

## **2 CONSTRUCTION OF AN ALDI SUPERMARKET, SALE OF PACKAGED LIQUOR AND ASSOCIATED CAR PARKING AT 77-79 & 81 HENRY STREET, PAKENHAM**

FILE REFERENCE INT194605

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T180415 be issued for the Construction of an ALDI supermarket, sale of packaged liquor and associated car parking and landscaping and the display of business identification signage at 77-79 & 81 Henry Street, Pakenham subject to reasons in this report

### **Attachments**

1	Locality Map	1 Page
2	Development Plans	5 Pages
3	Copy of Objections - Circulated to Councillors only	3 Pages

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T180415
APPLICANT:	Mr Josh Maitland
LAND:	77-79 & 81 Henry Street, Pakenham VIC 3810
PROPOSAL:	Construction of an ALDI supermarket, sale of packaged liquor and associated car parking and landscaping and the display of business identification signage.
PLANNING CONTROLS:	Commercial 1 ZOne Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	Pursuant to Section 55 of the <i>Planning and Environment Act 1989</i> , the application was advertised by the placing of two signs on site and notices in the mail to adjoining property owners.  Two (2) objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Buildings and works, urban design, car parking, objectors concerns
RECOMMENDATION:	Refusal

### **BACKGROUND:**

This application seeks approval for the construction of an ALDI supermarket, sale of packaged liquor and associated car parking and landscaping and the display of business identification signage. Prior to the

submission of the application a pre-application meeting was held at the Council Officers with the applicant. Plans provided at the meeting were forwarded to various internal departments for comment.

The application was submitted on 10 July 2018 and after a period of consultation between internal departments and the applicant, the application was advertised on the 20 September 2018. The application received two objections.

The applicant lodged a 'Failure to Determine' with VCAT as the application was not determined with the statutory 60 days and the application is due for a compulsory conference on the 15 February 2019 and a full hearing on 3 April 2019. One of the objectors has submitted their Statement of Grounds and will be a party to the proceedings.

### SUBJECT SITE

The subject site is located on the southern side of Henry Street at No's 77-79 and 81, opposite King Street and approximately 40 metres east of Cooke Drive, Pakenham. The site is made up of three (3) lots known as Lot 1 & 2 on LP83481 and Lot 3 on LP76813. The site is irregularly shaped, with a frontage to Henry Street to the north of approximately 60 metres, an eastern boundary of approximately 80 metres, a southern boundary of approximately 95 metres and an eastern boundary of approximately 110 metres. On the eastern boundary there is an abuttal to Cook Drive with a street frontage of approximately 25 metres. The overall area of the site is approximately 6.4ha.

The site currently contains an informal gravel car park, a steel shed with an area of approximately 190 square metres and a dwelling at No. 81 Henry Street. The dwelling is a single story detached dwelling with various outbuildings in the rear yard. There are a number of exotic trees within the front and rear yards. The topography of the land is flat. Vehicular access is provided to the site via three crossovers along Henry Street and one to Cook Drive.

The site shares boundaries with eight other properties consisting of the following:

- To the east of the subject site are four single storey, semi-detached units which share a common access to Henry Street to the east of the buildings. Each has a small area of secluded private open space along the shared boundary. There is limited vegetation across all of the units.
- To the south of the units, also sharing the eastern boundary is a vacant lot with an area of approximately 1000 square metres.
- To the south of the subject site there are three properties. On the eastern side is an informal carpark/storage area associated with a building materials recycling business.
- The other two lots to the south consist of a medical centre and office building with associated car parks to the rear, along the shared boundary.
- To the west of the site is a two storey office block with associated car park to the rear, along the shared property boundary.

The main characteristics of the surrounding area are:

- The site is located on the eastern side of the Pakenham Major Activity Centre.
- To the west of the subject site is the commercial centre of Pakenham with the shopping strips along Main Street and John Street as well as the shopping centres accessed off Treloar Lane and Drake Place.
- Pakenham Railway station is located approximately 200 metres away to the south of the site.
- To the east and north east of the site the land is predominately residential land with extensive redevelopment of the old Pakenham Racecourse underway for medium and high density development.
- To the north of the subject site is a medium density residential development consisting of single dwellings, units, age care and retirement villages.
- Henry Street serves as a major access road to the township from both Princess Highway and Racecourse Road.

