastern boundaries of the site. The proposal also includes the realignment of the existing shared path within the Princes Highway and, the inclusion of a new pedestrian/pram crossing point north of the Olympic Way roundabout.

All car parking forms parts of Stage 1.

## Additional Works

The proposal also includes:

- Construction of an additional right turn lane from Princes Highway into Lakeside Boulevard.
- Lengthening of the existing right turn lane from Princes Highway into Olympic Way.
- Construction of an exclusive right turn lane from Olympic Way onto Princes Highway.
- Construction of an exclusive left turn slip lane from Olympic Way onto Princes Highway.

## Creation of Easements

A 0.10m reserve (Reserve No. PS531572Q) adjoins the length of the subject sites southern boundary. This 'revenge strip' prevents legal access from the site to Olympic Way (southern side). The proposal therefore includes the creation of easements to allow legal access from the site to Olympic Way. The proposed building is not located on this reserve.

## Sale & Consumption of Alcohol

The proposal includes a bottle shop and therefore seeks the sale of packaged liquor.

The proposal includes a licenced cinema and therefore seeks the sale and consumption of liquor.

## <u>Signage</u>

The proposal includes a range of business identification signage.

Signage includes: centre identification signage, 6 centre tenant pylon signs, additional identification signage for major retailers (supermarket, discount department store, bottle shop), parking availability electronic signage and loading bay demarcation signage.

All signage, excluding Sign 15, are integrated into the built form (ie. attached to the building and not free standing). Sign 15 is free standing.

All signage is to be internally illuminated.

# PLANNING SCHEME PROVISIONS

## State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 15 Built Environment & Heritage
- Clause 17 Economic Development

# Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing



• Clause 21.04 Economic Development

**Relevant Particular/ General Provisions and relevant incorporated or reference documents** The relevant provisions/ documents are:

- Clause 52.02 Easements, Restrictions and Reserves
- Clause 52.05 Signs
- Clause 52.06 Car Parking
- Clause 52.27 Licenced Premises
- Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road.
- Clause 65 Decision Guidelines
- Cardinia Road Precinct Structure Plan (September 2008)
- Pakenham Township Development Contributions Plan (September 1997)
- Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)

## Cardinia Shire's Liveability Plan 2017-2029

This proposal is not considered to have regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- Social Cohesion, while the proposal may assist in bringing people together within the development, it would do so by detracting people from the existing Lakeside Boulevard Main Street Activity Centre.
- Safety, the design of the proposal includes large blank walls to adjoining roads thereby limiting passive surveillance to adjoining walking/cycling areas.
- Reduce Harm, the proposal includes the sale of packaged and a licenced cinema.

## Zone

The land is subject to the Mixed Use Zone.

## **Overlays**

The land is subject to the Development Contribution Plan Overlay – Schedule 1.

# PLANNING PERMIT TRIGGERS

The proposal for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for a Section 2 use a place of assembly (cinema).
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for food & drink premises exceeding 150sqm.
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for a medical centre exceeding 250sqm.
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for shops exceeding 150sqm.
- Pursuant to Clause 32.04-8 of the Mixed Use Zone, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2 (place of assembly, food & drink premises, medical centre and shops).



- Pursuant to Clause 52.02 of Easements, Restrictions and Reserves, a planning permit is required to create an easement.
- Pursuant to Clause 52.05-13 of Signs, a planning permit is required for business identification signage and internally illuminated signage.
- Pursuant to Clause 52.06-3 of Car Parking, a planning permit is required to reduce the number of car parking spaces required under Clause 52.06-5.
- Pursuant to Clause 52.27 of Licenced Premises, a planning permit is required to use land to sell or consume liquor (packaged liquor bottle shop and licenced venue cinema).
- Pursuant to Clause 52.29-2 of Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, a planning permit is required to create or alter access to a road in a Road Zone, Category 1 (Princes Highway).

# PUBLIC NOTIFICATION

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

- Sending notices to the owners and occupiers of adjoining land.
- Placing three (3) signs on site

The notification has been carried out correctly, and Council has received six (6) objections to date.

The key issues that were raised in the objections are:

