

6 Ordinary Business

6.1 Town Planning Reports

6.1.1 Response to Notice of Motion to review Places of Assembly (Places of Worship)

Responsible GM: Lili Rosic
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Recommendation(s)

That Council:

- endorse introducing a new section on Council's planning website to provide future applicants with guidance on where you can apply for planning permits for Places of Assembly (Places of worship) within Cardinia Shire, and provide links to State and Local policies, option 3 of this report.

Attachments

Nil.

Executive Summary

On the 12 December Councillor Radford requested Notice of Motion 1086 – That council officers present a report back to Council, within 3 months, that presents alternatives for establishing either guidelines, or a local policy, in the Cardinia Planning Scheme to guide applicants in choosing a site for a Place of Assembly (Place of Worship) within Cardinia Shire Council. This report should specify the implementation timeframes and the likelihood of support at State Government of the discussed guidelines or policy and outline the communication plan for disseminating this information to applicants.

Background

As the population of our municipality continues to grow, there is a corresponding increase in the demand for various services, including Places of Assembly (Places of Worship). Council officers recognize that these places hold significant importance for our community. Council officers also acknowledge that their location can sometimes give rise to land use compatibility challenges.

Traditionally, Places of Assembly (Places of Worship) have largely been established in residential areas, yet Council is seeing an increasing number of applications applied to use land for the purpose of a Place of Assembly (Place of Worship) within Industrial and Green Wedge zoned land.

In the past 24 months, Council has received nine (9) planning permit applications and four (4) pre-application requests to use land for the purposes of a Place of Assembly (Place of Worship). The locations applied for consist of two (2) located in Green Wedge Zone; six (6) located in Industrial (Schedule1) Zone and one (1) in a Low-Density Residential Zone.

Council is aware that applicants may face uncertainties when applying for a planning permit to establish or expand an existing Place of Assembly (Places of Worship) and there is a demand for guidance to be established to assist applicants in identifying locations suitable for Places of

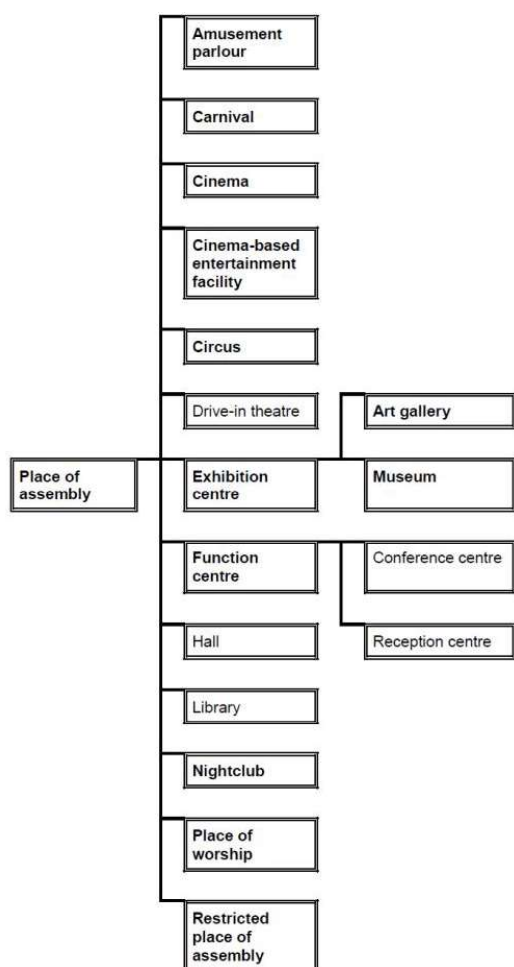
Assembly (Places of Worship); to assist them in preparing their applications and to clarify the criteria that the Council will use to assess the planning permit application.