## PROPOSAL

This application is seeking approval for the construction of an ALDI supermarket, sale of packaged liquor and associated car parking, landscaping and signage. The proposal can be described as follows:

### Buildings and works:

- The ALDI supermarket will be constructed towards the north western side of the site, closest to the Henry Street frontage. The supermarket will generally be rectangular in shape and will match the 'standard' ALDI layout. The car park will wrap around the eastern and southern elevation and will commence at Henry Street and continue around the building to the Cook Drive street abuttal.
- The pedestrian entry to the supermarket will be located towards the centre of the site on the south eastern corner of the building.
- The building will have an overall length of 60.8 metres and a width of 31.2 metres. The overall area of the building will be 1685 square metres. Of this, 1186 square metres will be retail space and 448 square metres will be allocated to 'Back of House' and amenities.
- The maximum height of the building will be 8.6 metres above natural ground height.
- The northern elevation of the building will consist of a 3 metre high wall obscuring the view of the loading bay from the north. Landscaping is proposed in front of the wall to soften its appearance.
- The east elevation of the site will front the car park and will have a wall height of approximately 6.2 metres above natural ground level. The wall will have highlight windows located under an awning and sunshade structure. There will be one glass panel at the southern end of the building associated with the entrance to the building.
- The southern elevation will incorporate the entry of the building and will be mostly clear glazing under the awning. The entry will be on the south eastern corner.
- The western elevation will face the car park of the adjoining office buildings off Cook Drive. There will be no public access along this elevation however a walk way will provide access for maintenance. The wall will be approximately 6.4 metres above natural ground level.
- A truck loading bay is proposed at northern elevation of the building access off Henry Street.

### Parking and loading

- The proposed car park for the supermarket runs along the eastern and western side of the site. There is a small almost separated section on the southernmost portion of the site where the lots extends to the rear of the medical centre at 34 Station Street.
- Access is gained from a two way double crossover on Henry Street and Cook Drive.
- At the northern end of the car park access is provided to the truck loading bay and rubbish compactor.
- A landscaping border is provided along all the external edges of the carpark along the shared property boundaries. The addition of some canopy trees has been made throughout the landscaped areas.
- 99 car spaces have been provided with two disabled spaces included within close proximity of the entry.

### Signage

A number of signs are proposed as follows:

- Two internally illuminated business identification signs, 2.4 x 2 metres, located on the southern and western elevations of the southern tower.
- Three internally illuminated business identification signs, 2.4 x 2 metres, located on the north, east and western elevations of the northern tower.
- One internally illuminated Pylon sign, 2.4 x 2 metres, located at the Cook Drive entrance. The overall height of the sign will be 5.4 metres above natural ground level.
- One internally illuminated Pylon sign, 2.4 x 2 metres, located at the Henry Street entrance. The overall height of the sign will be 5.4 metres above natural ground level.
- One externally illuminated wall mounted graphic sign on the southern elevation, 3 x 7 metres.

- One free standing digital display box located on the eastern side of the building adjacent to the entrance, 1.2 x 0.6 metres.

The internally illuminated signage will be by on during business hours and will switch off automatically at closing time.

#### Liquor licence

This application includes the sale of packaged liquor. A red line plan has been provided which identifies a small cordoned area close to the registers where the alcohol will be displayed and sold.

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 11 – Settlement
- Clause 15 – Built Environment and Heritage
- Clause 17 – Economic Development

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

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues
- 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 - Advertising signs
- Clause 52.06 - Car parking
- Clause 52.27 - Liquor Licence
- Clause 52.34 - Bicycle facilities
- Pakenham Structure plan (March 2017)
- Pakenham Town Centre Urban Design Framework (2004)

### **Cardinia Shire's Liveability Plan 2017-2029**

This proposal has regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- Improved safety due to the appropriately designed car parking facilities which will readily be able to be utilised with risk of traffic and pedestrian conflict.

- Reduce obesity due to the connectivity to the local services and proximity to public transport and footpath networks.
- Reduce financial vulnerability due to the jobs which will be generated to construct and then operate the Supermarket.

### Zone

The land is subject to the **Commercial 1 Zone**.

