

5.4 T210567 PA - Use and Development of the Land for a Place of Worship 28 Hill Street, Pakenham

Responsible GM: Lili Rosic
Author: Dean Haeusler

Recommendation(s)

That Council refuse planning permit application T210567 for the use and development of the land for a Place of Worship on the following grounds:

1. The proposal is incompatible with the industrial location, sought to be protected by:
 - I. Clause 13.07-1S (Land use compatibility)
 - II. Clause 17.03-2S (Sustainable Industry)
 - III. Clause 17.03-3S (State-significant Industrial land)
 - IV. Clause 21.04-4 (Industry); and
 - V. Clause 33.01 (Industrial 1 Zone)
2. The proposal undermines the protection of state-significant industrial land, sought to be protected by Clause 17.03-3S (State-significant industrial land).
3. The proposed site has limited accessibility, contrary to Clause 19.02-4S (Social and cultural infrastructure) and Clause 21.05-6 (Community services and facilities).

Attachments

1. Development Plans [5.4.1 - 3 pages]
2. Locality Map [5.4.2 - 1 page]

Executive Summary

APPLICATION NO.:	T210567
APPLICANT:	SMART Town Planning
LAND:	28 Hill Street, Pakenham
PROPOSAL:	Use and development of the land for a Place of Worship
PLANNING CONTROLS:	Industrial 1 Zone
NOTIFICATION & OBJECTIONS:	Public notice undertaken through letters and on-site signage; no objections received.
KEY PLANNING CONSIDERATIONS:	<ul style="list-style-type: none"> • Land use compatibility • Protection of State Significant Industrial land • Built form adaptability • Traffic safety

RECOMMENDATION:

Refusal

Background

- The subject site was created by a recent subdivision of land in 2019.
- The planning permit application was lodged with Council 30th July 2021.
- On 6th January 2022 the application was amended from the use and development of land for a Place of Assembly to the use and development of land for a Place of Worship.
- On 1st July 2022 the application was further amended to redesign the building to improve the utility and adaptability of the building.

Subject Site

Figure 1: Aerial image of subject site (Source: Cardimap)

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

The subject site is rectangular and covers 1035 square metres with a 23-metre-wide frontage to Hill Street. The site is vacant and undeveloped, there is no vegetation on the land and the topography is generally flat.

Surrounding sites include:

NORTH	Undeveloped land (no current applications or approved permits)
EAST	Hill Street; Multi-warehouse development
SOUTH	Large self-storage facility (under construction); 39 Peet Street – permit approved for the development of two warehouses and car parking reduction.
WEST	Self-storage facility

Relevance to Council Plan

2.1 We support the creation of liveable spaces and places

2.1.1 Advocate, plan for and deliver accessible community infrastructure and services that address community need.

Proposal

Approval is sought for the use and development of a Place of Worship.

