



# Cardinia

**MINUTES OF TOWN PLANNING COMMITTEE**

**MONDAY, 4 FEBRUARY 2019**

## MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer  
on Monday, 4 February 2019  
The meeting commenced at 7:00 pm

**PRESENT:** Mayor, Graeme Moore, Chairman  
  
Councillors Michael Schilling, Carol Ryan, Collin Ross, Ray Brown, Jeff  
Springfield, Leticia Wilmot, Brett Owen  
  
Messrs Carol Jeffs (CEO), Debbie Tyson (GMAS), Jack Coogan (GO)

**APOLOGIES:** Councillor Jodie Owen

**DECLARATION OF PECUNIARY AND OTHER INTERESTS**  
Nil.

## TABLE OF CONTENTS

1.	USE AND DEVELOPMENT OF THE LAND (EXISTING BUILDING) FOR A CHILD CARE CENTRE AT 34-35 RAILWAY AVENUE, BUNYIP.....	3
2.	CONSTRUCTION OF AN ALDI SUPERMARKET, SALE OF PACKAGED LIQOUR AND ASSOCIATED CAR PARKING AT 77-79 & 81 HENRY STREET, PAKENHAM.....	33
3.	PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS) .....	54
4.	PLANNING SCHEME AMENDMENT ACTIVITY REPORT .....	58
5.	PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY .....	63
6.	PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES .....	72

# **1 USE AND DEVELOPMENT OF THE LAND (EXISTING BUILDING) FOR A CHILD CARE CENTRE AT 34-35 RAILWAY AVENUE, BUNYIP**

FILE REFERENCE INT194595

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Evangeline McGauley-Kennedy

## **RECOMMENDATION**

That a Notice of Decision to Grant Planning Permit T180627 be issued for the development and use of the existing building for a child care centre at 34-35 Railway Avenue, Bunyip VIC 3815 subject to the conditions attached to this report.

## **Attachments**

<b>1</b>	Locality Map	1 Page
<b>2</b>	Development Plans	5 Pages
<b>3</b>	Copy of Objections - Circulated to Councillors only	10 Pages

## **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T180627
APPLICANT:	William Heseltine
LAND:	34-35 Railway Avenue, Bunyip VIC 3815
PROPOSAL:	Use and development of the land (existing building) for a Child Care Centre
PLANNING CONTROLS:	General Residential Zone – Schedule 1 Bushfire Management 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 a sign on site and notices in the mail to adjoining property owners.  Five (5) objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Car parking, appropriate land use, providing for education and community facilities.
RECOMMENDATION:	Approval

## **BACKGROUND:**

The subject site is located on the northern side of Railway Avenue, approximately 700 metres to the west of Main Street, Bunyip. The site currently contains a single storey, yellow-brick veneer dwelling which is constructed over both allotments, with a circular driveway providing access via two (2) crossovers at either

end of the property frontage. The site was created on Plan of Subdivision 005888 on 8 May 1970, and has previously been used for both residential (dwelling) and non-residential uses, including being most recently used as a Masonic Hall, which ceased operation in 2016.

The Planning Permit history of the site includes Planning Permit T130520 which was issued for the erection of a property identification sign (associated with the use of the land for a Masonic Hall) on 14 November 2013.

## SUBJECT SITE



The site is located on the northern side of Railway Avenue.

Two (2) crossovers are located at either end of the street frontage. There are no easements located within the title boundaries.

The site currently contains a single storey brick dwelling, small outbuilding, a circular driveway and some scattered vegetation.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- North: Directly north of the site is a large allotment which currently contains the future residential subdivision 'Bunyip Meadows' approved by Planning Permit T041069 which was issued on 7 March 2007. Once completed this subdivision will add a further 136 lots within the immediate vicinity of the subject site.
- South: Directly south of the site is Railway Avenue. Further south is the Bairnsdale Railway Line, Pound Road Bushland Reserve, Bunyip Primary School and large agricultural allotments.
- East: Directly east of the site is 33 Railway Avenue which is a similarly sized allotment currently containing a single dwelling, outbuilding and scattered vegetation and gardens. Further east are other similarly sized allotments containing dwellings and outbuildings. Bunyip Town Centre and Main Street are also located approximately 700 metres to the east of the subject site.

- West: Directly west of the site is 36 Railway Avenue, which is also a similarly sized allotment containing a single dwelling and outbuilding. Further west are a number of other residential allotments and larger parcels of agricultural land. Garfield Town centre is also located approximately 2.8 kilometres to the west of the subject site.

## PROPOSAL

Approval is sought for the use and development of the existing building for a Childcare Centre. The application being made is largely for the use of the land for a Childcare Centre, with some minor works being required on the existing building in order to retrofit it for this use.

### Proposed buildings and works:

The floor area of the existing building will remain relatively unchanged. The buildings and works required include updates to the façade of the building and a small addition to the rear of the existing building. These updates include the replacement of the existing tile roof with a corrugated Colorbond steel roof in 'Dune', rendering of the existing face brickwork in 'Paperbark', addition of weatherboard cladding in 'Paperbark', the replacement of guttering and window frames with Colorbond in 'Monument' and the addition of a Fieldstone feature wall to the entrance of the building.

The internal layout of the building will also be altered to cater for the different spaces required for each age group of children. The existing back yard area will be utilised for a secure outdoor play space for the children.

Building works will also include the paving and landscaping of the proposed car parking area to the front of the site and upgrades to the existing crossovers. A total of twenty (20) car spaces have been provided within the front setback, including one (1) disabled space and two (2) designated staff spaces.

### Proposed use:

The centre is proposed to cater for ninety (90) children predominately under the age of five at any one time. This will include children ranging from infants and babies, to toddlers, up to pre-primary school aged children.

The centre will include three (3) main area's (baby room, toddler rooms and children rooms). The centre will be open between 6am and 6.30pm and will operate Monday to Friday.

## PLANNING SCHEME PROVISIONS

### State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 13.02-1 Bushfire Planning
- Clause 13.07-1 Land Use Compatibility
- Clause 15.01-4S Healthy Neighbourhoods
- Clause 15.01-6S Design for rural areas
- Clause 17.01 Employment
- Clause 19.02-2S Education facilities

### Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-4 Wildfire management
- Clause 21.03-3 Rural townships
- Clause 21.04-1 Employment
- Clause 21.06-1 Design and built form

- Clause 21.05–6 Community services and facilities

### 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 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Clause 21.07-6 Bunyip Township Strategy

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

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

- *Improved Social Cohesion*
- *Reduce financial vulnerability*

### Zone

The land is subject to the **General Residential Zone – Schedule 1**

### Overlays

The land is subject to the following overlays:

- Bushfire Management Overlay – Schedule 1

### PLANNING PERMIT TRIGGERS

The proposal for the **use and development of the land (existing building) for a Child Care Centre** requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required for the use of the land for a Section 2 Use (Child Care Centre).
- Pursuant to Clause 32.08-8 of the General Residential Zone a planning permit is required to construct a building or construct or carry out works associated with a Section 2 Use (Child Care Centre).
- Pursuant to Clause 44.06-2 of the Bushfire Management Overlay a planning permit is required to construct or carry out works associated with a Child Care Centre.

### 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 five (5) objections to date.

The key issues that were raised in the objections are:

- Increased traffic and congestion issues;
- Impacts increased traffic will have to wildlife (particular Southern Brown Bandicoot);
- Child safety (potential for snakes and other wildlife to enter the play areas);
- Oversupply of Child Care Centre's in Bunyip; and
- Increased noise nuisance from Children playing outside and car's entering and exiting the site.

## REFERRALS

### CFA

The application was referred to the CFA as a statutory referral. The CFA had no objection to the proposal subject to conditions.

## DISCUSSION

The Application has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed use and development is determined to be consistent with these requirements.

### State & Local Policy Framework

A number of state and local policies are relevant to this application, such as Clause 21.07-6 (Bunyip), Clause 13.02-1 (Bushfire planning), Clause 15.01-4S (Healthy Neighbourhoods), Clause 15.01-6S (Design for rural areas) and Clause 19.02-2S (Education facilities). These policies aim to strengthen the resilience of communities to bushfire risk, encourage safe and easy access to services, promote education facilities (Child Care Centres) within townships and achieve attractive, diverse, sustainable and liveable townships.

At a local level, Clause 21.04-1 (Employment) and Clause 21.05-6 (Community services and facilities) of the Local Policy Planning Framework is also relevant to this application. This includes objectives and strategies to help deliver a range of social services types to residential areas, while being consistent with the existing and/or preferred neighbourhood character.

Clauses 13.02-1 (Bushfire Planning) and 15.01-4S (Healthy Neighbourhoods) are also relevant to this application. These clauses aim to encourage bushfire resilient and responsive developments and to provide community infrastructure and job diversity to residential areas.

