

# **1 USE OF AN EXISTING BUILDING AS A PLACE OF WORSHIP AT 320 WATSON ROAD, PAKENHAM**

FILE REFERENCE INT175262

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## **RECOMMENDATION**

That a Refusal to Grant Planning Permit T140744 be issued the use and development of the land for a place of worship, business identification signage, car parking and associated earthworks at 320 Watson Road, Pakenham Victoria 3810

### **Attachments**

- |          |   |          |
|----------|---|----------|
| <b>1</b> | Locality plan                                       | 1 Page   |
| <b>2</b> | Layout plans of proposal                            | 3 Pages  |
| <b>3</b> | Copies of objections circulated to councillors only | 27 Pages |

### **EXECUTIVE SUMMARY:**

APPLICATION NO.: T140744

APPLICANT: Cultured House Designs

LAND: 320 Watson Road, Pakenham Victoria 3810

PROPOSAL: The use and development of the land for a place of worship, business identification signage, car parking and associated earthworks

PLANNING CONTROLS: Clause 35.04-1 Green Wedge Zone  
 Clause 35.04-5 Green Wedge Zone  
 Clause 44.04-1 Land Subject to Inundation Overlay  
 Clause 52.05-9 Advertising Signs  
 Clause 52.06-5 Car Parking

NOTIFICATION & OBJECTIONS: The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by sending notices to adjoining land owners and occupiers and placing a sign on site.

A total of 19 objections were received.

KEY PLANNING CONSIDERATIONS: Impact on the Green Wedge Zone  
 Inconsistent with the Cardinia Western Port Green Wedge Management Plan – Adopted July 2016  
 Increase in traffic during events  
 Car parking requirements  
 Visual amenity  
 Number of patrons

RECOMMENDATION: Refusal.

**BACKGROUND:**

There are no relevant planning permissions provided to the land.

**SUBJECT SITE:**

The subject site is located on the corner of McGregor Road and Watson Road, Pakenham, approximately 3 kilometres from the Princes Freeway to the north. The land size is approximately 4 hectares.

The site is located within a Green Wedge Zone with the Land Subject to Inundation Overlay on the property. The area surrounding the site is mainly used for agriculture uses and there are dwellings located within a 500 metre radius of the subject site

A crossover is located on Watson Road, with no access from McGregor Road. There are no easements that run through the subject site.

The site currently contains a dwelling and associated buildings. The site is cleared with planted vegetation along the southern and western boundaries with a few small planted scattered shrubs.

The topography of the land is flat.

The main characteristics of the surrounding area are:

- The area surrounding the subject site is mainly used for agricultural purposes. There are several dwellings located along McGregor Road and dwelling located immediately to the north of the subject site. As the area is mainly used for agricultural purposes, there is not much development other than dwellings, outbuilding and building associated with agricultural uses. Land is typically clear of vegetation There are watercourses located to the west and south of the subject site.

**PROPOSAL:**

The proposal is for the use and development of the land for a place of worship, business identification signage, car parking and associated earthworks. The development will take place in multiple stages, however the applicant is applying for stage 1. Any further stages will require a planning permit. Stage 1 includes the construction of the stupa, roofed verandah, office/library/kitchen building, two roundabouts, car parking area for 84 car parking spaces, internal accessways, advertising signage and two proposed gates at each entrance.

The intention of the application is to develop a place of worship so individuals can participate and learn about the Buddhist religion. It is expected that approximately 20-25 people will attend the site daily. There will also be approximately 3 events throughout the year which will have approximately 450 patrons.

The main access to the site would be from McGregor Road (unsealed road) and a secondary access would be from Watson Road (unsealed road).

**Use - Place of Worship**

The place of worship will be used as a Buddhist temple. The applicant has stated that there will be 3-4 monks residing at the existing residence on the site. There will be a maximum of 25 guest on site daily and a maximum of 450 guest during religious events.