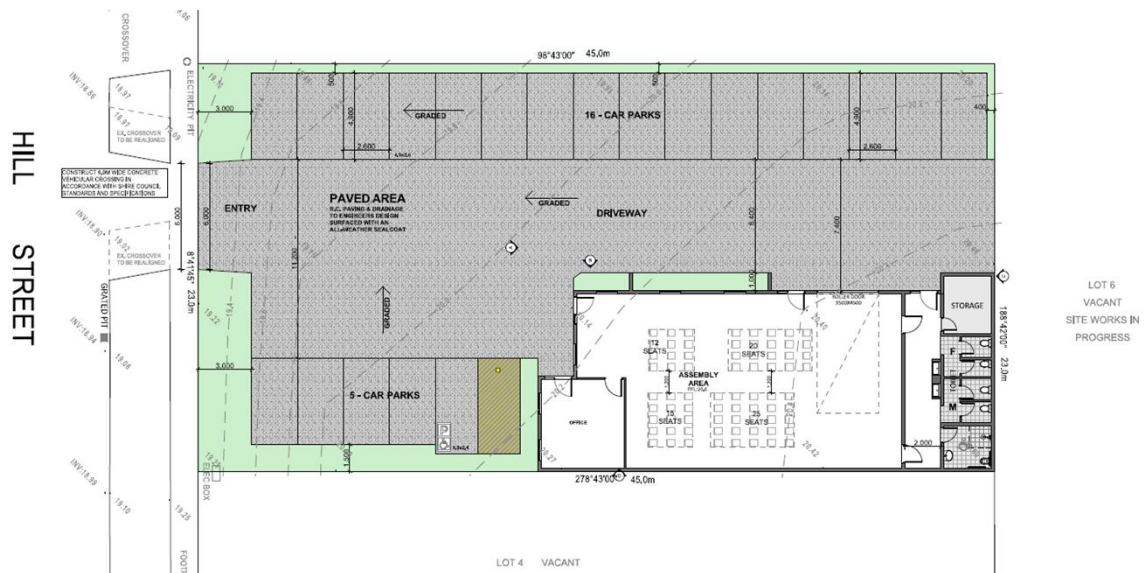


Figure 2: Site plan



Figure 3: East and South elevation plans

Buildings and works

The application proposes a single storey building to be constructed in the north-west corner of the site. The building will consist of a large assembly area, stage and seating, with access positioned along the east (street facing) and south faces of the building. An area identified as a utilities area is integrated within the building providing toilets and storage. A small office is also integrated within the building, sitting proud of the front façade.

The building will be constructed in a warehouse style with modifications to accommodate the Place of Worship. The building will occupy a total area of 246.5 square metres, inclusive of the utility area.

The total height of the building is 5.7 metres above the finished floor level, which will sit close to natural ground level. Provision is made for a loading bay area accessed from the southern face of the building.

External finishes consist of light grey walls with darker grey elements that distinguish the entrances and loading bay area. The eastern and southern facades will incorporate large windows.

Land use

Operation times	Patrons
Monday to Friday 5 pm to 8 pm	Maximum 50 patrons Maximum of 2 staff at any one time. On-site parking allocation (21 spaces)
Saturday & Sunday 6 am – 8 pm	Maximum 70 patrons Maximum 5 staff On-site parking allocation (21 spaces)

The Place of Worship will operate throughout the week for group gatherings and special interest groups. Main services are to be held on Saturdays and Sunday evenings where greater congregations and higher staffing are expected.

Access and car parking

The site will be accessed through the realignment of an existing double-width crossover that will provide access to car parking. Car parking will be arranged within the frontage of the building and along the southern boundary.

A total of 21 parking spaces are provided, including 1 accessible parking bay adjacent to the front entrance. The aisle width provides a minimum 6.4 metres for adequate circulation through the car park.

Landscaping

Landscaping will be introduced along the Hill Street frontage through a 3-metre-wide garden bed with a mixture of native shrub species. A further 0.5–1.5-metre landscaping strips are provided along the north and south boundaries and adjacent to the southern side of the building.

Planning Scheme Provisions

Planning Policy Framework

Clause 13.05-1S	Noise management
Clause 13.07-1S	Land use compatibility
Clause 15.01-2S	Building design
Clause 17.03-2S	Sustainable industry
Clause 17.03-3S	State significant industrial land

Clause 19.02-4S Social and cultural infrastructure

Local Planning Policy Framework

Clause 21.04-4 Industry
Clause 21.06-1 Urban design
Clause 21.05-6 Community services and facilities

Zone

Clause 33.01 Industrial Zone

Particular Provisions

Clause 52.06 Car Parking
Clause 65 Decision Guidelines

Planning Permit Triggers

- Pursuant to Clause 33.01-1 of the Industrial 1 Zone, a permit is required to use the land for a Place of Worship.
- Pursuant to Clause 33.01-4 of the Industrial 1 Zone a permit is required to construct a building or carry out works.

Public Notification

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

- Distributing letters to neighbouring owners and occupiers and the erection of a sign for fourteen days.

During this public notice period no objections were received.

The plans were amended 1st July 2022 under Section 57a of the Act but were not re-advertised as the Industrial 1 Zone exempts buildings and works from public notice and no alterations were made to parking or land use matters.

Referrals

Internal Referrals – Traffic and Engineering

The proposal was referred to Council's Traffic and Engineering Department who had no objection to the proposal, subject to conditions.