Present Planning Controls applicable to a Places of Assembly (Places of Worship)

The Cardinia Planning Scheme defines a Place of Assembly as “*Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings.*”

While a Places of Worship is defined as “*Land used for religious activities, such as a church, chapel, mosque, synagogue, and temple.*”. In the Cardinia Planning Scheme, the land use term ‘Place of Worship’ is nested under a ‘Place of Assembly’ as demonstrated in Figure 1 (Place of Assembly)

Figure 1: Land Use Terms Nested under a Place of Assembly in the Cardinia Planning Scheme



This report focuses on a ‘Place of Worship’ due to the recent influx of planning permit applications. A similar planning policy analysis would be required for a ‘Place of Assembly’ as the land use term does differ to a Place of Worship and is broader and includes a library, cinema, function centre, amusement parlour, carnival, circus and night club for example.

In Cardinia Shire, a planning permit is required for the use of the land for a Place of Worship dependant on the applicable Zone, Overlay or other permit trigger such as car parking, signage, building and works and liquor license. Please refer to Table 1 (Planning controls for a Place of Worship) that details what Zone a Place of Workshop is an as-of right use, a planning permit is required or its prohibited.

Table 1 – Planning controls for a Place of Worship

As-of-right (i.e. no planning permit required), (subject to meeting some conditions)	Planning permit required	Prohibited
Mixed Use Zone Residential Growth Zone General Residential Zone Neighbourhood Residential Zone Commercial 1 Zone Special Use Zone 6 Comprehensive Development Zone 1 Comprehensive Development Zone 2 Comprehensive Development Zone 3 Urban Growth Zone 5 Activity Centre Zone	Low Density Residential Zones Rural Living Zone Urban Growth Zone 1 Urban Growth Zone 3 Urban Growth Zone 4 Green Wedge Zone Green Wedge A Zone Special Use Zone 1 Special Use Zone 5 Public Use Zone Industrial 1 Zone Commercial 2 Zone	Rural Conservation Zone Special Use Zone 3 Special Use Zone 4 Special Use Zone 7 Urban Floodway Zone Urban Growth Zone 2

The zoning of a parcel of land is potentially the most important factor that determines whether a planning permit is required for a Place of Assembly (Places of Worship). A Place of Assembly (Places of Worship) does not need a planning permit in most residential and commercial zones subject to meeting specific conditions. Whereas a Place of Assembly (Places of Worship) requires a planning permit in an Industrial Zone and most Rural Zones, including Green Wedge Zones. The overall purpose of the zone will impact how likely a permit is to be granted.

Many parts of Cardinia Shire also have Planning Overlay's that provide specialised controls to manage or protect specific land or built form features. An example is the Bushfire Management Overlay and Environmental Significance Overlay. These planning overlays exist over large areas of the shire and reflect areas that are at greater risks of bush fire or identifying where the development of land may be affected by environmental constraints. These overlays can also affect how a proposal to use the land for a Place of Worship is considered.

Present Incorporated/Reference/Policy Documents

The key policies that influence the outcome for a planning permit for a Place of Assembly (Places of Worship) are:

- Cardinia Western Port Green Wedge Management Plan (May 2017) and
- Melbourne Industrial and Commercial Land Use Plan (Department of Environment, Land, Water and Planning, 2020).

1. Places of Worship in Green Wedge Areas

The non-urban areas of metropolitan Melbourne that lie outside the urban growth boundary are known as green wedges. Cardinia Shire is home to three Green Wedge areas consisting of:

- 70% the Westernport Green Wedge
- 75% of the Southern Ranges Green Wedge and
- 5% of the Yarra Valley and Yarra and Dandenong Ranges Green Wedge

In 2017 Cardinia Shire Council adopted a Green Wedge Management Plan for the Western Port Green Wedge. Council has been unsuccessful in obtaining State funding to complete a green wedge management plan for the remaining Green Wedges.

In the past 24 months two planning permits for a Place of Assembly (Places of Worship) have been submitted for a location in the Western Port Green Wedge. Our Green Wedge areas are increasingly

receiving pressure to accommodate urban type uses. One factor that is influencing this change is the difference in land prices for suitable sites for a Place of Assembly (Places of Worship) are becoming increasingly difficult to find within the Urban Growth Boundary.

Cardinia Shire's Westernport Green Wedge Management is implemented in the Cardinia Planning Scheme via a local planning policy at Clause 22.05. Its purpose is to provide a strategic framework for planning of the southern rural areas of the Shire over the next 20 years. Among other things, the Management Plan sets out the preferred future land uses for its three precincts.