The hours of daily operation are as follows:

Day	Time	Event	Max No. of Patrons
Daily	7:00am, 10:30am, 1:00pm	Food offering to monks	10
Weekdays	5:00pm – 8:45pm	Meditation session	20
Weekends	5:00pm – 8:45pm	Meditation session	25

### Building and Works (Stage 1)

Stage 1 of the construction will include the following structures.

#### *The Stupa*

The stupa will be located 57 metres from northern boundary and 130 metres from the western boundary. The stupa will be circular in shape and be 20 metres in width and have a maximum height of 15 metres. It is in the shape of a dome, with the maximum height of the dome being 9 metres with the tower extending to 15 metres.

#### *Office Building/Library/Kitchen*

The building will be located 51 metres from northern boundary and 47 metres from the western boundary. The building will be square in shape and contain library, meeting room, two dining rooms, kitchen, office and toilet facilities. *It will measure 21 metres by 21 metres and have a total height of 10.84 metres to the skylight.*

#### *Roofed Verandah*

The building will be located 94 metres from the northern boundary and 90 metres from the western boundary. *The verandah will be constructed in a circular shape and within the centre contain a 'Bo Tree'. It will be open sided, with a flat roof and have a maximum height 3.651 metres in height.*

#### *Sitting Buddha*

The sitting Buddha will be located north 15.5 metres directly north of the stupa. The Buddha will be within a roofed structure that will be 7.8 metres in height.

#### *Advertising Signage*

The signage will be located 12.5 metres from the north-eastern corner of the subject site. The sign will measure 3 metres in width and have a maximum height of 2.5 metres. The sign states 'BUDDHIST TEMPLE, MEDITATION CENTRE, 320 WATSON ROAD, PAKENHAM, VICTORIA, MAIN ENTRANCE, 6M' and will contain a picture of a sitting budda. The sign is proposed to be in the colour red terra with a timber frame.

#### *Car Parking and Access*

A crossover at 9 metres in width is proposed from McGregor Road and will be the main access to the subject site. The accessway splits into two lanes to allow for left and right turn lanes onto McGregor Road.

A second crossover is located from Watsons Road and is 5.5 metres in width. The second crossover accesses the dwelling and a car parking area containing 10 spaces.

Sliding gates will be constructed at both entrances, the wall adjacent to the gate will be constructed in brick and have a maximum height of 1.8 metres. The internal accessways will be 6 metres in width and to gain access to the car parking area, the two (2) main roundabouts, including the disabled car parking spaces. A gate is located along the private road and will prevent vehicle movement thru the site.

Stage 1 of the car parking area will contain 84 car parking spaces. A gravel footpath will be constructed to allow for pedestrians to move from the car parking area to the buildings within the site.

### *Buildings to be Retained On-site*

The following buildings will be retained on site:

- Dwelling – To be used as the monk’s residence.
- Sheds – For use as storage and a bicycle facility.
- Rotunda - Retained per owner’s/occupiers request.

### *Landscaping*

The plan details 20 different species that will be planted throughout the site. Taller vegetation will be planted along the McGregor Road and in certain areas along the Watson Road boundary.

### **State Planning Policy Framework (SPPF)**

The relevant clauses of the SPPF are:

- Clause 10.04 - Integrated decision making
- Clause 11.04-7 - Green wedges
- Clause 12.04 - Significant environment and landscapes
- Clause 13.02-1 - Floodplains
- Clause 14.01 - Agriculture
- Clause 15.01-1 - Cultural identity and neighbourhood character
- Clause 16.02-1 - Rural and residential Development
- Clause 18.02-5 - Car parking
- Clause 19.02-3 - Cultural facilities

### **Local Planning Policy Framework (LPPF)**

- Clause 21.01 - Cardinia Shire Key Issue and Strategic Vision
- Clause 21.01-1 - Municipal Strategic Statement
- Clause 21.04-2 - Agriculture

### **Relevant Particular/ General Provisions and relevant incorporated or reference documents**

The relevant provisions/ documents are:

- Clause 52.05 - Advertising Signs
- Clause 52.06 - Car Parking
- Clause 52.34 - Bicycle Facilities
- Clause 57 - Green Wedge Zone
- Clause 65 - Decision Guidelines
- Cardinia Western Port Green Wedge Management Plan – Adopted 2016

### **Zone**

The land is subject to the Green Wedge Zone-Schedule 1

### **Overlays**

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

### **PLANNING PERMIT TRIGGERS**

The proposal for the use and development of the land for a place of worship, car parking and advertising signage requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-1 Green Wedge Zone, a planning permit is required for the use of the land for a place of worship
- Pursuant to Clause 35.04-5 Green Wedge Zone, a planning permit is required to construct or carry out building and works associated with a Section 2 use (place of worship), earthworks,
- Pursuant to Clause 44.04-1 Land Subject to Inundation Overlay, a planning permit is required to construct a building or to construct or carry out works.
- Pursuant to Clause 52.05-9 Advertising Signs, a planning permit is required for business identification signage.
- Pursuant to Clause 52.06-5 Car Parking, a planning permit is required for a reduction in the number of car parking spaces.

## **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 a sign on site.

Council has received 19 objections to date.

The key issues that were raised in the objection/s is/are:

- Conflict with the purpose of the Green Wedge Zone and agricultural use of the area.
- McGregor Road is an unsealed road and potential noise and dust impacts.
- Visual impact on the existing landscape.
- Additional traffic on McGregor Road, which will make it an unsafe road to travel on.
- Health impacts of dust.
- The number of additional car parking spaces
- The number of people the site proposes.
- The proposal will cause amenity issues with surrounding properties.
- Intensity of the development and no buffer zones.
- Site capable of containing sewage treatment.
- Application not being advertised properly

## **REFERRALS**

### *Melbourne Water*

The application was referred to Melbourne Water as a statutory referral. Melbourne Water had no objection to the proposal.

## **DISCUSSION**

The proposal is for a place of worship (Buddhist Temple) that will operate on a daily basis with the maximum of 25 patrons on site at one time. There will be approximately 3 events per year with a maximum of 450 patrons on site. Buildings will be constructed on the site and be generally on the western half of the subject site and a car parking area is provided on the north eastern portion of the site. The existing dwelling and other shedding will remain on site. The dwelling will be a residence for the monks.

In the Green Wedge Zone, a planning permit is required to consider the use of the land for a place of worship. The application must be consistent with a number of policies in order to seek approval. There is no

opposition for places of worship within Green Wedge Zone, however places of worship must be located and developed that is consistent with policy.

The use and development would result in a transformation and an intensive non-agricultural use within the Green Wedge Zone. The overarching purpose of the Green Wedge zone is to provide for and protect green wedge land for its agriculture and rural landscape value. As such it is considered the proposal is inconsistent with the relevant State and Local Planning Policy Framework, zone and the Cardinia Western Port Green Wedge Management Plan.

#### **Clause 11.04-7, Green Wedges & Clause 21.04-2, Agriculture**

The State Planning Policy Framework (SPPF) provides for the protection of Melbourne's green wedge land from inappropriate development and the need to protect the valuable landscape and the agricultural productivity it provides. The SPPF also provides that development is required to be close to modes of transport and pedestrian access and car parking areas are to be designed appropriately. Growth within the green wedge should be linked to existing settlement and consistent with the relevant policy.

Green wedge land is usually larger lots and cheaper in cost than lots within the Urban Growth Boundary (UGB) or established residential areas, therefore attractive to accommodate the need for large religious groups and the like. As places of worship are a subject to planning approval in a green wedge zone, this provides an opportunity for religious groups to apply for places of worship. It is expected that more applications of this type will be seen in the future. Uses such as this are not evident within the Westernport green wedge area (refer to figure 1 for map of the Western Port Green Wedge). The impact of such uses create loss of agricultural land and have a long term effect on the agricultural value of the land. If the proposal were approved, it could have a 'domino effect' and lead to further uses that negatively impact on the Westernport green wedge area and its significance.