Internal Referrals – Urban Design

The Urban Design team have assessed the proposal and suggested a range of improvements that could be made including greater distinction of the building entry through design elements and improved internal amenity through greater natural lighting given the intended purpose of the building.

Further delineation of pathway areas outside the building and denser shrub planting along the street frontage have also been encouraged.

Discussion

Planning Policy Framework

A number of state and local policies apply to the assessment of this application. The applicable policies are as follows:

Clause 13.07-1S (Land Use Compatibility)

This policy seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts. Applicable strategies are:

- Ensure that use or development of land is compatible with adjoining and nearby land uses.
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect existing commercial, industrial and other uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively

The Place of Worship will provide for cultural and spiritual activities with no link to manufacturing, warehouses or an industrial-type use.

The site is situated within the centre of an emerging industrial precinct where a lower level of general amenity is expected, particularly from emissions of odour and noise that are not typically experienced in commercial and residential areas.

Through the introduction of a community land use such as that being proposed, a higher likelihood of conflict between existing and future industrial activities is anticipated due to these expectations, undermining the protection of industrial land uses that benefit from as-of-right use of the land.

The proposal is considered incompatible with this industrial location.

Clause 17.03-2S (Sustainable Industry) and Clause 21.04-4 (Industry)

The state policy seeks to facilitate the sustainable operation of industry. Applicable strategies include:

- Encourage activities with minimal threshold requirements to locate towards the perimeter of the industrial area.
- Minimise inter-industry conflict and encourage like industries to locate within the same area.
- Protect industrial activity in industrial zones from the encroachment of commercial, residential and other sensitive uses that would adversely affect industry viability.
- Encourage industrial uses that meet appropriate standards of safety and amenity to locate within activity centres.
- Encourage manufacturing and storage industries that generate significant volumes of freight to locate close to air, rail and road freight terminals.

The sole objective of Council's local policy (Clause 21.04-4) is to develop manufacturing and service industries that provide services to local residents and businesses, support local employment and reflect a high standard of urban design.

Land use strategies generally seek to limit non-industrial uses, except those undertaken in association with industry.

Design and built forms strategies also seek to encourage a high standard of building design that contributes to the overall streetscape character to create an attractive working environment.

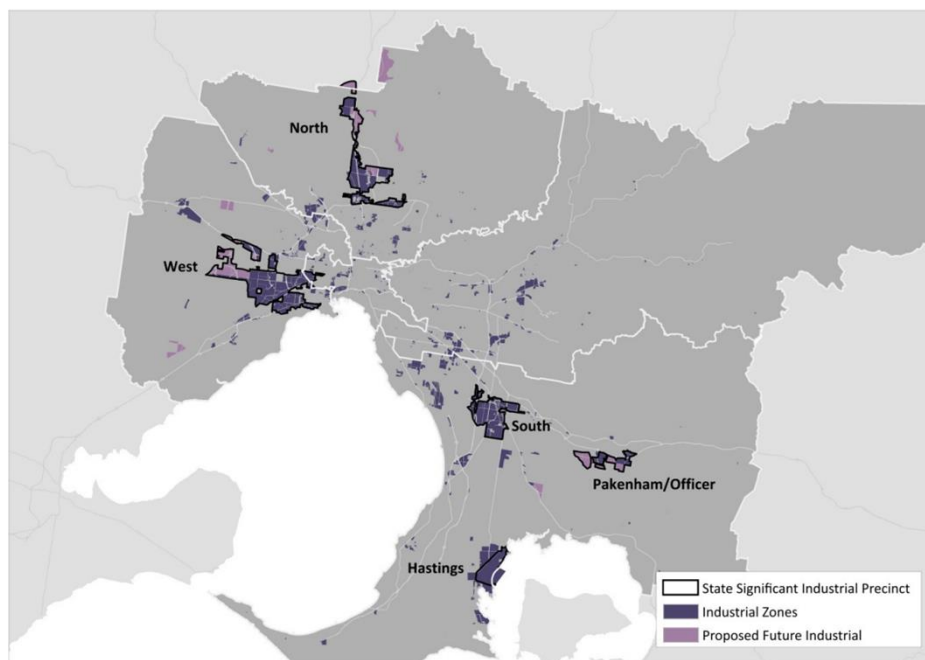
The precinct benefits from strong freight connectivity due to its proximity to the arterial road networks and Princes Freeway while a site's location enjoys substantial separation from sensitive land uses such as residential areas, emphasising a capacity to accommodate various industries that can otherwise be constrained.