The proposed use and development responds to these clauses and will support the increase of housing close to the town centre of Bunyip, as well as support the current rate of growth and new families moving to the area. The proposed development will also contribute towards a diversity of jobs, while respecting the character of the area.

The proposed use and development of the existing building for a Child Care Centre is consistent with the aims and objectives of the State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement. The provision of community infrastructure, particularly for children within this developing area is vital for a growing community and is consistent with the strategic direction of the area.

### Bunyip Township Strategy

The key purpose of the Bunyip Township Strategy is to identify the key issues facing the township, and explain why they are important by providing objectives, policies and actions that can be implemented to overcome these issues. The strategy also acts as a guideline for the future development of the township and identifies key areas for future development, as well as guidance on what these future developments may look like.

This site is located in an established residential area with some existing local characteristics. Most lots within the vicinity are large residential allotments (1000 plus square metres) containing single dwellings,

with a large residential subdivision being developed directly behind the site. The Strategy encourages a diversity of development types within this area, which complement the surrounding residential uses.

As discussed, the use and development of the land for a Child Care Centre is considered to compliment the surrounding residential uses. As the existing building will be utilised, with only minor changes being required to update the façade, the existing sense of spaciousness between this building and the surrounding dwellings and the continuity of building rhythm along streets with appropriate building frontage will remain relatively intact. A small addition to the rear and a car parking area within the front setback are also proposed, which is also considered consistent with the preferred neighbourhood character and pattern of development along Railway Avenue.

The Strategy also encourages the use of native vegetation in landscaping and minimal use of front fencing and sufficient open space for gardens in front setbacks. Low, high-density landscaping, which will be requested via a permit condition, will soften the built form of the proposed car parking within the front setback, as well as provide a habitat corridor and shelter for the Southern Brown Bandicoot. Further to this requirement, no front fencing is proposed, which would also allow the Southern Brown Bandicoot to move freely through the site (if they are using the site).

### **General Residential Zone – Schedule 1**

The purpose of this Zone is to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies. These policies include the encouragement of development that respects the neighbourhood character of the area and to encourage a diversity of housing types and housing growth, particularly in locations offering good access to services and transport, as well as allowing educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The proposed use of the land for a Child Care Centre is considered a compatible land use in a predominately-residential area. The site is located within close proximity of Bunyip Town Centre (700m to the east) and had up until 2016, been used for a Masonic Hall, therefore it could be considered that this site has historically been used for non-residential uses.

The site is considered capable of accommodating a facility of this size. This is given the availability of both allotments which the existing building is currently constructed over, the ability to provide two (2) separate access points to the site via the existing crossovers, its close proximity to Bunyip Town Centre and a large portion of new residential development to the north which the centre is expected to cater for.

The buildings and works required, as discussed above, are minor in scale with the only major change to the external appearance of the building being the inclusion of a car park in the front setback and landscaping. The proposal utilises the existing building, which will be updated with render, a Colorbond roof, stone feature wall and weatherboard features to create a more contemporary look. It will remain single storey and will retain its existing front and side setbacks, therefore building itself is unlikely to cause unreasonable amenity impacts to neighbouring allotments. It is considered that these updates will generally improve the appearance of this building from the streetscape.

The location of the site is also considered appropriate as Railway Avenue is a sealed road, located on the perimeter of the township and is considered capable by Council's Traffic Engineer to accommodate any increased traffic generation. It is within close proximity of Bunyip Town Centre and is a connecting road through to other townships such as Garfield to the west.

Considering the current growth of Bunyip, with 136 new lots due to be released directly to the rear of this site at the 'Bunyip Meadows' estate off Nylander Road alone, the need for community facilities such as Child Care Centres to accommodate the growing number of young families expected to establish themselves in Bunyip and its surrounds in the future, is evident.

The report accompanying this application outlines that there is currently only one (1) other 'long day care' (full day) Child Care Centre open and operating in Bunyip (Bunyip Childcare Centre – 65 Hope Street), supplying 75 spaces for a market demand for approximately 410 spaces according to current demographics and statistics.

### **Response to amenity and environmental based objections**



It is acknowledged that one of the concerns raised by objectors was that there are already a number of Child Care Centres in Bunyip, notably a recent approval of Planning Permit T150742 at 31 high Street Bunyip which will cater for 92 children, and that the need for another seems unnecessary, however these statistics appear to prove otherwise. Furthermore, these statistics are based on families currently living in Bunyip and its surrounds and does not account for new families, which are expected to eventually settle in the area once all the current land development is completed.

Another concern was raised about amenity and noise nuisance resulting from children playing and crying in and outside the facility, as well as the noise that will be generated from cars entering and exiting the site, especially in the earlier hours of the morning. While this is a valid amenity concern, measures can be put in place to ensure that this impact is minimised through landscaping and restricting the hours of operation.

In relation to the objections made on the basis of wildlife, in particular the protection of the Southern Brown Bandicoot, there are no environmental planning controls that apply to the site that require Council to give consideration to risks to flora or fauna. Although the concerns are acknowledged and have been considered, there is no basis in planning at the present time to support additional requirements to be imposed on the permit applicant as part of this application, especially since on balance the site is remaining relatively unchanged (two-crossovers already existing and the site has not historically been used as a dwelling).

However, having regard to the above, measures can be put in place through the Bunyip Township Strategy to provide for low, dense landscaping in the front setback, which as discussed above, has been requested via permit condition, which will be suitable for the needs of the Southern Brown Bandicoot.

### **Bushfire Management Overlay – Schedule 1**

The Bushfire Management Overlay identifies areas where bushfire hazard warrants bushfire protection measures to be implemented in order to protect life and property. Pursuant to Clause 44.06-4, a permit is required to construct a building or carry out works associated with a Child Care Centre. Schedule 2 of the Bushfire Management Overlay does not require the referral of applications for a single dwelling or works associated with a single dwelling (which would otherwise require referral under the parent overlay) to the CFA as long as the application meets the application requirements.

As this application is for the use and development of the land for a Child Care Centre, which has considerable more risk in the event of a Bushfire, when compared to a single dwelling, the application was not exempt from referral under this overlay. Therefore, the application was referred to the CFA in accordance with Clause 55 of the *Planning and Environment Act 1987*.

The CFA provided a response requesting that a Bushfire Management Statement (BMS) and Bushfire Management Plan (BMP) be submitted, before they would provide comment or conditions. The applicant has provided this detail and the CFA were satisfied that based on the information in the BMS and BMP that all the requirements of Clause 52.47 could be met and therefore, due to the existing defendable space and the materials proposed, the potential risk to life and property is not expected to significantly change. The requirements of Clause 53.02 will be outlined in the BMP, which is required to be endorsed as part of any permit. A mandatory condition will also be placed on the permit to ensure that the bushfire protection measures are adhered to.

### **Clause 52.06 Car Parking**

Pursuant to Clause 52.06-5 the number of car parking spaces required under Table 1, is 0.22 spaces per child. The proposed childcare centre is to accommodate 90 children; therefore, the use generates a requirement for 19 car parking spaces. A total of 20 car parking spaces (including 1 disabled space) are proposed on site and Council's Traffic Department are satisfied that the configuration and dimensions meet all relevant requirements.

The submitted plans includes landscaping across the frontage and the plans in their current form have been revised to satisfy Traffic's requirements in relation to sight lines and car parking dimensions. Furthermore, the existing layout of the front setback and crossovers to the property will allow for all vehicles to enter and exit the site via separate crossovers, which allows for safe access in and out of the site. Conditions will be placed on the permit to limit the number of children on site at any one time to comply with the car parking requirements.

### **Response to traffic based objections**

Concerns raised in relation to traffic have been taken into consideration. Council's Traffic Engineer is satisfied that this road can accommodate the increased traffic, and given the site's close proximity to Bunyip's town centre, are satisfied that the intensification of this site is justified.

As discussed above, the application exceeds the car parking requirements in accordance with Clause 52.06 by one (1) car parking space, and conditions will be placed on the permit to ensure that traffic entering and exiting the site is done so safely and that only the car parking allocated to the site is used.

Furthermore, given the nature of the use, it is expected that children attending the centre will be picked up and dropped off at staggering times, unlike a school, which has a designated start and finish time, which is also expected to alleviate traffic concerns.

### Clause 65 Decision Guidelines

The application has been assessed against the Clause 65 – Decision Guidelines. It is considered that the application, as discussed above complies with the relevant state and local policies and the purpose of the zone and overlays that apply to the site. The development is not expected to effect the rural-residential amenity of the area, nor should it have any negative effect on car parking, traffic flow or flora and fauna.

As such it is considered that the application has appropriate regard to the decision guidelines and should be supported.

### CONCLUSION

It is recommended that a Notice of Decision to Grant a Planning Permit **T180627** be issued for the **development and use of the existing building for a child care centre at 34-35 Railway Avenue, Bunyip VIC 3815** subject to the following conditions.