- The proposal is contrary to the requirements of the Cardinia Road Precinct Structure Plan. The proposed uses are not compatible with the peripheral commercial designation for the site.
- The subject site forms part of the Neighbourhood Activity Centre and is therefore not an appropriate location for a cinema. Cinemas should be located within higher-order Town Centres.
- The proposed retail floorspace exceeds the designation for the Lakeside Neighbourhood Activity Centre as per the Cardinia Road Precinct Structure Plan and is too large for a neighbourhood centre.
- The proposal is contrary to higher order planning policy including Plan Melbourne, the South-East Growth Corridor Plan (GCP) and the Cardinia Planning Scheme. The proposal does not align with the Officer Precinct Structure Plan (September 2011).
- The economic impact assessment submitted in support of the application overstates retail floor area demand, relies upon excessive trade area and population estimates and fails to consider all future planned centres (including the Pakenham East Neighbourhood Activity Centre).
- There is insufficient population within the area to support the 2 existing discount department stores in Pakenham town, the proposal and a future discount department store in the Officer Town Centre.
- The economic impact of the proposal is unjustified and will undermine other existing centres (including Arena and Lakeside).
- The proposal is not integrated with the existing Lakeside Boulevard Activity Centre.
- The proposal will detrimentally impact the existing Lakeside Boulevard Activity Centre and may result in empty shops.
- The proposal is an over-development of site and does not include a sense of space around the proposed building. The boundary-to-boundary design of the building is imposing to the Princes Highway.
- The proposal undermines the growth corridor hierarchy for activity centres.
- The proposal undermines the existing Pakenham Town Centre and future Officer Town Centre.
- The proposal will prevent the development of the future Officer Town Centre.
- The proposal does not have economic or strategic justification and will undermined other existing and planned centres.



- The proposal is not in accordance with the Mixed Use Zone.
- The proposal will result in traffic issues, particularly relating to the safety of the Princes Highway and existing intersections.
- The proposal will result in parking and loading/unloading issues, particular associated with current use of Cardinia Life, Olympic Way and Toomuc Reserve.
- There are currently sufficient shopping centres and/or supermarkets in the area.
- Preference for Kmart to be located in the Pakenham Town Centre instead.

## REFERRALS

## VicRoads

The application was referred to VicRoads as a statutory referral. VicRoads have consented to the application and the proposed road works, subject to conditions.

#### Public Transport Victoria

Pursuant to Clause 66.02-11 an application for a new retail premises exceeding 4000sqm, a place of assembly exceeding 400 seats and/or an application which results in the alteration of public transport stops is required to be referred to the Head of Transport for Victoria. It is noted that the application was referred prior to the amendment of this Clause and was therefore referred to Public Transport Victoria.

Public Transport Victoria did not object and did not require any conditions to be included on the permit.

## DISCUSSION

The proposed use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category is not consistent with the aims and objectives of the State Planning Policy Framework, Local Planning Policy Framework and other relevant planning provisions as outlined below.

## **Planning Framework**

The Cardinia Shire growth corridor is key to providing for the housing, employment and day-to-day needs of current and future residents. This corridor is centred on the Princes Highway and will ultimately house and employ the majority of Cardinia's residents.

The Cardinia Shire Planning Scheme establishes a framework for considering the retail and commercial needs of the municipality. This is largely done through planning for activity centres, particularly in the growth area.

Clause 21.03-2 *Urban Growth Area*, sets out a framework for the staging and development of activity centres. Pakenham and Officer are Major Activity Centres with supporting Neighbourhood Activity Centres planned at Cardinia Road (Arena) and Lakeside Boulevard. Clause 21.04-3 *Activity Centres*, reaffirms the need to recognise this hierarchy of activity centres by facilitating their development.

The current proposal does not respect this activity centre hierarchy.

At a macro level, the site is located approximately half way between the existing Pakenham Major Activity Centre and the future Officer Major Activity Centre; thereby forming part of neither.

At a micro level, the site does not form part of the Lakeside Neighbourhood Activity Centre. Lakeside is a traditional main street centre (which includes two (2) small supermarkets). The subject site is located approximately 200m away from this main street and therefore does not form a legible or walkable part of the activity centre.

Clause 21.04-3 Activity Centres, requires main street development (as opposed to internalised centres) for activity centres within the Shire. The proposal is a standalone internalised centre.



# **Economic Implications**

The applicant submitted a Market Assessment and Economic Implications Report which found that the proposal would not result in an oversupply for retail floor space and would result in economic/social benefits (increased shopping choice and jobs - although these were not quantified). The applicants report asserted that the proposal would not affect the viability of existing retailers, will increase visitation to Lakeside and would not significantly affect the future Officer Major Activity Centre.

However, key to considering economic impacts is if there is sufficient population to support the proposal as well as other established and planned activity centres. Given the proposal seeks to replace the existing supermarket (albeit with a larger store), this economic impact is considered less than the impact of the proposed discount department store.

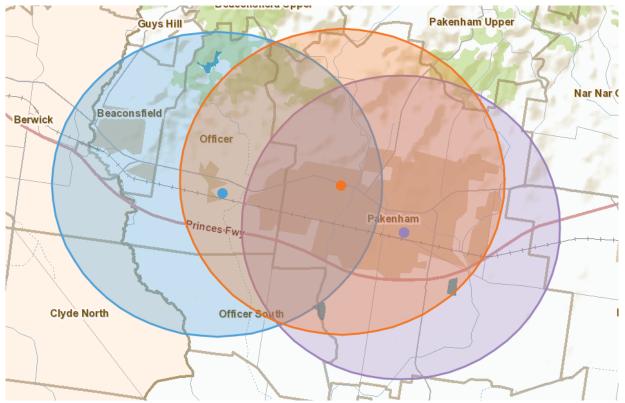
The applicant's economic impact assessment asserts that there is sufficient population within the wider area to support not only the 2 existing discount department stores (Pakenham Target and Big W) and the proposal, but ultimately a fourth in the Officer Town Centre as well. However, the statistical population growth relied upon by that report is extensive and includes land almost to Warragul and beyond Lang Lang. This is not considered to accurately represent future patrons.