The purpose-built community use has no link to industry or manufacturing and removes the capacity of the site to support the encouraged uses. Furthermore, the introduction of a place of worship undermines the viability of more appropriate land uses locating in the precinct and increases the likelihood of conflict.

While the building has been redesigned to have regard for utility beyond the specific needs of the Place of Worship, the high proportion of parking required for this use results in an underutilisation of the site that cannot be resolved through building design alone.

Consequently, while some adaptability has been implemented into the design, the proposal is fundamentally inconsistent with the objective and key strategies of these policies.

Clause 17.03-3S (State significant industrial land)



Source: Department of Environment, Land, Water and Planning, and Plan Melbourne 2014

The objective of this policy is to protect industrial land of state significance where strategies seek the protection of these industrial precincts from incompatible land uses to allow for future growth.

The Officer and Pakenham industrial areas are specifically listed in this policy as a State Significant Precinct.

The plan shown above illustrates the importance of Cardinia Shire Council in providing for the future industrial activity of Greater Melbourne and highlights the limited areas that are recognised with this level of significance.

The subject site is among the land identified adding further weight to the need to protect land from encroachment and incremental erosion by inappropriate land uses and development.

Clause 19.02-4S (Social and cultural infrastructure) and Clause (21.05-6 Community services and facilities)

Clause 19.02-4S seeks to provide fairer distribution of and access to, social and cultural infrastructure with relevant strategies including:

- Encourage the location of social and cultural infrastructure in activity centres.
- Ensure social infrastructure is designed to be accessible.

The local policy at Clause 21.05-6 also identifies the importance of access to a range of services and facilities and that these are provided in response to community need.

Key strategies of this policy seek to:

- Establish community facilities in the most accessible location for local residents having regard to their service catchment.
- Facilitate the establishment of commercial activities (eg: medical practitioners) community based organisations (eg: churches) and early years services (ie childcare) which serve the needs of the community in activity centres and in residential areas where they can be provided in a manner which minimises any impacts on the amenity of the area.

The proposed site is located well beyond the Pakenham Activity Centre in an area that has been strategically considered for industrial activity due to the location outside residential catchments yet relative proximity to the arterial road network.

As such, the site has very limited accessibility; there is no pedestrian link to the site and no public transport services within 800 metres. Given the locational attributes in conjunction with the proposed evening/weekend operation, accessibility is significantly prejudiced by such a location.

Due to the collective benefits provided by community uses such as Places of Worship, the land use and community would benefit from an area that has been designed with greater transport integration in mind.

Clause 33.01 – Industrial 1 Zone

The purpose of the zone is to implement the Municipal Planning Strategy and the Planning Policy Framework. It also seeks to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

The table of uses contained in this provision list Place of Worship (identified under Place of Assembly) as a Section 2 use, where planning permission is required. In addition, buildings and works also require planning approval under the zone.

Clause 71.03-2 of the Planning Scheme makes it clear that being a Section 2 use does not imply that a permit should or will be granted, adding that the “responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

The relevant decision guidelines for the assessment of use and buildings and works applications under the zone require the consideration of:

- ***The Municipal Planning Strategy and the Planning Policy Framework.***

The most applicable policies that support this zone include Clause 13.07-1S (Land Use Compatibility), Clause 17.03-2S (Sustainable Industry), Clause 17.03-3S (State significant industrial land) and Clause 21.04-4 (Industry).

Overall, the proposal is considered inconsistent with the objectives and key strategies outlined in these policies and is expected to result in a use that is incompatible with the site and an industrial context due to the potential land use conflicts and the removal of new industrial land from productive purposes.