### CONDITIONS

1. Before the use and development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:
  - a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
  - b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
  - c) Details of surface finishes of pathways and driveways with the use of varied materials and finishes in order to break up the expanse of sealed surfaces.
  - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - e) Landscaping and planting within all open areas of the subject land.
  - f) Three (3) canopy trees (minimum two metres tall when planted) with a minimum mature height of 5 metres within the front setback.
  - g) Low-lying shrubs and ground covers forward of the car park capable of softening the appearance of the sealed areas.

All species selected must be to the satisfaction of the Responsible Authority.

2. The use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. The use allowed by this permit may only operate during the following hours:
  - a. Monday – Friday: 6.00am until 6.30pm.

The hours of operations must not be altered without the written consent of the Responsible Authority.

4. A maximum of ninety (90) children may be cared for on the site at any one time, without the written consent of the Responsible Authority.
5. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
6. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the development must be of a non-reflective nature in accordance with the endorsed plans.
7. Before the use commences or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
9. Before the development starts, drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Note: As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

10. Before the development is occupied:
  - a. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
  - b. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
  - c. Any redundant existing vehicle crossing must be removed and the nature strip and *kerb and channel* reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
11. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
12. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater

drainage system.

13. Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
14. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
15. The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.
16. The areas set aside for car parking shown on the endorsed plans must be made available for use free of charge to employees and visitors at all times and must not be used for any other purposes.
17. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried out entirely within the site and must not interfere with other traffic
18. Vehicles under the control of the operator of the building, including staff and customer vehicles, must not be parked in any nearby road.
19. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
20. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
21. The use must be managed to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected through the:
  - a. transport of materials, goods or commodities to or from the land;
  - b. appearance of any building, works or materials;
  - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or
  - d. presence of vermin.
22. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
23. The use permitted by this permit, including the use of the car parking areas, must not adversely affect the amenity of the surrounding area to the satisfaction of the Responsible Authority.
24. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the Responsible Authority.
25. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
26. No signs other than those allowed by Clause 52.05 (Signs) of the planning scheme may be displayed on the subject land without the written consent of the Responsible Authority.
27. The Bushfire Management Plan prepared by Fire Front Consultancies, drawing no. Version 2, dated 03/12/2018 must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
28. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

**Expiry:**

This permit for the use and development of land expires if—

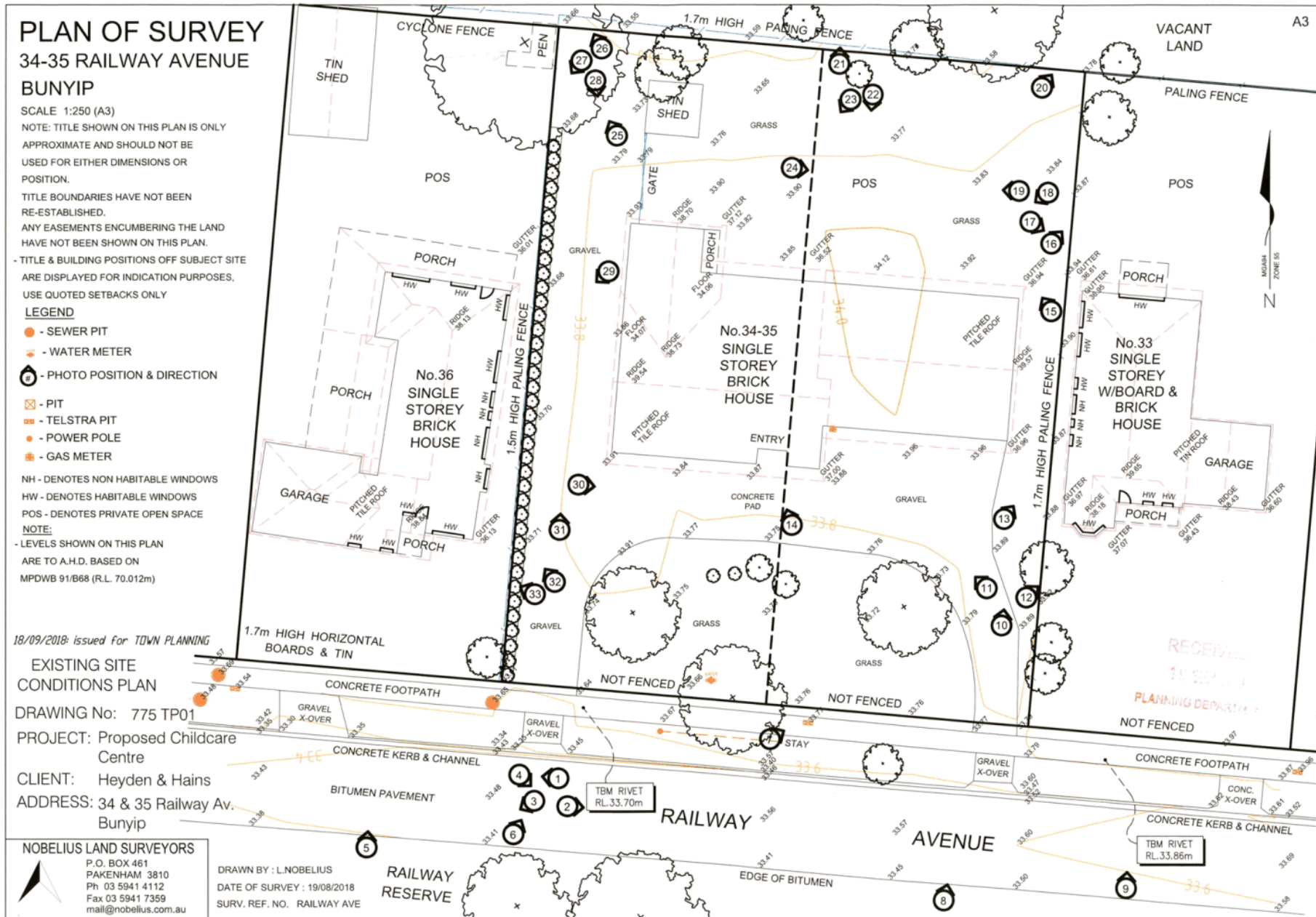
- a) the use does not start within **two (2) years** after the issue of the permit; or
- b) the use is discontinued for a period of **two (2) years**.
- c) the development does not start within **two (2) years** after the issue of the permit; or
- d) the development is not completed within **four (4) years** after the issue of the permit.

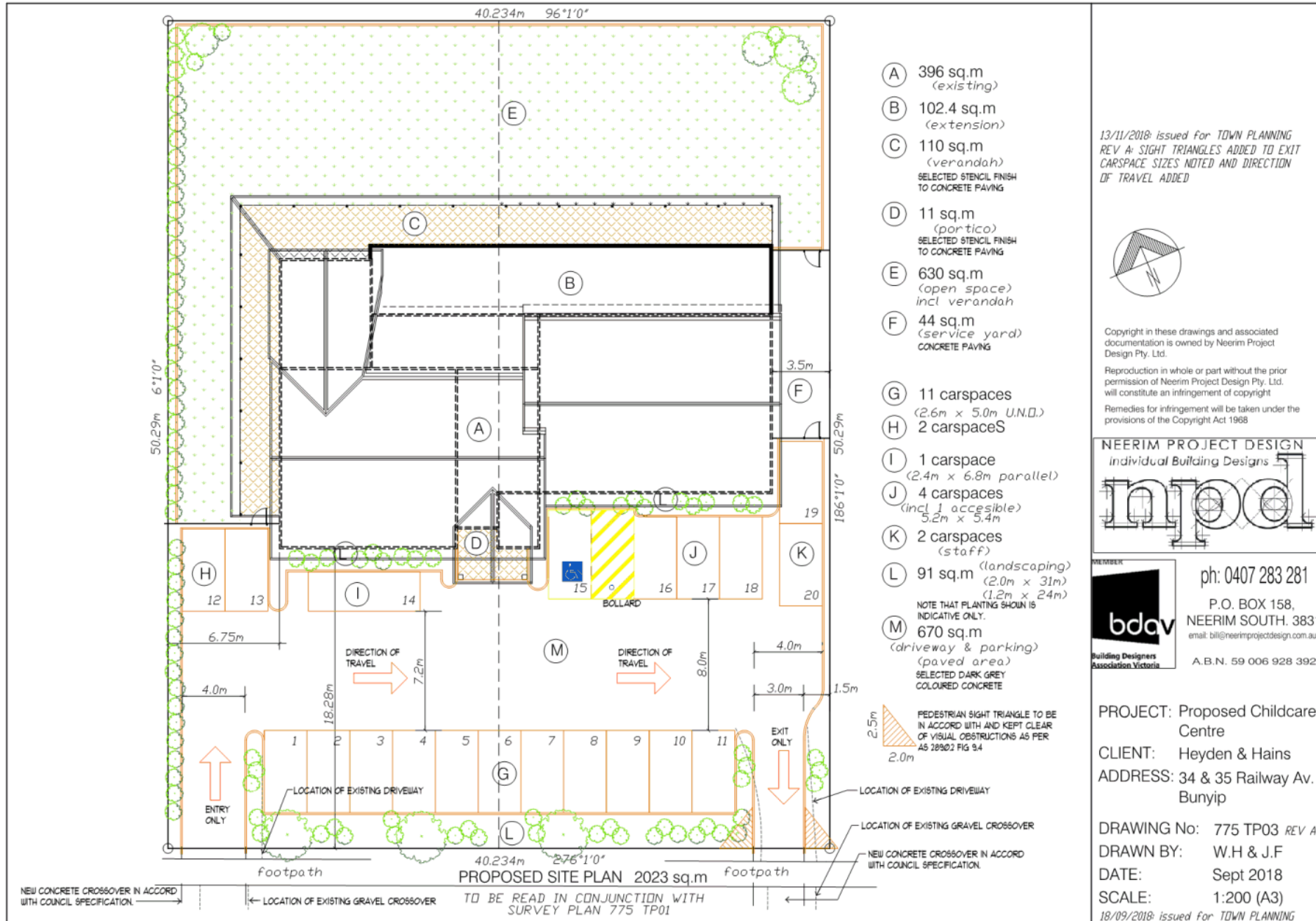
In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

**Notes:**

- A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.