Furthermore, retail developments typically receive the majority of their revenue (generally around 60%), from people living within 5km of the development. This is referred to as the sites trade area. The subject site is located approximately 2.7km from the existing Pakenham Major Activity Centre and 5km from the future Officer Major Activity Centre.

It is therefore considered that the trade area for the proposal would unreasonably overlap with that of the existing Pakenham Major Activity Centre and the future Officer Major Activity Centre. By encroaching into the existing trade area for Pakenham, the proposal threatens the ongoing economic viability of this Major Activity Centre. By encroaching into the future trade area for Officer, the proposal prejudices the future viability and develop-ability of this Major Activity Centre (identified as regionally significant by the Officer Precinct Structure Plan (September 2011).

Trade areas:





Furthermore, the subject site is not connected to the existing Lakeside Boulevard Neighbourhood Activity Centre. As an internalised development, with no connection to the main street, the proposal is expected to divert patrons away from the main street thereby detracting from its ongoing economic viability.

Whilst the proposal may result in some economic and social benefits, these have not been quantified. The overall impact of the proposal on the Lakeside Neighbourhood Activity Centre, existing Pakenham Major Activity Centre and future Officer Major Activity Centre is therefore considered to be a community dis-benefit which is not outweighed by possible benefits.

# **Further Planning Considerations**

In opposition to Clause 11 Settlement of the State Planning Policy Framework, the proposal detracts from the economic viability of activity centres and represents poor urban design outcomes. While the site has good vehicle and public transport access via the Princes Highway, its distance from Lakeside Neighbourhood Activity Centre mains street discourages walkability.

Contrary to Clause 15 *Built Environment and Heritage*, the large expanses of blank walls and lack of windows limits passive surveillance and safety. The scale and massing of the proposal is not in keeping with the area and detracts from the visual amenity of the public realm (adjoining roads and Toomuc Reserve).

As opposed to the objectives of Clause 17 *Economic Development*, the range of uses is proposed at the expense of other activity centres. While some community benefit may result, overall the impact is considered to be a net community disadvantage. The internalised design, located 200m from Lakeside Boulevard, would detract from the existing centres patronage and viability.

As such, the application is not considered to provide for the orderly planning of the area despite the provisions of Clause 65.

# Cardinia Road Precinct Structure Plan (September 2008)

The Cardinia Road Precinct Structure Plan (PSP) guides long term development to meet future community needs. This is done, in part, by establishing a hierarchy of activity centres. Major Activity Centres at Pakenham and Officer are noted and, supporting Neighbourhood Activity Centres specifically planned for at Lakeside and Arena. The proposal does not reflect this hierarchy as the subject site does not form part of the Lakeside Neighbourhood Activity Centre.



The Cardinia Road PSP clearly differentiates commercial land as either core business or peripheral commercial. Core business provides for day-to-day needs while peripheral commercial provides other less utilized services. The subject site is identified for peripheral commercial development.

The proposal includes a supermarket which is the core retail component of any Neighbourhood Activity Centre. By locating this vital component 200m away from the main street, the proposal would divert patrons away from the heart of the activity centre. Furthermore, the proposed design (with long facades and continuous concrete walls), fails to provide for the Cardinia Road PSP objectives relating to built form and active safe frontages.

It is noted that the Cardinia Road PSP includes a draft Urban Design Framework for the Lakeside Neighbourhood Activity Centre and seeks development in accordance with the Toomuc Sports Precinct Urban Design Study (2006). An Urban Design Framework has not been prepared and is no longer considered relevant given the majority of the activity centre has been developed. The Toomuc Sports Precinct Urban Design Study (2006) has been considered however this draft document has not been endorsed by Council.

## <u>Urban Design</u>

On this basis, the proposed built form and urban design is not supported.

The subject site is a prominent corner location with 3 road frontages one of which is the Princes Highway. The proposal includes large expanses of high blank walls. While the proposal partially addresses the Princes Highway, only 34% of the ground floor façade is activated. The long inactive frontages do not allow for passive surveillance and reduce safety. Passive surveillance from the upper levels is not achieved due to setbacks.

The proposed building is the same size as a city block. The built form is therefore monolithic and does not respect the scale of area. This scale of built form and lack of passive surveillance does not provide for the objectives of the Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017).

The proposed signage is considered compatible with the proposed use and suitable for the scale/type of development.