- ***The effect that nearby industries may have on the proposed use.***

The precinct is developing with recent examples of warehousing constructed. There are also examples of industry in the vicinity closer to Bald Hill Road. It is noted that many industry uses do not require planning permission in this precinct and therefore a complete register of these land uses and their proximity to the site is not available.

Due to the primary function of the area there is a higher likelihood of off-site impacts to more sensitive land uses such as a Place of Worship.

- ***The availability of and connection to services.***

It is understood all necessary services are available to the property.

- ***The effect of traffic to be generated on roads.***

The proposed use is likely to generate peaks of high demand, particularly during weekends where services will be held. While the proposal satisfies technical parking requirements, the out-of-centre location and limited public transport is expected to place emphasis on private vehicle use, with potential to conflict with other uses that may operate during weekends.

- **Built form, parking and landscaping**

A warehouse-style built form is proposed to better integrate with the precinct and provide some degree of utility beyond its intended purpose for a Place of Worship. The introduction of a loading area and incorporated amenities improves useability of the building however the high parking rates required to support this land use result in significant underutilisation of the site for industrial purposes.

Statutory parking and access requirements are otherwise met and a 3-metre landscape buffer has been provided to improve natural stormwater retention and visual amenity that is consistent with recent approvals in the area.

Clause 52.06 – Car parking

This provision of the planning scheme contains the following purposes:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities. To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

This clause applies to new uses where parking provision must be provided in accordance with the requirements of a use specified in table 1 of the provision. As demonstrated by the table below, parking has been provided to meet the higher demands of the use during weekends:

Land use	Parking rate	Max patrons	Parking spaces required
Place of Worship	0.3 spaces per patron	70 (Saturdays and Sundays)	21
Parking spaces provided			21

The development satisfies all Design Standards for access, parking space dimensions and urban design.

Clause 65 – Decision Guidelines and 71.02-3 Integrated Decision Making

Before deciding on an application, Clause 65 requires to be given to the planning policy framework, the purpose and any other matters required to be considered by a zone or other provision and the impacts a use will have on current and future development and operation of the transport system.

Clause 71.02-3 asks Responsible Authorities to endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

As highlighted in the policy response and the assessment against the zone, the proposal is not considered appropriate for the site and does not reflect orderly planning for an emerging industrial precinct.