In summary, within the Westernport Green Wedge, Places of Worship are encouraged to be located within the existing townships or adjoining the Urban Growth Boundary rather than out in the middle of the green wedge.

Planning for Melbourne's Green Wedges and Agricultural Land

Between 2018-19, the State Government consulted with Green Wedge Councils to identify key challenges relating to land use planning in the Green Wedges. This was followed by further consultation with the public on how the government should identify important agricultural land. In May 2020, the State government published "Planning for Melbourne's Green Wedges and Agricultural Land Consultation Paper." The Consultation Paper proposes 46 Options and 12 Design Elements to improve protections of Green Wedge and agricultural land and the right-to-farm within a 100km radius of Melbourne. It seeks to address many issues Council has previously raised including strengthening locational requirements for non-green wedge uses.

Council recommended (15 February 2021 Meeting) to the State Government that the condition should be amended to require Place of Assembly (Places of Worship) within the Green Wedge to locate on land adjoining an urban zone. These Place of Assembly (Places of Worship) proposals should also be required to provide a buffer or transition area at the interface between it and surrounding agricultural land to address the conflict between the sensitive use that it is and the impacts it may experience from the surrounding farmland which has the right-to-farm.

2. Places of Worship in Industrial areas

In recent years, Council has seen an influx of planning permit applications seeking to use Industrial Zone land for non-industrial purposes, including Place of Assembly (Places of Worship). In the past 24 months, Council has received six applications in various industrial locations in Pakenham.

Place of Worship is a Section 2 discretionary use in the Industrial 1 Zone. In considering such applications, Council is guided by the following applicable policies:

Clause 13.07-1S - Land Use Compatibility
Clause 17.03-1S - Industrial Land Supply
Clause 17.03-2S - Sustainable Industry
Clause 17.03-3S - State significant industrial land
Clause 21.04-1 - Employment
Clause 21.04-4 - Industry
Clause 33.01 - Industrial 1 Zone

Amendment VC215 - Melbourne Industrial and Commercial Land Use Plan (MICLUP).

Amendment VC215 was gazetted on 3 March 2023 and implemented the Melbourne Industrial and Commercial Land Use Plan (MICLUP). The MICLUP provides a classification and a strategic planning framework for the protection, growth, and transformation of metropolitan industrial and commercial precincts.

MICLUP sets out a three-tier framework for industrial land within Melbourne consisting of 'state-significant', 'regionally-significant' and 'local industrial precincts'. This classification is intended to assist with identifying land that should be retained or considered primarily for industrial or other business or employment focussed purposes, and land that could be considered for alternative uses.

Review of other Council's approach to Places of Assembly (Places of Worship).

In order to address the land use concerns regarding Places of Assembly (Places of Worship) in both the Green Wedge Zone and Industrial Zones, representatives from Cardinia have reached out to neighbouring Councils such as the City of Kingston, Casey City Council, Greater Dandenong, Yarra Ranges, and Mornington Peninsula Council to gather insights from their experiences.

Council staff have observed that most Council planners rely on the Green Wedge Management Plans and existing local policy when responding to proposed urban uses in Green Wedge areas. It is acknowledged that many of these Council plans are outdated, and everyone is eagerly awaiting updated guidance from the State Government. The City of Kingston, for instance, recently adopted their Green Wedge Management Plan in December 2023 and their focus primarily revolves around the built form within the Green Wedge. The City of Kingston are anticipating and have mentioned in their Green Wedge Management Plan that the State will release the Planning for Melbourne's Green Wedges and Agricultural Land work later this year. As a result, they will rely on the State's guidance for land uses.

Casey City Council has a policy on Places of Assembly (Places of Worship). Council adopted the policy on 7 September 2004, with an administrative update completed in 13 January 2012. The aim of the policy is to ensure the successful integration of Places of Assembly (Places of Worship) in a range of different locations including residential areas, by ensuring that good design and siting principles are incorporated throughout the development. The policy focusses on residential and commercial areas, with no mention of Green Wedge or Industrial areas.