Figure 1



The objective of Clause 11.04-7, Green Wedges is to protect the green wedges of Metropolitan Melbourne from inappropriate development.

The relevant strategies of the Clause related to this application are:

- Ensure strategic planning and land management of each green wedge area to promote and encourage its key features and related values. This is supported by



- Support development in the green wedge that provides for environmental, economic and social benefits.
- Protecting important productive agricultural areas such as Werribee South, the Maribyrnong River flats, the Yarra Valley, Westernport and the Mornington Peninsula.

The green wedge contains significant agricultural values that are vital to Victoria's food source and is under pressure from urban type development that can lead to a fragmented landscape. The map (Figure 2) below shows the subject site in red which is surrounded by agricultural land. The area shown in blue is the urban growth boundary (UGB) detailing the limit to urban development. The subject site is surrounded by agricultural land and urban developments are non-existent. As the UGB is the limit to urban development, the subject site will be surrounded by agricultural land in the future and result in a fragmented landscape if the proposal were approved.

Figure 2.



The proposal is a permanent change of land use that will result in the loss of agricultural land which is contrary to strategy of the SPPF Clause 14.01-1, Protection of agricultural land. This is supported by Local Planning Policy Framework (LPPF) Clause 21.04-2, Agriculture states to protect agricultural land, particularly areas of high quality soils, from the intrusion of urban uses, inappropriate development and fragmentation which would lead to a reduction in agricultural viability, the erosion of the right of farmers to farm land, and ultimately the loss of land from agricultural production. The proposal does not support any agricultural activity on the land and of the surrounding areas. The proposal can impact on the surrounding agricultural land uses and the policy seeks to protect this land for inappropriate developments. The intention of this policy is to ensure that green wedges are not impacted by non-agricultural uses, but be protected and allow for uses that will encourage agricultural activity where appropriate and the proposal fails to adequately address this issue.

**Clause 35.04, Green Wedge Zone & Cardinia Western Port Green Wedge Management Plan – Adopted July 2016.**

*The purpose of the Green Wedge Zone is to:*

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To recognise, protect and conserve green wedge land for its agricultural, environmental historic, landscape, recreational and tourism opportunities, and mineral and stone resources.
- To encourage use and development that is consistent with sustainable land management practices.
- To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.
- To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.
- To protect and enhance the biodiversity of the area.

The majority of agricultural uses are as of right in a Green Wedge Zone. The impact of urban type developments can have a detrimental impact on the agricultural uses and the open landscape. Pursuant to Clause 35.04-1 of the Green Wedge Zone, a planning permit is required to use the land for a place of worship. While the use is allowed (subject to planning approval), the urban nature of the use can have a detrimental impact on the rural landscape, agricultural land and the effect of the 'right to farm' which is not consistent with the purpose of the zone.

The state and local planning policies or any zone, does not specifically encourage or discourage places of worship. Places of worship exist within non-residential zones, such as industrial and green wedge zones. However, it is encouraged to have this type of use within an established area and they must be located and developed in a manner that is consistent with policy.

The Cardinia Western Port Green Wedge Management Plan – Adopted July 2016, encourages that places of worship within a green wedge are located close to the UGB, at the transition point from urban to rural land, or within existing townships. As green wedges have opened up to contain a broader range of uses (i.e. places of worship), this must be controlled to allow for the non-agriculture based uses (i.e. places of worship) to a suitable area (i.e. near the UGB). The subject site is not within a township, located 3 kilometres from the Princes Freeway and 1 kilometre from the UGB, therefore not being in an appropriate location. The proposal would be more suitable if it were located along the UGB. (Refer to Figure 2 for UGB). It is apparent that the proposal is inconsistent the Green Wedge Zone and Cardinia Westernport Green Wedge Management Plan.