# Traffic & Car Parking

In accordance with Clause 52.06 Car Parking, the proposal generates a requirement for 895 car parking spaces. It is noted that the applicants Traffic Impact Assessment (TIA) calculates a different car parking requirement (total 831). The applicants TIA applies the restricted retail premises car parking rate to the discount department store. However, in accordance with Clause 73.04-13 Nesting Diagrams, department store is included under shop.

The proposal therefore represents a reduction of 238 car parking spaces or 27%. This reduction is justified based on the nature of the mixed use development and the differing peaks usage times associated with those various uses. The application has been referred to Council's Traffic Department who have consented to the reduction. The proposal also includes 34 customer bicycle parking spaces and 40 staff bicycle parking spaces.

In accordance with Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, the application was referred to VicRoads who have consented to the application (including the proposed road works) subject to conditions.

The proposed road works/upgrades are compatible with the proposed development of the site, subject to VicRoads approval.

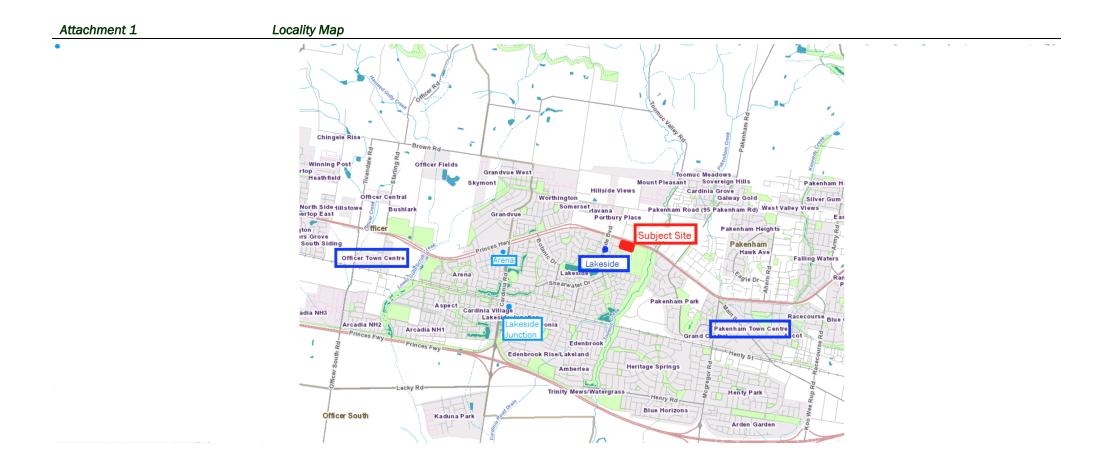
The proposal would result in additional traffic, parking and loading/unloading requirements however this is considered to be mitigated by the extensive car parking and road upgrade works.