- (A) 396 sq.m (existing)
  - (B) 102.4 sq.m (extension)
  - (C) 110 sq.m (verandah)  
SELECTED STENCIL FINISH TO CONCRETE PAVING
  - (D) 11 sq.m (portico)  
SELECTED STENCIL FINISH TO CONCRETE PAVING
  - (E) 630 sq.m (open space) incl verandah
  - (F) 44 sq.m (service yard)  
CONCRETE PAVING
  - (G) 11 carspaces (2.6m x 5.0m U.N.D.)
  - (H) 2 carspaces
  - (I) 1 carspace (2.4m x 6.8m parallel)
  - (J) 4 carspaces (incl 1 accessible) 5.2m x 5.4m
  - (K) 2 carspaces (staff)
  - (L) 91 sq.m (landscaping) (2.0m x 31m) (1.2m x 24m)  
INDICATIVE ONLY.
  - (M) 670 sq.m (driveway & parking) (paved area)  
SELECTED DARK GREY COLOURED CONCRETE
- NOTE THAT PLANTING SHOWN IS INDICATIVE ONLY.
- PEDESTRIAN SIGHT TRIANGLE TO BE IN ACCORD WITH AND KEPT CLEAR OF VISUAL OBSTRUCTIONS AS PER AS 28902 FIG 9.4

13/11/2018: Issued For TOWN PLANNING  
REV A: SIGHT TRIANGLES ADDED TO EXIT  
CARSPACE SIZES NOTED AND DIRECTION  
OF TRAVEL ADDED



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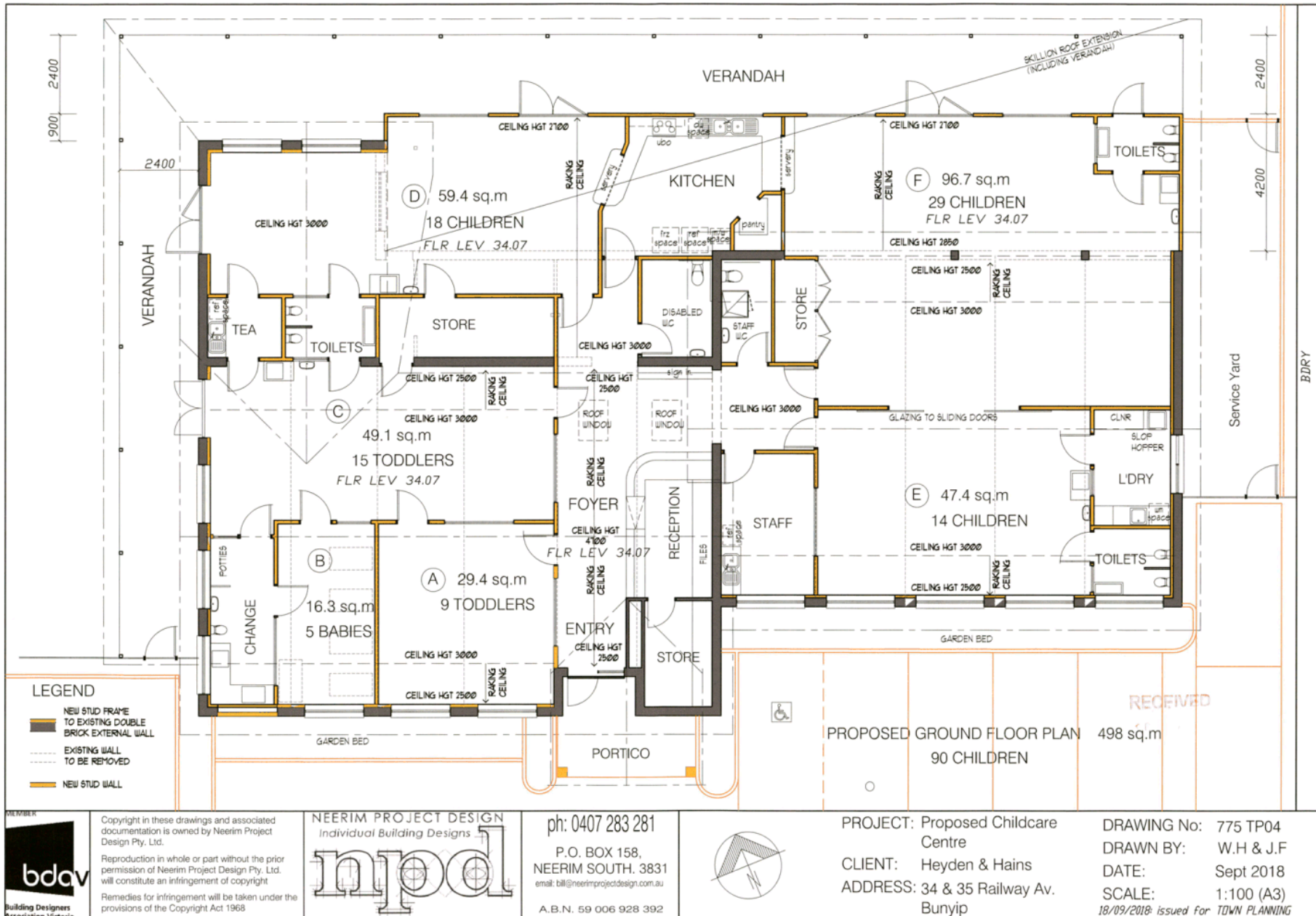
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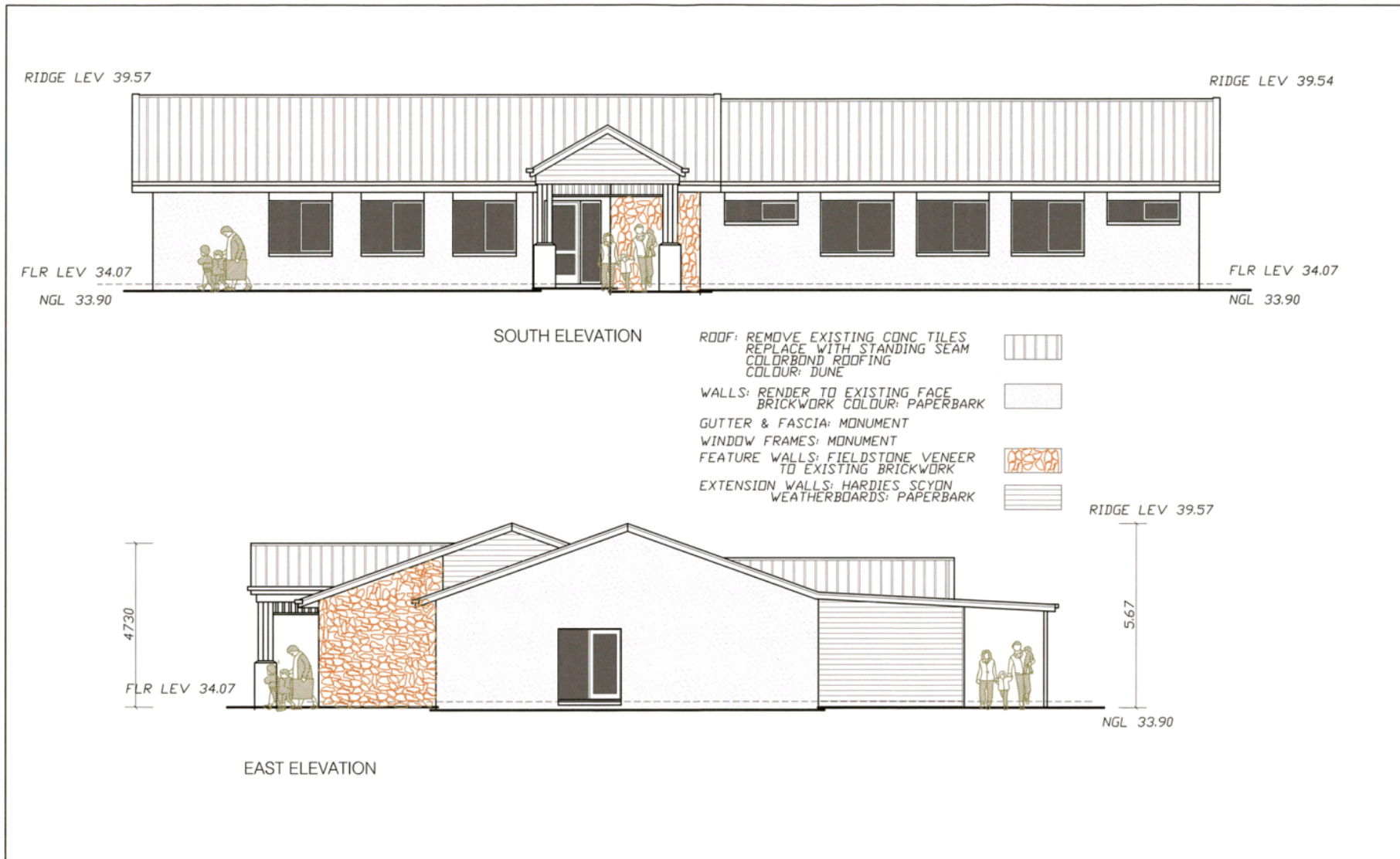
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PROJECT: Proposed Childcare Centre  
CLIENT: Heyden & Hains  
ADDRESS: 34 & 35 Railway Av. Bunyip