### Overlays

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

### PLANNING PERMIT TRIGGERS

The proposal for the construction of an ALDI supermarket, sale of packaged liquor and associated car parking, landscaping and display of business identification signage requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 34.01-4, 'Commercial 1 Zone' a planning permit is required to construct a building or construct or carry out works.
- Pursuant to Clause 52.05, 'Advertising Signs' a planning permit is required for Business Identification Signage greater than 8 square metres, internally illuminated signage greater than 1.5 square metres in total and for pole signs.
- Pursuant to Clause 52.27, 'Licenced Premises' a planning permit is required to use land to sell liquor.

### 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 two (2) signs on site

Council has received two objections to date.

The key issues that were raised in the objections are:

- Henry Street is considered an Orbital Road within the Pakenham Major Activity Centre. If this loading bay goes ahead in its present position the Orbital Road from Slattery Place to John Street will close off the majority of access to this centre. The Aldi construction should be "flipped" so the entrance can open up to Henry St giving it far more access and appeal.
- The loading bay is too close to the residences at 81-83 Henry St and further residences on the opposite side of the road. This would result in an unreasonable impact on the amenity due to the noise of the heavy vehicles.
- The proposal is contrary to the Pakenham Precinct Structure Plan (Pakenham SP), 2017 which it states is the primary tool to guide Council's Decision making on planning matters and in the planning of works to improve the amenity of Pakenham Activity Centre (Pakenham AC).

- The Pakenham SP identifies the subject site within Precinct 2 – Station Street. The site occupies a significant majority of this precinct. The proposal is contrary to the objective to which is to, “provide a street orientated mixed use development that will have a multi-level higher density housing and employment opportunities to maximise the sites proximity to public transport, the core retail area and community facilities.”
- The proposed building does not deliver active frontages, as sort by the Structure Plan.
- The building will extend and disburse the retail core and does not deliver an adequate visual and physical connection to it.

An assessment of the objectors concerns is provided in the assessment section of this report.

## REFERRALS

### Melbourne Water

The application was referred to Melbourne Water for comment. Melbourne Water did not provide any response to the proposal.

## DISCUSSION

### State Planning Policy

This proposal is consistent with Clause 11.03-1S, ‘Activity Centres’ which encourages the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. The subject site is located on the eastern edge of the retail precinct and within close proximity to public transport (Pakenham Train Station) as well as established and to be constructed, high density residential development to the east and north of the site. The proposal also aligns with the strategies of Clause 11.02-1, ‘Supply of Urban Land’ which include the objective to consider opportunities for the consolidation, redevelopment and intensification of existing urban land. The proposal will utilise a number of currently underdeveloped lots and a residential lot with a single dwelling, to bring a major retailer to the centre of Pakenham. This is a good outcome in activating the underutilised site.

The objective of Clause 15.01-2, ‘Building design’ is to achieve building design outcomes that contribute positively to the local context and enhance the public realm. While the overall proposal to construct an ALDI Supermarket at the subject site is supported, it is considered that the design unfortunately fails to provide an appropriate design outcome.

The closest street frontage for the building is Henry Street, which is a significant access road into Pakenham, it will have the truck loading bay as the dominate feature from the public realm. The entry to the store will be inward facing in the centre of the site. This layout misses the opportunity to provide an attractive activated frontage that would be worthy of a town entry and consistent with other ALDI stores such as the Beaconsfield store. With the majority of the nearby residential development in the area being east and north east of the subject site, it is expected that there will be a high level of pedestrian traffic approaching the store. Despite the wall and landscaping proposed to obscure the lowered loading bay, the area will be very obvious from this perspective. It is also considered that the design will not enhance the public realm of the street and neighbouring dwellings on the opposite side of Henry Street. It is considered that a simple solution to this poor design outcome would be to flip the building to bring the entry to the henry street frontage. This is discussed in more detail further in the report.

The proposal is consistent with the objective of Clause 17.02-1S, ‘Business’ which encourages development which meets the community’s needs for retail, entertainment, office and other commercial services. The proposal meets a number of the strategies of this clause such as locating commercial facilities in existing activity centres.

### Local Planning Policy



The proposal responds positively to Clause 21.01 – ‘Cardinia Shire Key Issues’ in relation to economic development in that the ALDI supermarket will contribute to the development of a balanced local economy and local employment opportunities for residents. Unfortunately the development does not respond so well in relation to particular use and development which seeks to encourage an attractive, functional and sustainable built form in existing and future development. While the basic detailed design of the building is perfectly acceptable and consistent with other ALDI’s, its’ failure to address Henry Street with active frontage and the locating of the loading bay in at the main frontage of the site is not consistent with this objective. This report provides more detail of this issue and a possible solution further in the discussion.