Macedon Ranges Council has released a fact sheet to assist applicants with the planning permit application for Places of Assembly (Places of Worship). It's important to note that this resource does not cover "A Place of Worship," which refers to land used for religious activities, such as a church, chapel, mosque, synagogue, and temple. Furthermore, as a non-metro Council, Macedon Ranges does not have a Green Wedge Zone, making it unfeasible to compare applications in the Green Wedge Zone.

Dandenong City Council has dealt with several planning permit applications for a Place of Assembly (Places of Worship) in existing industrial areas and a number of permit applications have been refused based on parking and amenity issues. It is acknowledged that Cardinia Shire Council appears to have more permit applications in industrial areas for a Place of Assembly (Places of Worship) than the City of Dandenong and this is potentially due to the affordability of larger land parcels in the industrial area and the availability of vacant land.

State Government advice on Places of Assembly (Places of Worship).

Officers reached out to the Department of Transport and Planning in order to obtain an update on their progress regarding Melbourne's Green Wedges and Agricultural Land. Unfortunately, Council staff have not received any updates or information from them at this time.

Review of Options for a Places of Assembly (Places of Worship).

After considering the information provided, the Council has three possible directions to take:

1. **Option 1: Develop a Guideline for Place of Assembly (Places of Worship):** This involves creating a guideline that will provide recommendations and guidance on locational preferences, built form, parking requirements, and other relevant aspects for Place of Assembly (Worship Assembly).
2. **Option 2: Develop a Policy on Place of Assembly (Places of Worship):** This option entails establishing a policy that will set clear directives and standards for locational preferences, built form, parking requirements, and other relevant aspects for **Place of Assembly (Places of Worship)**.
3. **Option 3: Maintain the Status Quo:** This option involves keeping the current situation unchanged, without implementing any new guidelines or policies related to Place of Assembly (Places of Worship). Introducing an information tab on our website that provides guidance similar to table 1 of this report, noting where you can apply for Places of Assembly (Worship).

These options provide different approaches for the Council to consider. Please consider the below Table 2 (Pros and Cons of a Guideline or Policy development options) to assist forming a decision.

Table 2: The pros and cons of a guideline and policy development

OPTIONS	What does it look like	Pros	Cons
Guideline	A guideline provides general guidance, recommendations, interpretations, best practice guidance, or frameworks to assist in decision-making and implementation of policies, standards, or procedures.	<p>Offer flexibility in their application, allowing individuals or departments to adapt them to their specific needs and circumstances.</p> <p>Provides additional advice and support, recommendations, and best practices to assist individuals in understanding and implementing related policies or procedures.</p> <p>Often present information in simpler terms, making it easier for the audience to comprehend and apply.</p> <p>No need for a Planning Scheme Amendment or formal adoption by Council.</p>	<p>Voluntary Nature: As guidelines are voluntary, there is a higher possibility that they may not be followed consistently or uniformly across the organisation.</p> <p>Lack of Enforceability: Non-compliance with guidelines typically does not carry formal consequences or penalties, which may result in inconsistent adherence.</p>
Policy	A policy is a formal, mandatory rule or regulation that governs the actions. Policies are binding and have more weight behind them compared to guidelines.	<p>Policies are formal and mandatory, ensuring consistent adherence to rules, regulations, and standards across the organization.</p> <p>Provide clear directives and expectations, leaving little room for interpretation or ambiguity.</p> <p>Establish a higher level of accountability, as non-</p>	<p>Are less flexible compared to guidelines, as they must be followed without significant deviation.</p> <p>In some cases, overly rigid policies may hinder innovation or adaptability, especially in rapidly changing environments.</p> <p>Can sometimes be complex and require thorough understanding and training to</p>

		compliance can result in penalties or disciplinary actions.	<p>ensure proper implementation.</p> <p>Need for a Planning Scheme Amendment or formal adoption by Council.</p> <p>Lacks support from the State.</p>
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Council staff consider implementing a policy to establish locational preferences for a Place of Assembly (Place of Worship) under Option 2 would be valuable to set clear directives and standards to decrease ongoing conflict in Green Wedge and Industrial land. However, considering the ongoing work conducted by the State Government on the Melbourne's Green Wedges and Agricultural Land, it is advised that the Council should wait for the release of State Government position and policy before proceeding with the development of a local policy specific to Cardinia. This will ensure alignment and coherence between the local policy and any relevant policies introduced by the State.