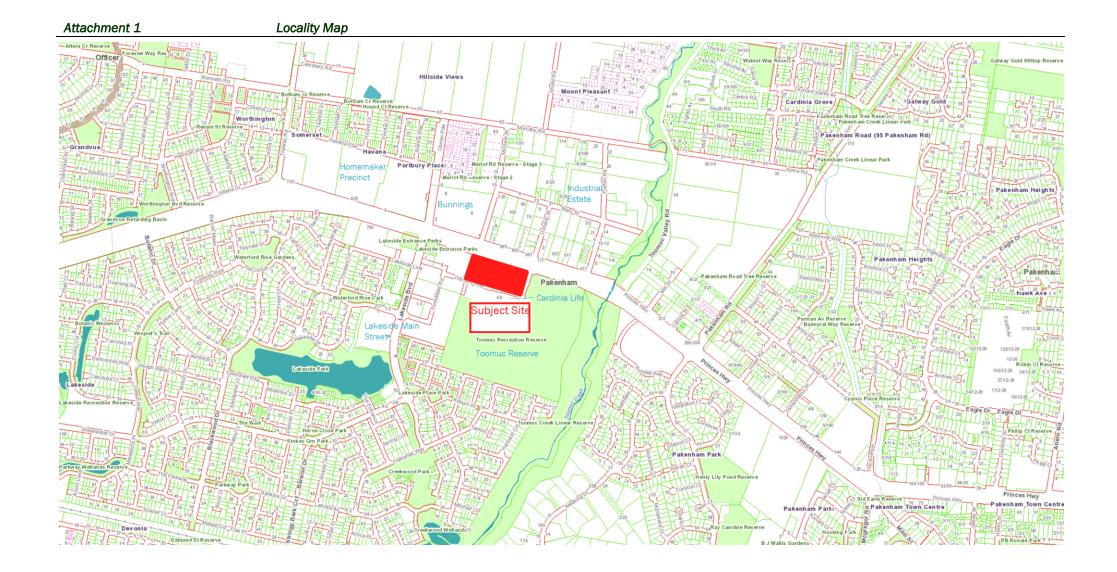
# CONCLUSION

The proposed use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a

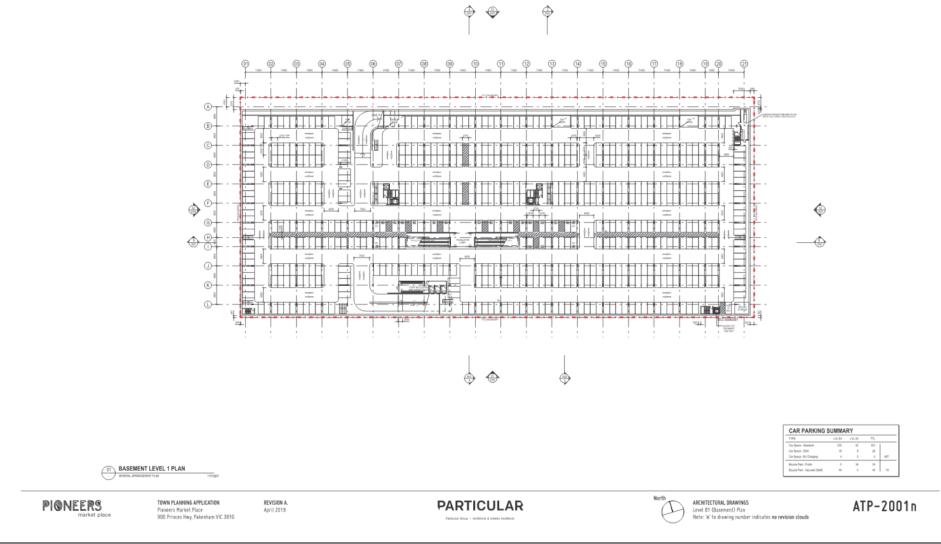


Road Zone Category 1 is contrary to the purpose and objectives of the Cardinia Shire Planning Scheme and should not be supported.