As stated previously the proposal is consistent with policies related to economic development and employment and this is re-enforced in the objectives of Clause 21.04 – ‘Economic Development’ which aim to develop diverse local employment opportunities to meet the needs of a growing residential population.

Clause 21.06 – Particular uses and development provides local content to support Clause 15.01 (Urban Environment) of the State Planning Policy Framework. Objective 1 of the clause is to promote a high standard of design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety. One of the strategies is to ensure that all development takes into account the character and constraints of the site and wider area. Another is to ensure new development is designed to address public spaces and enhance the public realm. It is considered that the orientation of the entrance of the supermarket towards the inside of the site and the location of the truck loading bay along the Henry Street frontage does not align with these important strategies. With the intensification of residential development within very close proximity to the site in the north and east, many people will be accessing the site on foot from those direction and their approach to this site will be dominated by an unattractive, typically rear service area. This is a major short coming for a supermarket and there are many examples of better design which has strongly contributed to this objective such as the ALDI in Beaconsfield. This supermarket can be well identified from quite a distance and provides a welcoming and activated frontage to Princes Highway.

The implementation Clause 21.06 is through relevant policies such as the Pakenham Precinct Structure Plan.

### **Commercial 1 Zone**

The subject site is located with the Commercial 1 Zone. Pursuant to Clause 34.01.1, the Use of the land for a Supermarket is a Section 1 Use and therefore does not require a permit. Pursuant to Clause 32.01-4 a permit is required for Buildings and Works.

The purpose of the Commercial 1 Zone includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

The following decision guidelines as outline at Clause 34.01-8 are relevant to this application and are required to be considered before deciding on an application for buildings and works.

### **General**

- The Municipal Planning Strategy and the Planning Policy Framework.
- The interface with adjoining zones, especially the relationship with residential areas.

### **Building and works**

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of

buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.

- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The impact of overshadowing on existing rooftop solar energy facilities on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The availability of and connection to services.
- The design of buildings to provide for solar access.

While it is recognised that the use of the land for a Supermarket does not require a permit, the buildings and works do require consideration. Further, the addition of an ALDI to the Pakenham Township is supported and support for the proposal has been conveyed to the applicant right from pre-application meetings and through the assessment process.

Overall it is considered that the proposal responds well to the relevant decision guidelines in that the location of the building does take advantage of existing infrastructure and services. The site is well located at the eastern edge of the retail precinct, is close to public transport and will also service the ever growing residential development in the area, particularly to the north and east.

In regards to the decision guidelines above the development will be connected to the exiting street network and will provide good pedestrian, vehicular and service transport access. The site has also provided appropriate car parking with more spaces provided than the statutory requirement.

Adequate space has been provided for the storage of rubbish and recycling and the areas set aside for landscaping will be easily managed and maintained by the owners of the land. The development is unlikely to have any negative amenity impacts on the adjoining residential land. The setback from the eastern boundary, where the nearest residential development is located, is sufficient to ensure that there will not be any overshadowing and the single story nature of the development means that there would not be any overlooking into neighbouring areas of secluded private open space.

The design of the building has incorporated highlight windows along the eastern elevation to allow natural light, however these are located under the awning and sunshade structure so it is unclear how effective these will be. The southern elevation which has the entry to the building is mostly clear glazing and will allow some natural light however as this is on the south side of the building, this too will be limited.

As outlined above the building successfully responds to the majority of decision guidelines, however there is a significant issue which needs to be addressed.

The layout of the building is such that the entry to the building is internally orientated towards the car park. The entry in the south east corner of the building would be in the middle of the carpark which is an inverted L shape. The northern elevation of the building contains the truck loading bay and rubbish facilities. This area is screened from the Henry Street frontage by means of a three metre high wall setback by approximately 3 metres from the road reserve. Some landscaping is proposed to soften the built form of the wall from the Henry Street streetscape and surrounding public realm.

It is considered that this is an inappropriate design outcome and is not consistent with the decision guideline which requires consideration of the streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.