In the interim Council Officers will start the process of placing information on Council's website in the planning section, to provide future investors and applicants guidance in what zones you can apply for a planning permit for a Place of Assembly (Place of worship).

Relevance to Council Plan

1. We empower our communities to be healthy, connected and resilient
2. 1.1.2 Enrich local identity and opportunities for the community to connect through art, history and cultural expression.
3. 1.1.3 Lead by example in creating an inclusive and welcoming community for all by facilitating community education, capacity building, connection and celebration of our diversity.
4. 5.1 We practise responsible leadership.
5. 5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Climate Emergency Consideration

The preparation of a future guide and/or policy will need to consider both climate change mitigation and adaptation and actions to prevent or minimize the impacts of climate change on the community.

Consultation/Communication

Council staff have sought the advice and guidance from relevant State agencies and Council planners from other Councils to clarify the best approach moving forward.

Financial and Resource Implications

If and when a policy is to be developed, appropriate resources and finances will need to be designated in Council's work program and budget to commence the development of a policy.

Conclusion

Accordingly, it is respectfully requested Council having considered the information in this report Council endorse support for Option 3 (Maintain the Status Quo) until further direction from the State Government on Melbourne's Green Wedges and Agricultural Land is released. In the interim

provide guidance on Council's planning website on where places of worship can be considered under the Cardinia Planning Scheme and links to other key state and local policy documents.

Appendix 1. Current planning controls in relation to Places of Worship/Assembly.

Present Planning Policy Framework

In addition to the Zones and Overlays, Council is also required to consider how the proposal responds to the key policies within the Planning Policy Framework of the Cardinia Planning Scheme. The purpose of the planning policy framework is to:

- a. Provide a clear and consistent framework within which decisions about the use and development of land can be made and
- b. To express and implement State, regional, and local policies affecting land use and development.

Relevant provisions include:

State Planning Policy Framework:

Settlement policies at Clauses 11.01-1S and 11.01-1R that focus on investment and growth in places of State significance including State significant industrial precincts and employment clusters. Clause 11.02-1S also seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional, and other community uses.

Green wedge and agricultural policies at Clauses 11.01-1R and 14.01-1S. These policies contain objectives and strategies to protect the green wedges of metropolitan Melbourne from inappropriate development.

Environmental policies at Clause 12.01-2S and 12.05-2S. These policies are included to ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation and to protect and conserve environmentally sensitive areas including significant landscapes and open spaces that contribute to character, identity and sustainable environments.

Environmental risks and amenity policies relating to bushfire, floodplains, soil degradation, noise and Land use compatibility at Clause 13. These policies contain objectives and strategies to identify, prevent and minimise the risk of harm to the environment, human health, and amenity through land use and development compatibility and effective controls to prevent or mitigate significant impacts.

Built environment policies at Clause 15.01-1S, 15.01-1R and 15.01-2S seeks for planning to promote excellence in the built environment and ensuring that built form minimises detrimental impacts on the built and natural environment. Clause 15.01 Built Environment expands in greater detail, noting an objective to “create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity” with several supporting strategies such as seeking for development to respond to the surrounding natural features and landscape and to avoid detrimental impacts to the natural and built form. Clause 15.01-6S Design for Rural Areas also seeks for development to respect “valued areas” and rural character.

Industry policies for the protection of industrial land of State significance and to ensure the supply of industrial land at Clauses 17.03-1S, 17.03-2S, 17.03-3S and 17.03-3R. These policies contain objectives to strengthen and diversify the economy and ensure the availability of land for industry. This includes avoiding approving non-industrial uses that will prejudice the availability of land in identified industrial areas for future industrial use. Clause 17.03-2S also seeks to facilitate the operation of industry and contains strategies to minimise inter industry conflict and protect industrial activity in industrial zones from encourage of sensitive uses that would adversely affect industrial viability;

Clause 19.02-3S, Cultural Facilities has an objective to a develop strong cultural environment and increase access to other cultural facilities. It also encourages establishment of new facilities at locations well served by public transport. Clause 19.02-4S Social and cultural infrastructure, also

seeks to provide a fairer distribution and access to cultural infrastructure by encouraging its location to activity centres.