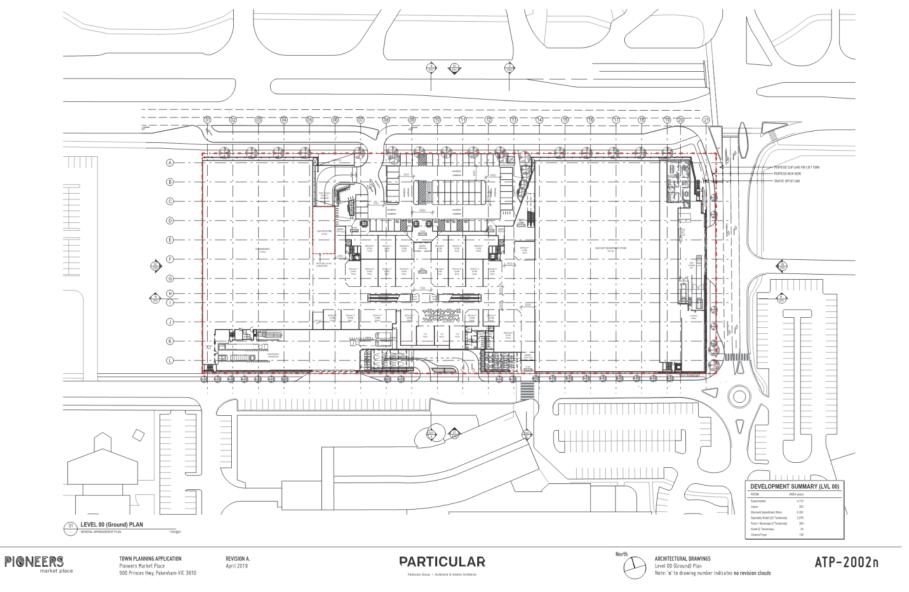


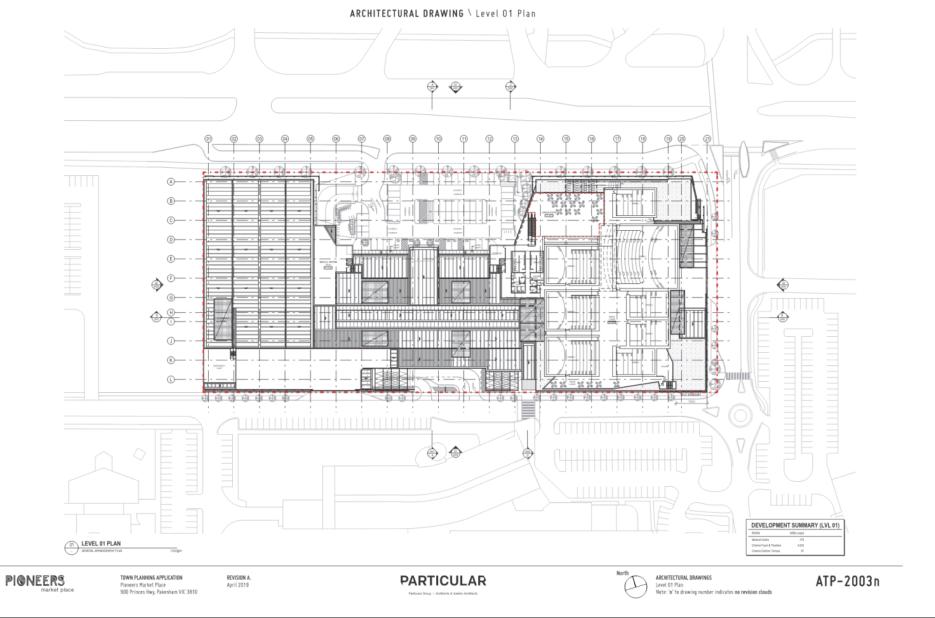


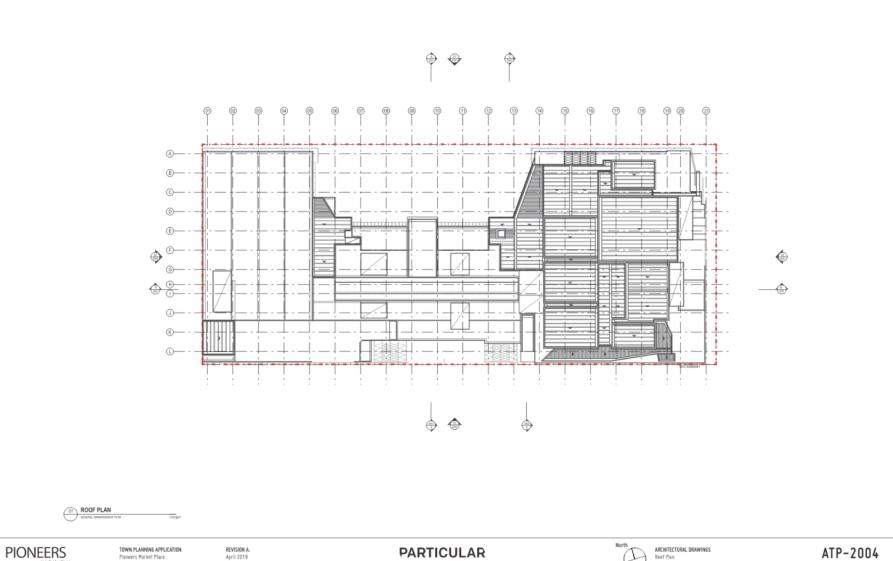
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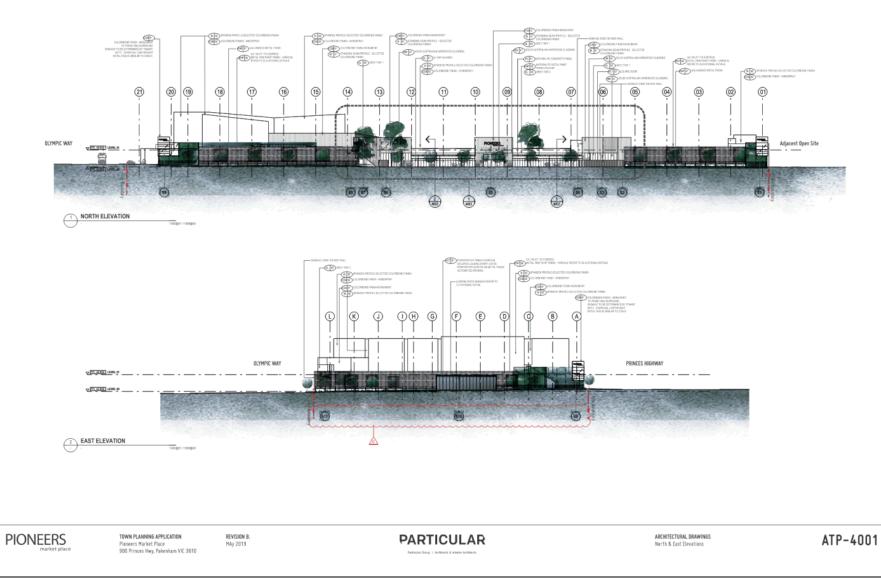
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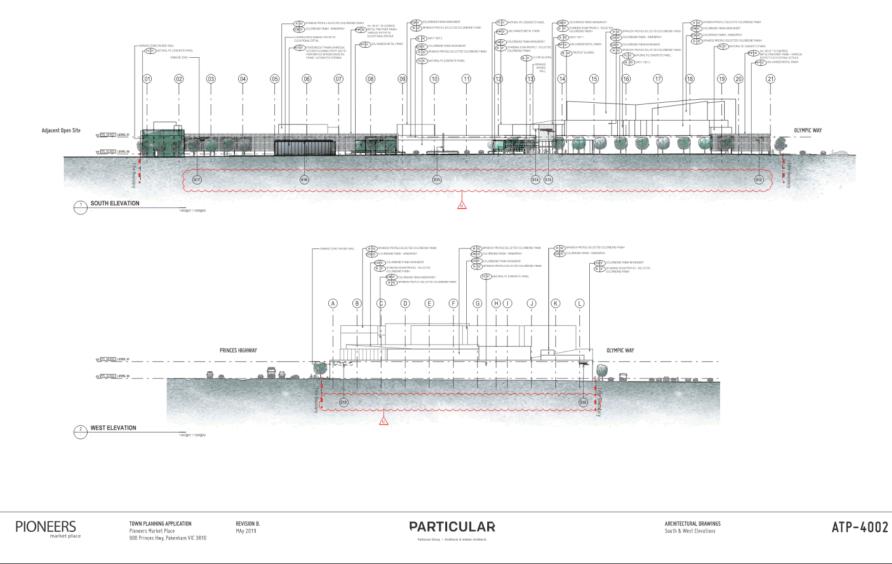
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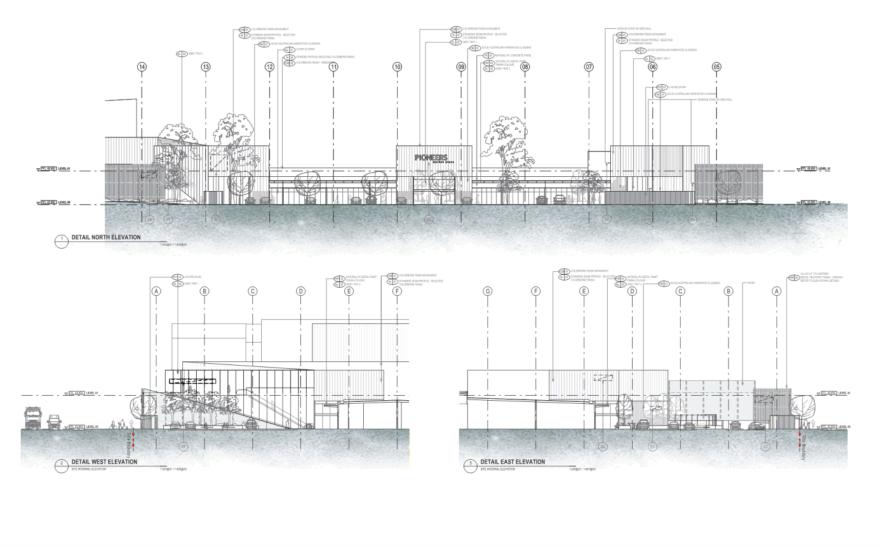