It is considered that flipping the building to bring the entry to the northern elevation along Henry Street would be the best option to improve this outcome. Extensive investigation has been undertaken by Councils Urban designers and engineers to determine whether this objective can be achieved without compromising the



useability of the building or the access and egress of vehicles and delivery and waste trucks. It was found that the building could be reorientated without any perceived issues. More discussion of this matter is provided further in the report.

### Overlay

While the subject site is located in an area covered by the Development Contributions Overlay – Schedule 1, no residential uses are excluded from the contribution requirements. Therefore the proposal does not require assessment against this overlay.

### Car parking and bicycle spaces

Pursuant to Clause 52.06-2, 'Provision of car spaces', before a new use commences the number of car spaces under Clause 52.06-5 must be provided to the satisfaction of the Responsible Authority.

Pursuant to the table at Clause 52.06-5 a supermarket requires the provision of 5 spaces to each 100 square metres of leasable floor area. As the leasable floor area proposed is 1,685 square metres, 84 spaces are required. The proposal easily meets this requirement with 99 spaces shown on the plans. Of these spaces two compliant disabled spaces have been provided along alongside the entry.

The design and access ways of the car park all meets the requirements and has been reviewed by Council's traffic engineers. Turning diagrams were provided with the application which demonstrate that the manoeuvrability of trucks entering and exiting the site, as well as within the site, will be appropriate and workable.

In addition to the car parking provision Clause 52.34, 'Bicycle Facilities' require that an appropriate number of bicycle spaces are provided. In this instance that proposal required the provision of 6 spaces, 3 for employees and 3 for customers. A change room is also required to be provided for staff. All of these elements have been provided in an appropriate location shown on the plans.

### Signage

The application proposes the display of 9 business identification signs, mostly internally illuminated, associated with the ALDI Supermarket. The signs are typical of the ALDI design and logo.

The purpose of Clause 52.05 includes:

- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Clause 52.05-8 sets out a number of decision guidelines required to be considered in deciding on an application for the display of signage. The proposed signage has been reviewed and is considered to be appropriate for this type of business in this location. It is consistent with what is seen on other ALDI store around Victoria and is typical of what is expected in a commercial precinct.

While the majority of the signs are internally or externally illuminated, they are only switched on during business hours. The signs are illuminated through light meters in the afternoon and switch off at closing time. The level of illumination proposed is unlikely to present any amenity issues to the surrounding properties. Any external light of signs would be required to be baffled so as not to cause light spill onto adjoining land.

The proposed signage is considered to be consistent with the scale of the building and will not dominate the streetscape or obscure any important vistas or views. Finally it is considered that the signage will not impact on traffic or pedestrian safety. There are no traffic lights or traffic control devices which could be impacted or confused with the signs.

### Urban Design

The subject site is located within the Precinct 4: Station Street and Mixed Use Precinct of the draft Pakenham Activity Centre Urban Design Framework 2018. This document has been endorsed by Council and is a seriously entertained document which will be a reference document to the draft Pakenham Activity Centre Structure Plan 2018, currently with the Minister for authorisation.

This precinct has been identified as one of the primary entrances to the town centre for visitors arriving via the new connector road of Henry Street or from the train station. The preferred future character of the precinct is to provide a mixed use area that supports commercial and residential uses and is a transition from the higher intensity development of the Retail Core Precinct and fully residential areas further from the centre. The master plan for the precinct clearly indicates that built form should be orientated to the street network and present active frontages behind a landscape setback directly to any street. Built form is to be sympathetic to the original residential streetscape of the area and also represent the transition to a commercial area. Building frontages addressing a street are to be highly activated with entrances and windows as the predominant elements of these facades. The car parking and servicing of new development in the precinct is to be screened from the public realm i.e. the street by built form and therefore not located along an interface with a street.

The proposed development clearly does not meet the requirements of the Urban Design Framework and will result in a very poor built form outcome for the Activity Centre, an issue that is compounded by the fact that the location of the site is on a key new gateway to the activity centre.