Conclusion

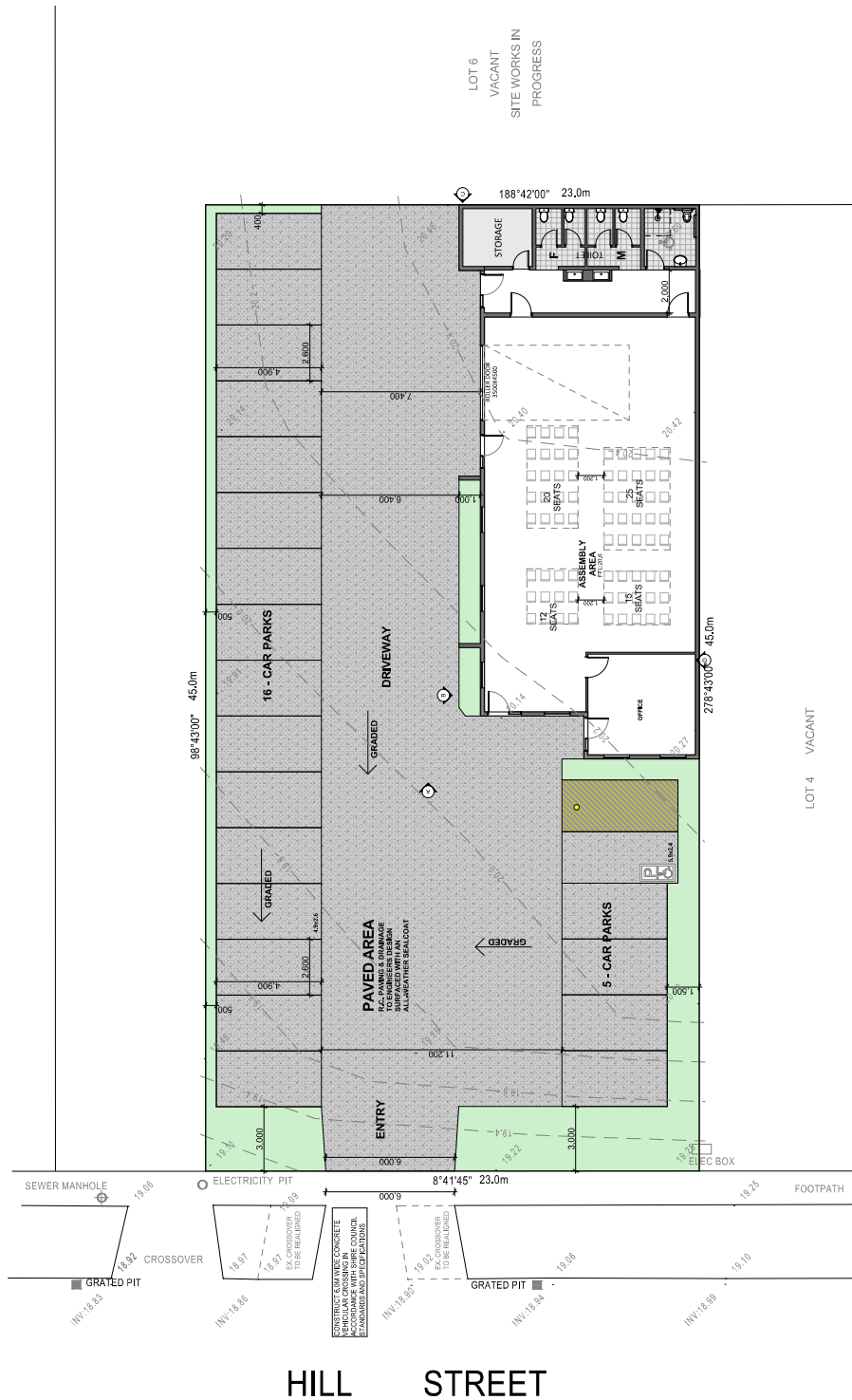
The introduction of a Place of Worship responds to objectives that seek to provide for cultural infrastructure in response to community need, however the limitations of the location and zoning introduce a range of considerations that must be weighed against the community benefit provided.