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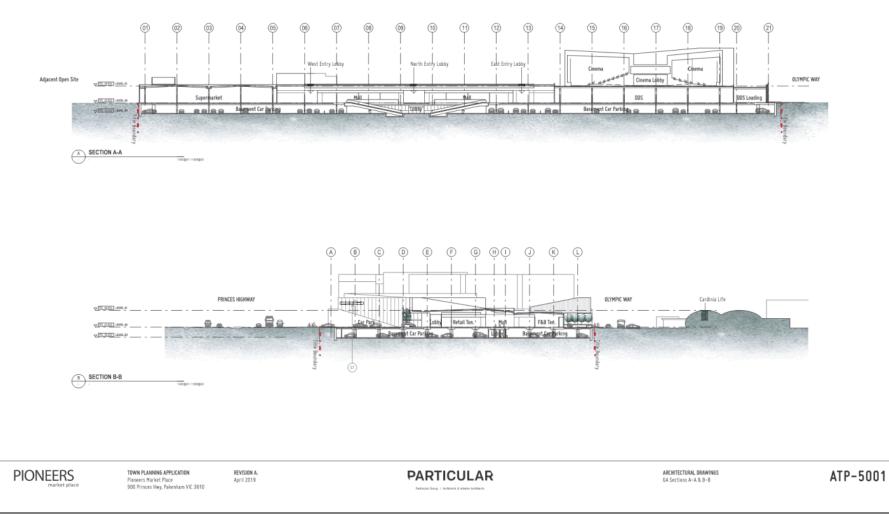