As stated earlier in the report, these issues were raised with the applicant and various efforts were made to encourage a redesign of the proposal that would address these concerns. The obvious solution was to flip the building so that the Supermarket entry would be located along Henry Street to provide the active frontage as required. This was found to be quite possible and in such a manner that didn't reduce or change in any way the layout or the area of the floor plan of the Supermarket. Concerns were raised by the applicant that the suggested layout would not allow truck deliveries to the site, so the alternative design was forward to an external traffic consultant by Council to determine the feasibility. The traffic engineer provided a revised set of traffic turning templates that demonstrated that the preferred layout would work. While it would result in the loss of some car parking spaces the development had provided a surplus of 15 spaces. It is considered that any loss of the surplus spaces was certainly worth the far improved urban design outcome. It is considered that the Supermarket would still have a surplus of spaces with the change.

### Clause 65.01 – Decision Guidelines – Approval of an application or plan

As discussed in the previous sections of the report, the development of the ALDI Supermarket is broadly supported. However for the reasons outlined in relation to the poor urban design outcome, it is considered that the development cannot be supported. In relation to the decision guidelines listed at Clause 65, it is considered that the development does not represent the orderly planning of the area in that the development will not provide active frontage to the key street frontage and public realm of Henry Street. This is a strong objective of various policies as outlined in the previous discussion. Overall the development is likely to have an impact on the visual amenity of the area through the siting of the truck loading bay, an outcome which could easily be avoided through flipping the building.

### Objections

Two objections were received to the application. One of the objectors, who is a resident of one of the adjoining lots, had reviewed the advertised documents which contain the discussion of Council feedback and recommendation to flip the layout of the supermarket. They agreed with this recommendation.

The other objection also raised similar concerns with the layout of the building and the lack of an active frontage, but also considered that the development would extend and disburse the retail core and does not deliver an adequate visual and physical connection to it.

The objector went on to state that the site occupies a significant majority of the Station Street Precinct of the Pakenham SP and that the development did not provide the street orientated mixed use development that will have a multi-level higher density housing and employment opportunities to maximise the sites proximity to public transport, the core retail area and community facilities. While these concerns do reflect the intention of the Structure Plan, it is considered that a well-designed supermarket would be a suitable outcome at the site and that there are areas of the site that would be potentially available for further redevelopment in the future.

## CONCLUSION

This application has been assessed against the relevant objectives and decision guidelines of the Cardinia Planning Scheme particularly as they relate to urban design and commercial development. It is considered that the development, while supported in principal, does not result in an acceptable design outcome at the site. While there is considered to be an acceptable redesign that would be supported, repeated discussion with the applicant has failed to achieve the desired outcome. It is considered that the change to the development is too significant to be required as a condition of a permit, due to changing the proposal without further community consideration, and therefore it is recommended that the application cannot be supported and a refusal to grant a permit be issued on the grounds listed at the start of the report.

It is recommended that Councils position at the Failure to Determine appeal to VCAT be to Refuse to Grant Planning Permit **T180415** for the **Construction of an ALDI supermarket, sale of packaged liquor and associated car parking and landscaping and the display of business identification signage at 77-79 & 81 Henry Street, Pakenham VIC 3810** on the following grounds:

1. The development is inconsistent with the objective of Clause 15.01-2S, Building Design, of the Cardinia Planning Scheme in that it does not achieve a building design outcome that contributes positively to the local context and enhances the public realm.
2. The development does not achieve the objective of the strategies of Clause 15.01-2S, which includes ensuring the development responds and contributes to the strategic and cultural context of its location, minimises the detrimental impact of development on neighbouring properties and the public realm and ensures the form, scale and appearance of the development enhances the function and amenity of the public realm.
3. The proposal does not adequately respond to one of the 'Key Issues' of Clause 21.01-3 of the Cardinia Shire Key Issues and Strategic Vision of the Municipal Strategic Statement, which is to encourage an attractive, functional and sustainable built form in existing and future development.
4. The proposal is inconsistent with the strategies and objective 1 of Clause 21.06, Particular uses and development in that it does not provide a high standard of design which creates a strong character and identity for the area.
5. The proposal is contrary to the Pakenham Precinct Structure Plan (Pakenham SP), 2017 in particular the objective to which is to, "provide a street orientated mixed use development that will have a multi-level higher density housing and employment opportunities to maximise the sites proximity to public transport, the core retail area and community facilities." The proposed building does not deliver active frontages, as sort by the Structure Plan.
6. The proposal is not consistent with the decision guidelines of Clause 65.01 Approval of an application or Plan as it does not represent orderly planning of the area and is likely to impact on the visual amenity of the area.

