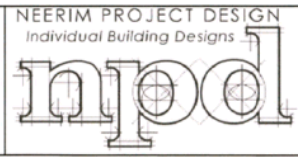
DRAWING No: 775 TP03 REV A  
DRAWN BY: W.H & J.F  
DATE: Sept 2018  
SCALE: 1:200 (A3)  
18/09/2018: issued for TOWN PLANNING







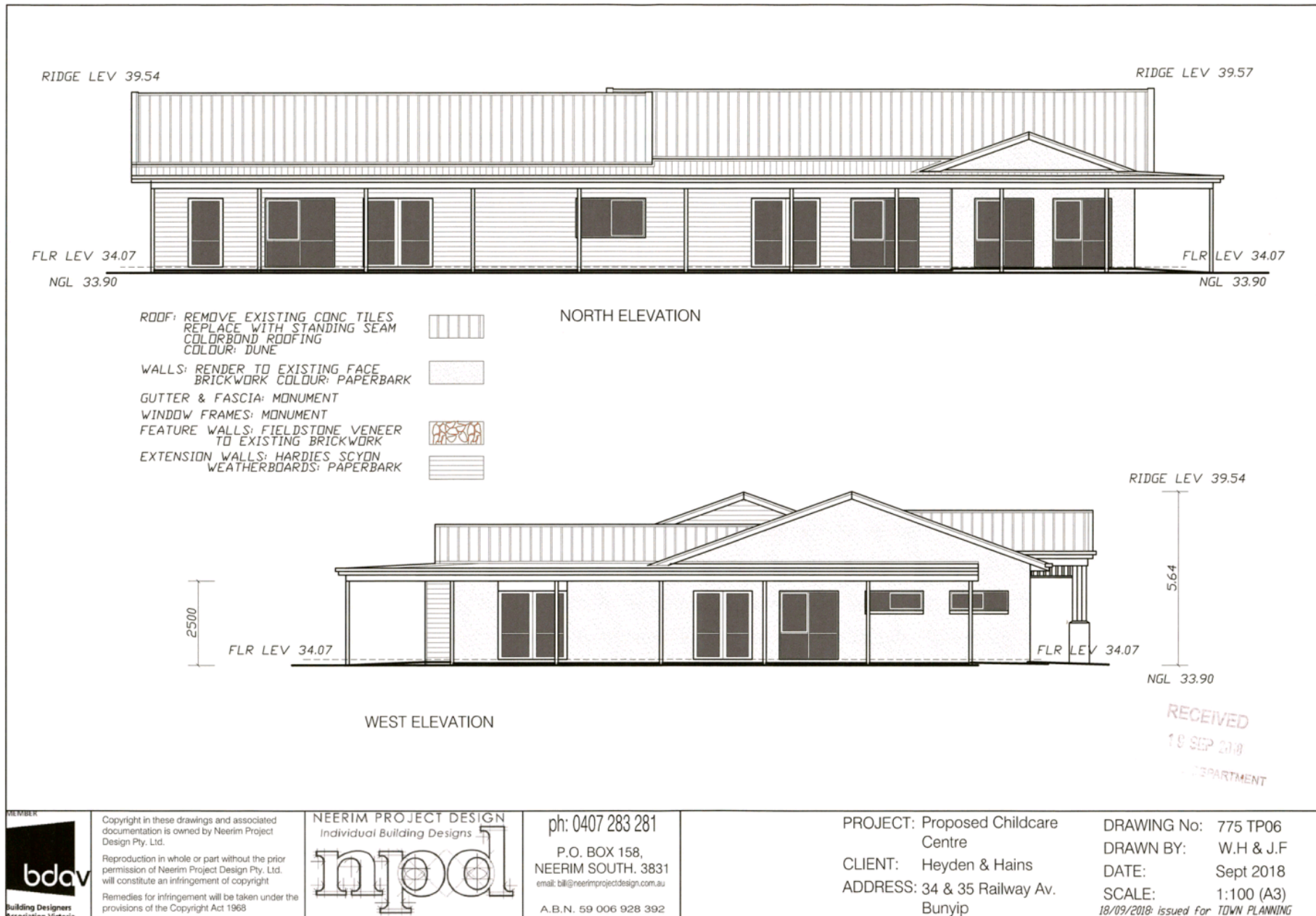
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PROJECT: Proposed Childcare Centre  
 CLIENT: Heyden & Hains  
 ADDRESS: 34 & 35 Railway Av. Bunyip

DRAWING No: 775 TP05  
 DRAWN BY: W.H & J.F  
 DATE: Sept 2018  
 SCALE: 1:100 (A3)  
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PROJECT: Proposed Childcare Centre  
CLIENT: Heyden & Hains  
ADDRESS: 34 & 35 Railway Av. Bunyip

DRAWING No: 775 TP06  
DRAWN BY: W.H & J.F  
DATE: Sept 2018  
SCALE: 1:100 (A3)  
18/09/2018 issued for TOWN PLANNING

## **1 USE AND DEVELOPMENT OF THE LAND (EXISTING BUILDING) FOR A CHILD CARE CENTRE AT 34-35 RAILWAY AVENUE, BUNYIP**

Moved Cr L Wilmot Seconded Cr C Ryan

That a Notice of Decision to Grant Planning Permit T180627 be issued for the development and use of the existing building for a child care centre at 34-35 Railway Avenue, Bunyip VIC 3815 subject to the following conditions:

1. Before the use and development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:
  - a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
  - b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
  - c) Details of surface finishes of pathways and driveways with the use of varied materials and finishes in order to break up the expanse of sealed surfaces.
  - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - e) Landscaping and planting within all open areas of the subject land.
  - f) Three (3) canopy trees (minimum two metres tall when planted) with a minimum mature height of 5 metres within the front setback.
  - g) Low-lying shrubs and ground covers forward of the car park capable of softening the appearance of the sealed areas.

All species selected must be to the satisfaction of the Responsible Authority.

2. The use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. The use allowed by this permit may only operate during the following hours:
  - a. Monday – Friday: 6.00am until 6.30pm.The hours of operations must not be altered without the written consent of the Responsible Authority.
4. A maximum of ninety (90) children may be cared for on the site at any one time, without the written consent of the Responsible Authority.
5. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
6. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the development must be of a non-reflective nature in accordance with the endorsed plans.
7. Before the use commences or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be

replaced.

9. Before the development starts, drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Note: As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

10. Before the development is occupied:
  - a. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
  - b. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
  - c. Any redundant existing vehicle crossing must be removed and the nature strip and *kerb and channel* reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
11. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
12. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
13. Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
14. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
15. The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.
16. The areas set aside for car parking shown on the endorsed plans must be made available for use free of charge to employees and visitors at all times and must not be used for any other purposes.
17. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried out entirely within the site and must not interfere with other traffic
18. Vehicles under the control of the operator of the building, including staff and customer vehicles, must not be parked in any nearby road.

19. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
20. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
21. The use must be managed to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected through the:
  - a. transport of materials, goods or commodities to or from the land;
  - b. appearance of any building, works or materials;
  - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or
  - d. presence of vermin.
22. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
23. The use permitted by this permit, including the use of the car parking areas, must not adversely affect the amenity of the surrounding area to the satisfaction of the Responsible Authority.
24. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the Responsible Authority.
25. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
26. No signs other than those allowed by Clause 52.05 (Signs) of the planning scheme may be displayed on the subject land without the written consent of the Responsible Authority.
27. The Bushfire Management Plan prepared by Fire Front Consultancies, drawing no. Version 2, dated 03/12/2018 must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
28. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

**Expiry:**

This permit for the use and development of land expires if—

- a) the use does not start within **two (2) years** after the issue of the permit; or
- b) the use is discontinued for a period of **two (2) years**.
- c) the development does not start within **two (2) years** after the issue of the permit; or
- d) the development is not completed within **four (4) years** after the issue of the permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

**Notes:**

- A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

Cd.

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

FILE REFERENCE INT194605

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Matthew Schreuder

### **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 of 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 show 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.



127.0 0 63.50 127.0 Meters

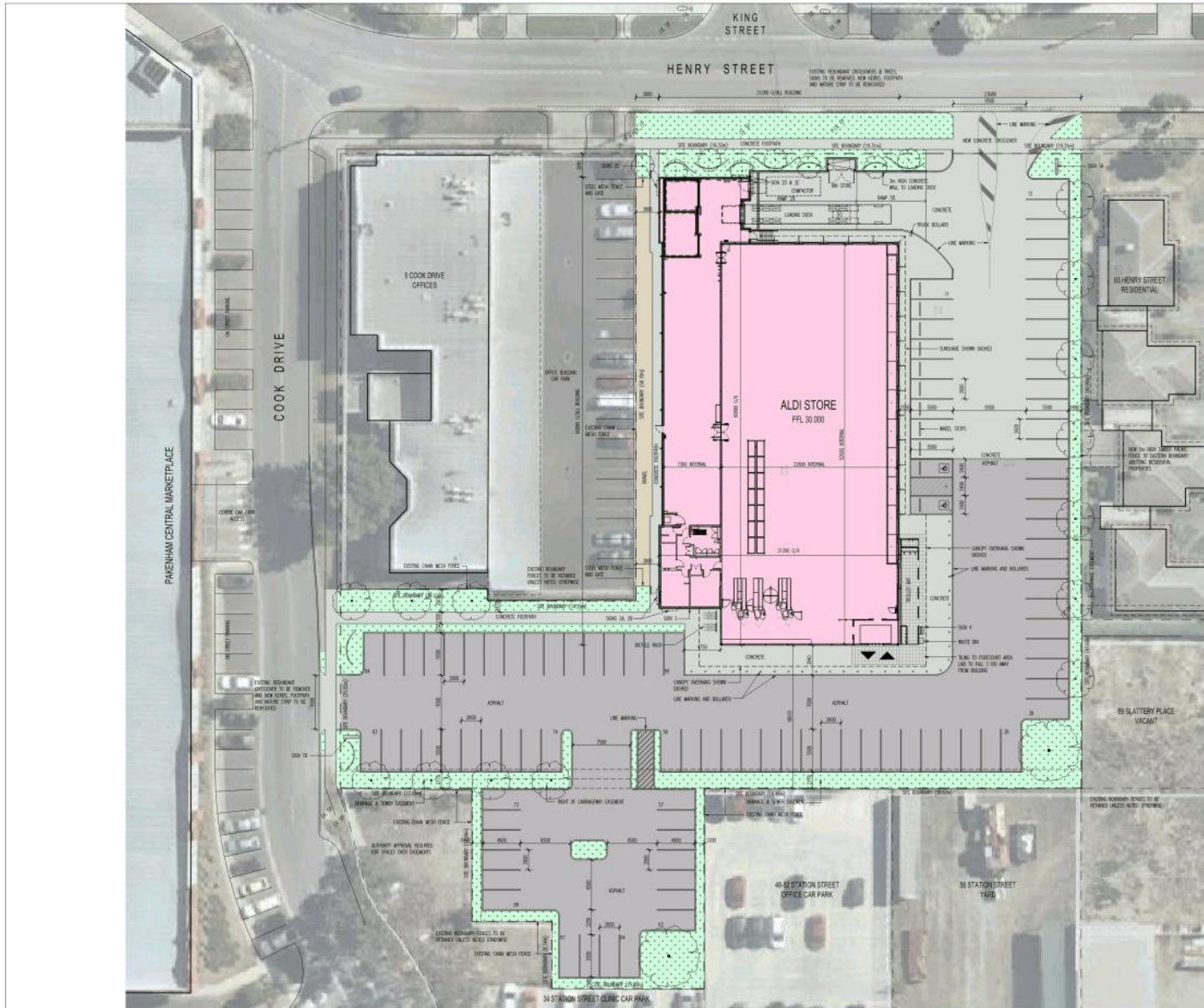
1: 2,500

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

21-Jan-2019

Notes





PROPERTY DESCRIPTION	
TOTAL SITE AREA	6448m <sup>2</sup>
BUILDING GROSS AREA	1655m <sup>2</sup>
BUILDING NETT AREA	1633m <sup>2</sup>
RETAIL NETT AREA	1186m <sup>2</sup>
BOH NETT AREA	366m <sup>2</sup>
AMENITIES NETT AREA	82m <sup>2</sup>
NUMBER OF CARS	90
CAR PARK RATIO	5.9 per 100m <sup>2</sup>
LANDSCAPE AREA	1110m <sup>2</sup>

Contractor to verify all dimensions on site prior to commencing work or entering any materials. Do not scale drawings, use figured dimensions only. Inform architect of any conflict between site conditions and documents. Architectural documents are to be read in conjunction with all relevant consultants drawings. Technical drawings are to be read in conjunction with appropriate sections of technical specification. Copyright of design shown herein is retained by this office, written authority is required for any reproduction. Copyright 2018

REVISION	DATE	DESCRIPTION
A	27.06.18	ISSUED FOR TOWN PLANNING

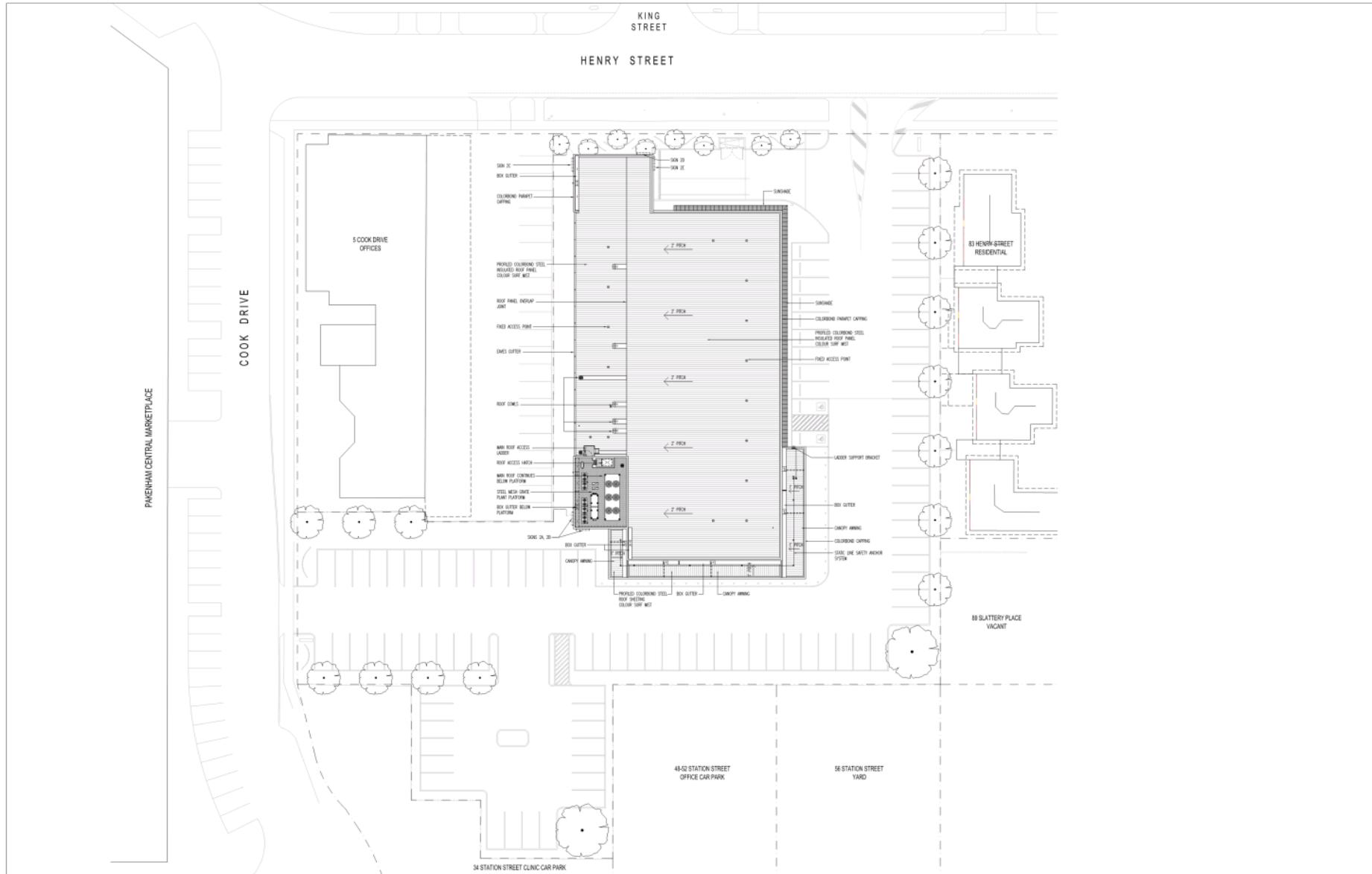
**architecture**  
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Suite 101, Level 1, 518 Little Bourke Street  
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e: info@architecturehq.com w: www.architecturehq.com