Local Planning Policy Framework

Within the Local Planning Policy Framework, the Municipal Strategic Statement and local policies reiterate themes in the Planning Policy framework.

Clause 21.01-03 Key Issues identifies the management of urban growth including urban pressures on the rural hinterland and the Western Port Green Wedge as a key issue facing the municipality. It goes on to highlight protection and sustainable use of agricultural and particularly land with soil that is of a high quality within the Western Port Green Wedge.

Clause 21.02-2 Environment seeks to recognise and protect the diverse landscape and areas of significant landscape value. It also recognises areas in the municipality are prone to bushfire and council's objective to minimise the potential risk to life, property and the environment.

Clause 21.04-4 Industry identifies key issues including to develop industry, manufacturing and service industries that provide services to local residents and businesses, supporting employment and a high standard of urban design. In terms of use, the policy seeks to:

- *Provide for limited retailing (restricted retail and trade supplies) in industrial areas along arterial roads provided the retailing activities do not conflict with nearby activity centres.*
- *Provide for office and research and development in association with industrial activities in appropriate locations.*
- *Encourage the establishment of industries which add value to local agricultural produce.*
- *Consider the establishment of rural industries in green wedges if they are directly related, or contribute, to agricultural production.*
- *Encourage the establishment of service industries in townships to meet the needs of local residents and to provide for local employment.*

Clause 21.05-6 Community service and facilities encourages community facilities to be established in the most accessible location for local residents having regard to their service catchment. It also encourages co-locate community and recreational facilities. Importantly, it highlights the need to facilitate the establishment of commercial activities (e.g.: medical practitioners) community based organisations (e.g.: churches) and early years services (i.e. 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.

Clause 22.05 Westernport Green Wedge Policy provides guidance and clear direction for preferred land uses in the area. An assessment on the suitability of proposals will consider rural issues such as any loss of productive agricultural land and impact to any existing rural activities.

Several particular and general provisions are required to be considered, as applicable.

The purpose of **Clause 51.02 Metropolitan green wedge land: Core Planning Provisions** includes:

- *To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values.*
- *To protect productive agricultural land from incompatible uses and development.*
- *To ensure that the scale of use is compatible with the non-urban character of metropolitan green wedge land.*
- *To encourage the location of urban activities in urban areas*

Clause 52.05 sets out requirements for onsite parking Pursuant to Table 1 of Clause 52.06-5 a car parking rate of 0.3 spaces per patron permitted is nominated for Places of Worship.

Clause 52.17 Native Vegetation is a statewide provision which requires a permit to remove, destroy or lop native vegetation, including dead native vegetation, unless an exemption applies which removes the permit requirements.

Clause 53.18 Stormwater management in urban development seeks to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat, and amenity benefits.

Clause 52.27 **Liquor License** refers to permit requirements relating to the selling of liquor.

Clause 52.29 **Land adjacent to the Principal Road Network** sets out the planning permit triggers if the proposal involves creating or altering access to principal roads.

Clause 52.34 Bicycle facilities provides bicycle parking rates for new developments and sets out design standards and signage requirements with respect to bicycle parking. The provision requires that one bicycle space be provided for every 1500 square metres of net floor area for employee and 2 plus 1 space to each 1500 square metres of net floor area for visitors.

The decision guidelines set out within Clause 65.01 and the following documents must also be considered as appropriate.

Incorporated / Reference / Policy Documents

- Melbourne Industrial and Commercial Land Use Plan (Department of Environment, Land, Water and Planning, 2020).
- Cardinia Western Port Green Wedge Management Plan (May 2017).
- Recommended separation distances for industrial residual air emissions (Publication 1518, Environment Protection Authority, March 2013)