### **Buildings and Works**

The buildings and works associated with the proposal are considered to be large in this location and will impact on rural landscape. The topography in the area is relatively flat and with no prominent structures in the immediate area. Although rural areas can include large houses, sheds and structures associated with rural industry, it is considered the proposal will make a strong impact on the landscape character of the area. The structures are not designed to be compliment the rural landscape. The majority of the height of all structures within the site is approximately 10 metres, with the spire of the stupa extending to 15 metres. The proposal will be out of scale and form with structures that are typical of the rural landscape. It is understood that structures associated with a Buddhist temple have to be a certain requirement for the religious needs. Structures as this would be prominent in the rural landscape and as previously stated be better suite in the transition area along the UGB. Vegetation screening is proposed, however this should not be relied upon to resolve the visual impacts from the road and surrounding properties.

### **Number of Patrons, Traffic and Car Parking**

The maximum number of patrons on site during event days is 450, this will occur approximately 3 calendar days a year. On non-event days, a maximum of 25 patrons will be on the site. Clause 52.06, car parking requires 0.3 car parking spaces per patron. Based on 450 patrons, 135 spaces are required for the proposal to comply. The car parking area provides for 84 car parking spaces, with an additional 10 car parking spaces adjacent to the monk's residence, having a total of 94 car parking spaces on site. The subject site is more than adequate to provide the required number of spaces. The plan does not provide this detail, therefore falls below required 135 car parking spaces.



The majority of the objectors have concerns with is the additional vehicles on McGregor Road and the impact it will cause such as dust and road damage. The road is a public road, therefore the number of vehicles that can use the road daily can't be controlled. On event days, methods can be used to resolve traffic concerns. Dust suppression methods, such as water spraying can be used to deal with issue of dust.

Considering the issues above, if a permit were approved conditions will be included to ensure the proposal can satisfy the required number of car parking spaces, a traffic management plan is required guaranteeing on event days' traffic is managed to Councils satisfaction and dust suppression methods are implemented.

### Objectors Concerns

A number of the objector's concerns have been addressed in the discussion of the application above. The following issues from objections have not been addressed:

- The noise impacts on the surrounding area – If a permit were approved, a condition will be included to ensure the proposal complies with the relevant EPA noise level requirements.
- The proposal is not considered to be an intensive development. During normal days, only 25 patrons will be attending the site and this is not considered to be intensive. It is understood from the objectors' view that on the event days, there will be a high amount of vehicle traffic which is uncharacteristic of the area and could be intensive. The issue with vehicle travel will be dealt thru a Traffic Management Plan if the proposal is approved.
- There are no established requirements in regards to the buffer zones for places of worship or the like.
- The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. The application was advertised to a wider range of properties as the proposal may propose material detriment to large area.

### CONCLUSION

It is a difficult balance to find an appropriate site that will be able to accommodate the needs of the place of worship. The subject site is considered an inappropriate location as it is located away from the UGB. The surrounding agricultural landscape will be fragmented resulting in impacting the agricultural value of the area. Lastly the proposal has the potential to create a pathway for future applications that would be similar. If the applications of this type are not located appropriately within green wedge areas, the result will be detrimental to the purpose of green wedge areas.

In conclusion, the subject site is considered to be inappropriate for the use and development and has failed to responds to the SPPF, LPPF, zone and the Cardinia Westernport Green Wedge Management plan. It is recommended that a Refusal to Grant Planning Permit T140744 be issued for the use and development of the land for a place of worship, business identification signage, car parking and associated earthworks at 320 Watson Road, Pakenham Victoria 3810 on the following grounds:

1. The proposal is fails to adequately satisfy Clause 11.04-7, Green Wedges (SPPF)
2. The proposal is fails to adequately satisfy 21.04-2 Agriculture (LPPF)
3. The proposal is inconsistent with the purpose of Clause 35.04, Green Wedge Zone (Zone)
4. The proposal does not comply with the car parking requirements of Clause 52.06-8 (Particular Provision)
5. The proposal is inconsistent with Cardinia Western Port Green Wedge Management Plan – Adopted July 2016.

### Locality Plan - 320 Watson Road, Pakenham