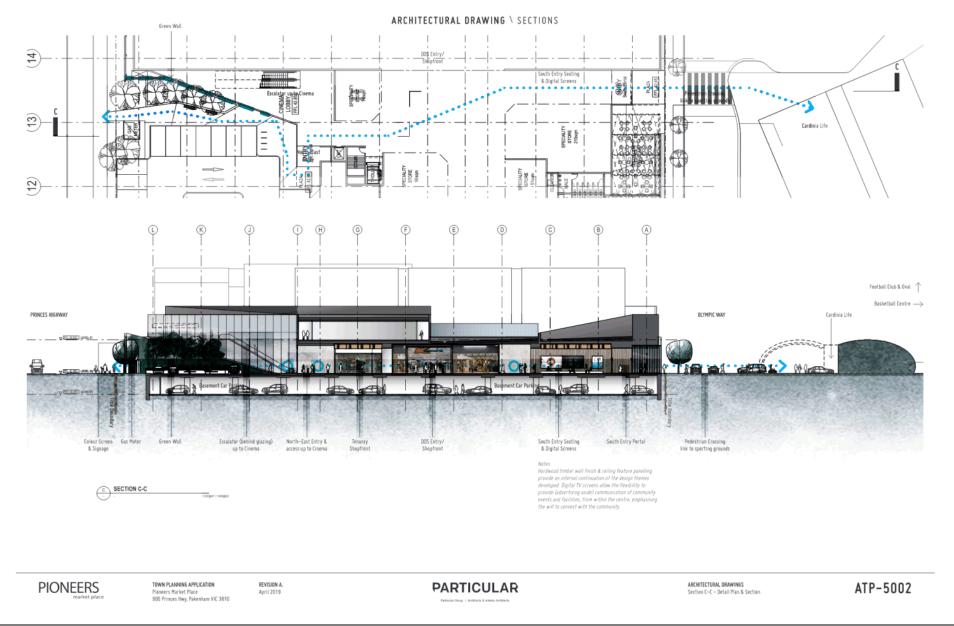




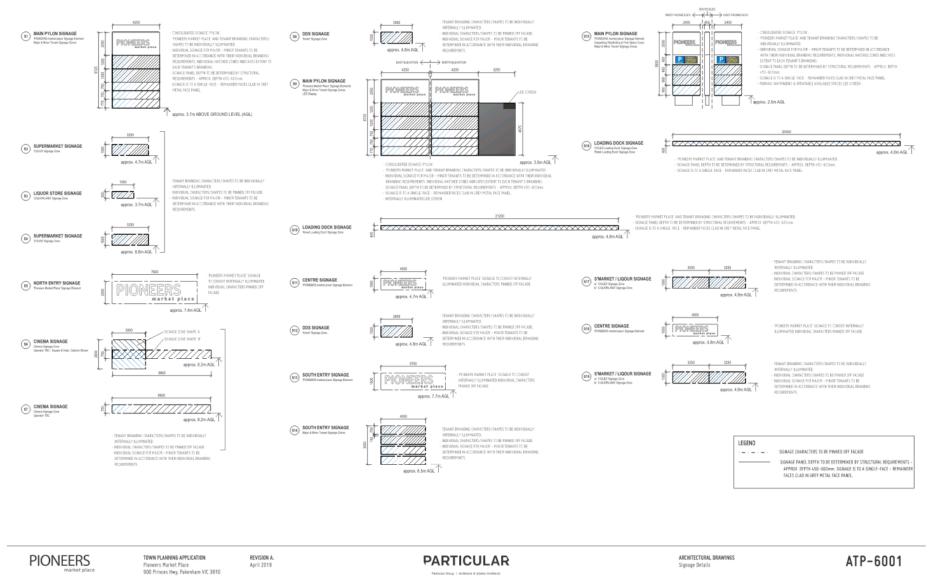
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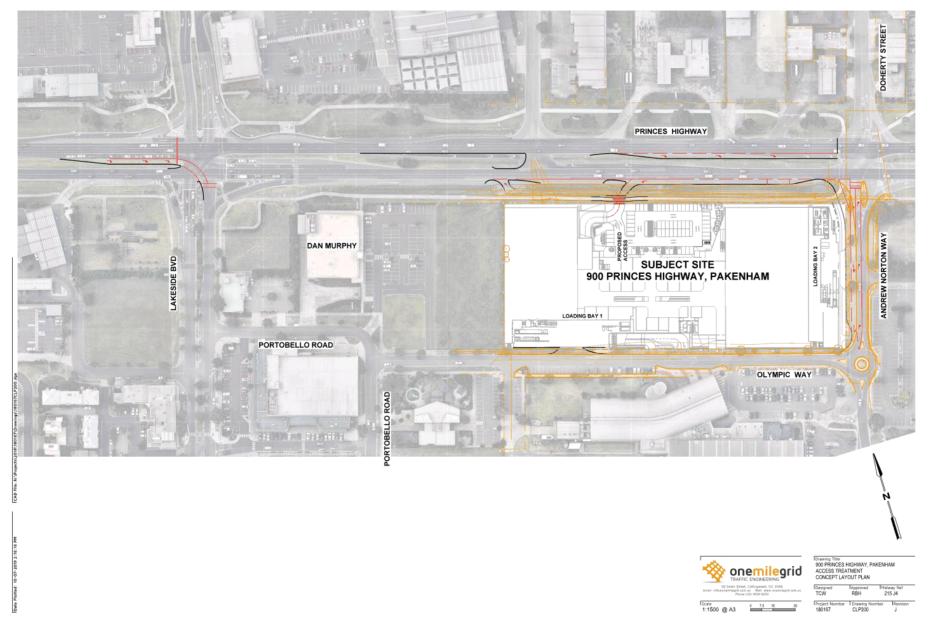














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