Project **PROPOSED ALDI STORE**  
**77-81 HENRY STREET, PAKENHAM**  
Drawing **PROPOSED SITE PLAN**

Job No	181200
Scale	1:250 @ A1
Date	JUN 2018
Drawn	

Drawing No.	<b>TP-02</b>	
Revision		



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REV	DATE	DESCRIPTION
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Project **PROPOSED ALDI STORE**  
**77-81 HENRY STREET, PAKENHAM**

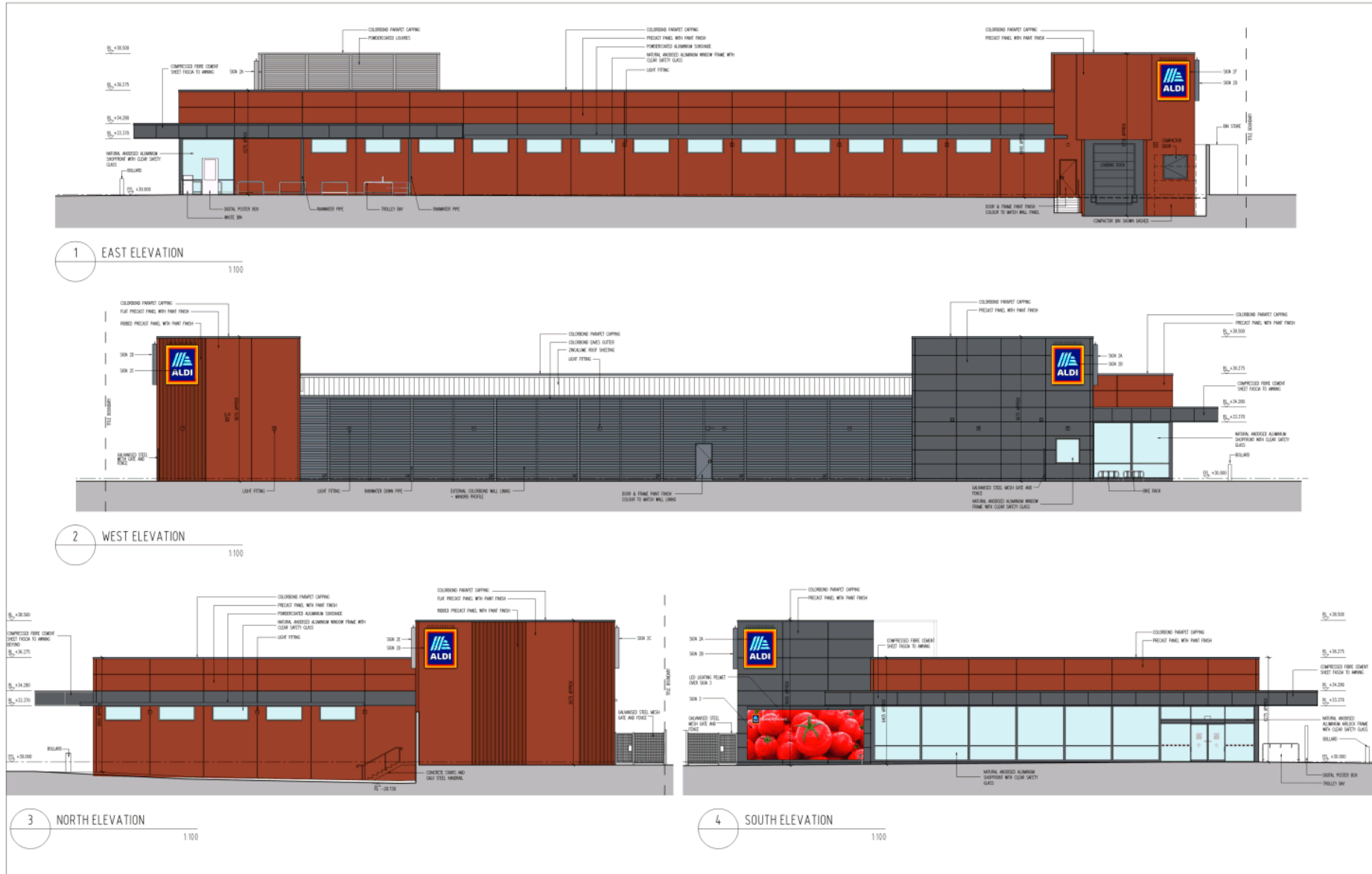
Drawing **PROPOSED ROOF PLAN**

Job No 181200  
Scale 1:250 @ A1  
Date JUN 2018  
Drawn

Drawing No. **TP-03**

Revision **A**

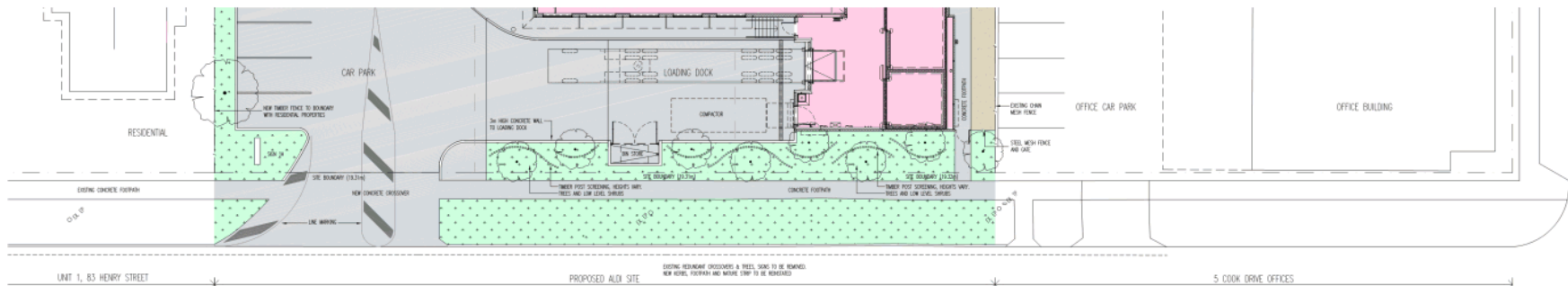




<p>Contractor to verify all dimensions on site prior to commencing work or ordering any materials. Do not scale drawings, use figured dimensions only. Inform architect of any conflict between site conditions and documents. Architectural documents are to be read in conjunction with all relevant consultant drawings. Technical drawings are to be read in conjunction with appropriate sections of technical specification. Copyright of design shown herein is retained by this office, written authority is required for any reproduction. Copyright 2018</p>	REV	DATE	DESCRIPTION	<p><b>architecture</b> ARCHITECTS INTERIOR DESIGNERS</p> <p>Suite 101, Level 1, 518 Little Bourke Street Melbourne Victoria 3000 t: +61 3 9614 1945 f: +61 3 9614 1945 e: info@architecturehq.com w: www.architecturehq.com</p>		Project	PROPOSED ALDI STORE 77-81 HENRY STREET, PAKENHAM	Job No	181200	Drawing No.	TP-04
	A	27.06.18	ISSUED FOR TOWN PLANNING			Drawing	PROPOSED ELEVATIONS	Scale	1:100 @ A1	Date	JUN 2018



1 HENRY STREET ELEVATION



2 HENRY STREET PART PLAN

Contractor to verify all dimensions on site prior to commencing work or ordering any materials. Do not scale drawings, use figured dimensions only. Inform architect of any conflict between site conditions and documents. Architectural documents are to be read in conjunction with all relevant consultants drawings. Technical drawings are to be read in conjunction with appropriate sections of Technical specification. Copyright of designs shown herein is retained by this office, written authority is required for any reproduction. Copyright 2018