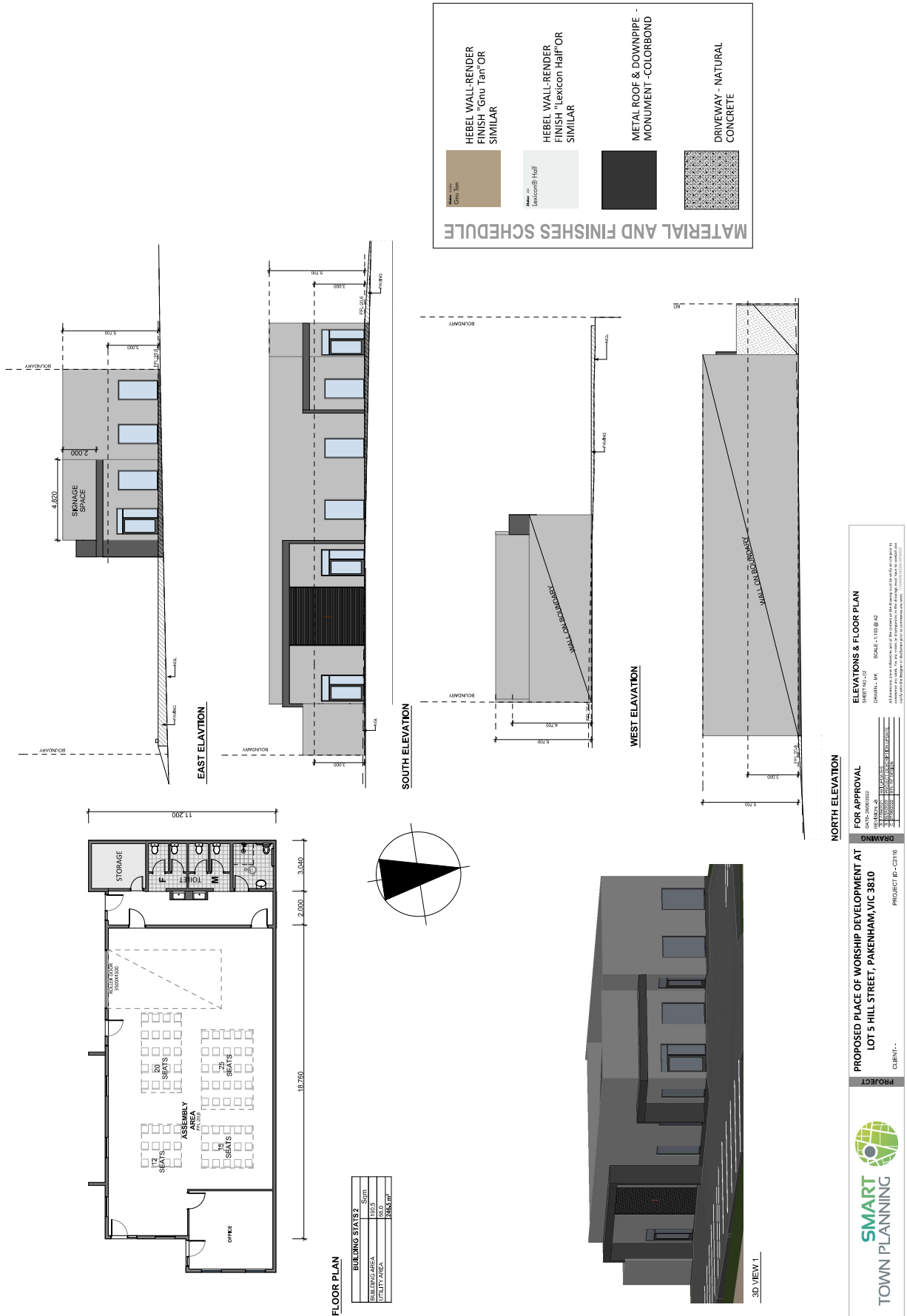
While the use will support the practice of religious and cultural activities, the Cardinia Planning Scheme encourages these facilities where they are accessible and can operate without an increased risk of hazard and amenity issues more readily experienced in an industrial area.





The site is situated central to the precinct that has recently been subdivided for industrial purposes. Planning decisions are particularly critical in shaping the long-term pattern of emerging areas and play a vital role in securing the productivity of this Industrial area.

Given the extent of state and local policies in place to support and protect industrial land, particularly where land is recognised as being of state significance, the proposal is inconsistent with the Planning Scheme and it is recommended that Council refuse to grant a permit for planning permit application T210567 for the use and development of a Place of Worship on the following grounds:

1. The proposal is incompatible with the industrial location, sought to be protected by:
 - I. Clause 33.01 Industrial 1 Zone
 - II. Clause 13.07-1S (Land use compatibility)
 - III. Clause 17.03-2S (Sustainable Industry)
 - IV. Clause 17.03-3S (State-significant Industrial land), and
 - V. Clause 21.04-4 – (Industry)
2. The proposal undermines the protection of State-significant Industrial land, sought to be protected by Clause 17.03-3S (State significant Industrial land).
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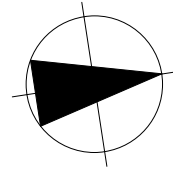
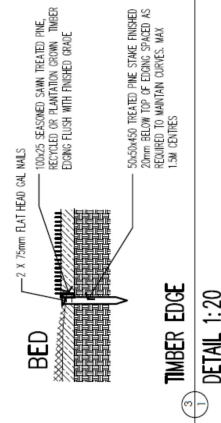
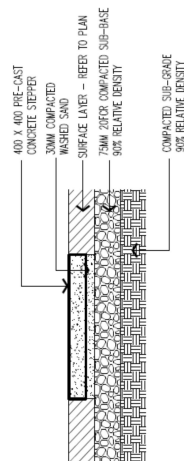
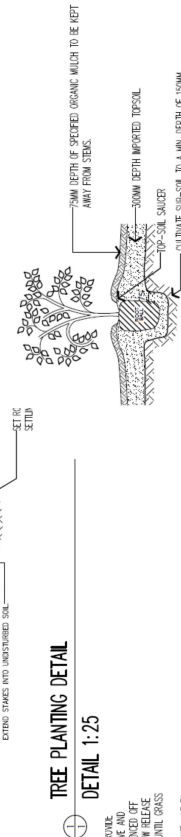
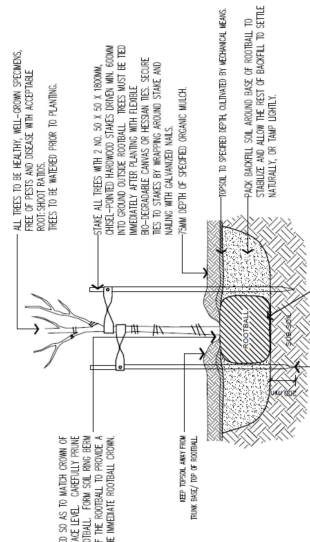
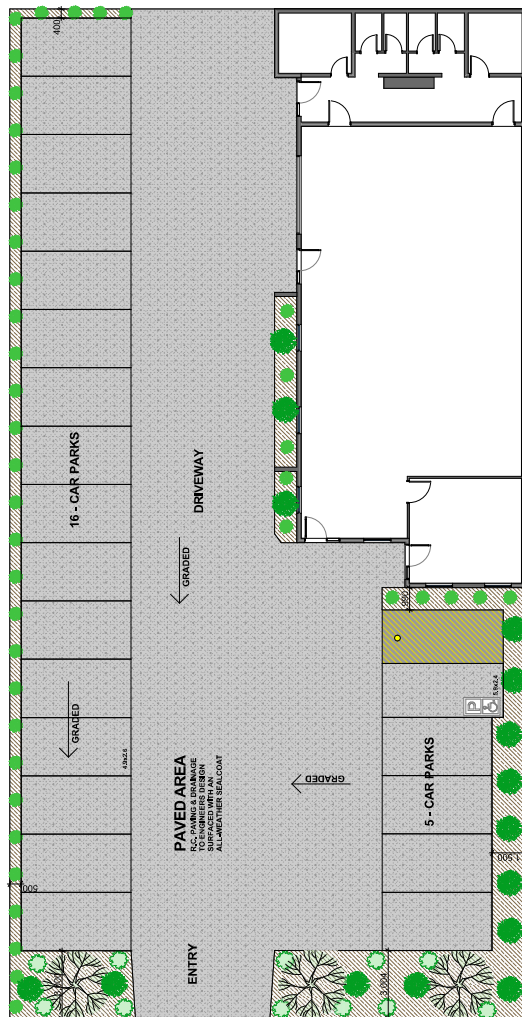
ALL LEVELS TO
AND



		PLANT SCHEDULE				
PLANT SYMBOL	CODE - COMMON NAME	BOTANIC NAME	PLANTED SIZE	MATURE H	MATURE W	QTY
	AB - AUSSIE BOX	Westringia Fruticosa	150 DIA pot	1m	1m	42
	BB - BOTTLE BRUSH	Callistemon Captain Cook	150 DIA pot	1m	1m	15
	DB - DUSKY BELLS	Correa Rellaxa	150 DIA pot	0.6-1m	1.5m	11
	TREE-SB - SILVER BANKSIA	Banksia marginata	1.4-1.6m	5m	4m	3

SPECIFICATION NOTES

- [illegible]



LANDSCAPE PLAN
SHEET NO - 03

FOR APPROVAL
DATE- 28/06/2022
REVISION: -B

**PROPOSED PLACE OF WORSHIP DEVELOPMENT AT
LOT 5 HILL STREET, PAKENHAM, VIC 3810**

All dimensions are in millimetres and all the content on the drawing must be verified on site prior to commence any work. For any errors or discrepancies in the drawings must have to contact and clarify with the designer or draughtman prior to commence any work.

T210567 PA - Locality map

127.0 0 63.50 127.0 Meters

1:2,500

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

30-Aug-2022

Notes