REV	DATE	DESCRIPTION
A	27.06.18	ISSUED FOR TOWN PLANNING

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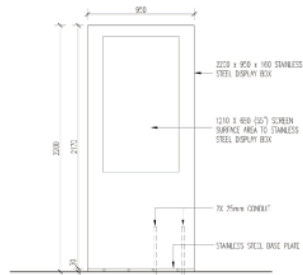
Project PROPOSED ALDI STORE  
77-81 HENRY STREET, PAKENHAM  
Drawing PROPOSED HENRY STREET  
STREETScape ELEVATION

Job No 181200  
Scale 1:150 @ A1  
Date JUN 2018  
Drawn

Drawing No.  
**TP-05**  
Revision A



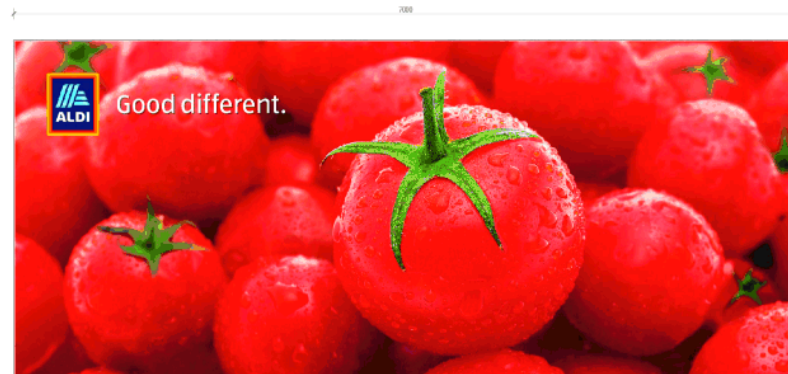
**SIGN 2A, 2B, 2C, 2D, 2I**  
 DESCRIPTION:  
 WALL MOUNTED INTERNALLY ILLUMINATED LED SIGN  
 2400 (W) x 2400 (H) x 70mm (D)  
 DOUBLE SIDED



**SIGN 4**  
 DESCRIPTION:  
 WALL MOUNTED DIGITAL DISPLAY BOX  
 2220 (W) x 920 (H) x 160mm (D)  
 DOUBLE SIDED



**SIGN 1A, 1B**  
 DESCRIPTION:  
 POLE MOUNTED INTERNALLY ILLUMINATED LED SIGN  
 2400 (W) x 2400 (H) x 60mm (D)  
 DOUBLE SIDED  
 "CAR PARK" SIGN: 2400 (W) x 200mm (H)  
 DOUBLE SIDED



**SIGN 3**  
 DESCRIPTION:  
 WALL MOUNTED GRAPHIC DIGITAL MADE ON VINYL  
 MOUNTED TO ACB PANELS 3000 (W) x 1700mm (H)  
 ILLUMINATED BY LED LIGHTING PLACES MOUNTED ON  
 WALL ABOVE

Contractor to verify all dimensions on site prior to commencing work or ordering any materials. Do not scale drawings, use figured dimensions only. Refer architect of any conflict between the conditions and documents. Architectural documents are to be read in conjunction with all relevant consultants drawings. Technical drawings are to be read in conjunction with appropriate sections of technical specifications. Copyright of designs shown here is contained by this office, written authority is required for any reproduction. Copyright 2018

REV	DATE	DESCRIPTION
A	27.06.18	ISSUED FOR TOWN PLANNING

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Project PROPOSED ALDI STORE  
 77-81 HENRY STREET, PAKENHAM  
 Drawing SIGNAGE DETAILS

Job No	181200
Scale	1:20 @ A1
Date	JUN 2018
Drawn	

Drawing No.	TP-06
Revision	

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

Moved Cr L Wilmot Seconded Cr C Ryan

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 due to the following reasons:

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.

Cd.



### **3 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)**

FILE REFERENCE INT194610

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Owen Hardidge

#### **RECOMMENDATION**

That the list of enforcement matters currently before VCAT and the Magistrates' Court (and the County Court) be noted.

#### **EXECUTIVE SUMMARY**

The following list of enforcement matters currently before VCAT and the Magistrates' Court is submitted for Councillors information.

Where breaches of the Planning Scheme are detected that cannot be satisfactorily resolved Council undertakes enforcements action at the Victorian Civil and Administrative Tribunal (VCAT).

These matters can take several forms and the following are the usual steps in the enforcement process.

Where breaches are sufficiently serious, criminal proceedings in the Magistrates' Court will be commenced, and if so, the successful criminal proceedings will usually be followed by VCAT proceedings (criminal proceedings taking precedence over "civil" proceedings)

#### ***Current Enforcement cases***

The following list indicates such enforcement activities that are currently before VCAT or the Magistrates' Court.

<b>Property Address</b>	<b>Nature of Contravention</b>	<b>Status</b>
1 Walker Street, Koo Wee Rup  (OH:SM:18409)	Land that was developed without a permit, in contravention of planning scheme - Heritage Overlay (43.01)	Magistrates' Court proceeding, listed for contested hearing on <b>21 February 2019</b> , alleging that the owner has constructed an extension of the dwelling, developed the land and lopped a tree, without a permit.
Unit 1/4A Whitstable Street, Lang Lang  (OH:AB:18412) (OH:JALF:18401)	Land that was developed without a permit in contravention of planning scheme – Heritage Overlay (43.01) AND without a building permit	Magistrates' Court proceeding. In <b>September 2018</b> , the owner pleaded guilty to undertaking work without relevant planning and building permits.  The Court adjourned the case to <b>21 February 2019</b> , on the basis that the owner can take steps in the meantime to obtain relevant permissions. His progress in this regard will likely be a significant factor in sentencing.
765 Gembrook	Native vegetation	Magistrates' Court proceeding, alleging that

<p>Rd, Pakenham Upper (OH:LK:16299)</p>	<p>removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17</p>	<p>the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit.</p> <p>The case is listed for next mention on <b>15 November 2018</b>, having been previously adjourned to allow for the High Court application to be determined (see below)</p>
<p>715 Gembrook Rd, Pakenham Upper (OH:AB:14130)</p>	<p>Construction of retaining wall without building permit.</p>	<p>FOR INFORMATION ONLY – ongoing <i>planning enforcement</i> matters relating to property</p> <p>MAGISTRATES COURT CASE relating to unpermitted building work (retaining wall) –</p> <p>On <b>21 December 2017</b>, the Magistrates Court delivered judgement in this matter, finding the charges proven. The owner was fined \$1500, without conviction, and ordered the owner to pay in excess of \$15,000 costs.</p> <p>The owner has appealed the Magistrates Court decision to the County Court. The County Court appeal has been listed for contested hearing on <b>10-12 April 2019</b>.</p> <p>In <b>April 2018</b>, the owner filed an application in the High Court of Australia in respect of this hearing. On 12 September 2018, the High Court dismissed this application as being without proper basis.</p>
<p>555 Back Creek Rd, Gembrook OH:JALF:18416 (cf EH:LK:16272)</p>	<p>Land developed contrary to Rural Conservation Zone, Environmental Significance Overlay and Native Vegetation particular provisions, by the creation of a dam, destruction of native vegetation and the construction of a building, without a permit</p>	<p>VCAT enforcement order application, listed for contested hearing on <b>18 April 2019</b>.</p>
<p>Officer South Rd, Officer OH:JALF:18419</p>	<p>Land used for materials recycling, being a prohibited use, contrary to the Urban Growth Zone.</p>	<p>VCAT enforcement order application, listed for Practice hearing on <b>8 February 2019</b>, and contested hearing on <b>11 June 2019</b>.</p>

## **Conclusion**

The list of current enforcement activities is presented for information.

## **Glossary of terms**

### **Practice day hearing**

This is the first stage of the VCAT process, and is held shortly after the application is lodged. It is used to assess the future path of the case, and determine if the case can be settled, or will need to proceed to a full hearing.

### **Mention hearing**

A mention hearing is a brief hearing, where the Court or VCAT lists the matter for brief hearing. If the case can be dealt with swiftly, it will be dealt with at a Mention hearing. For more lengthy matters (such as contested hearings) the case will be further adjourned. In the Magistrates' Court, the Court may hear a "guilty plea" during a mention hearing.

### **Administrative Mention**

Administrative Mention is a hearing held without the parties in attendance and requires written correspondence from both parties to update the Member on the process of the matter.

### **Adjournment**

A court or Tribunal will adjourn a case when the matter is deferred until another date. This can occur for a number of reasons, and is at the discretion of the Magistrate or VCAT member.

### **Land Management Plan**

These plans are used to describe actions that will remediate the land, and commonly describe rehabilitation following unlawful vegetation removal. This plan will then become mandatory, by being incorporated into an Enforcement Order or a Section 173 agreement. The contents of the Plan will be decided by Council's Environment Team, or Vegetation Management officer.

### **Contested hearing / Full hearing**

A contested (or "full" hearing) means the matter is disputed by the accused/respondent, and Council and the respondent will fully present and test each other's evidence and/or submissions. A contested (of "full") hearing is effectively a "trial".

### **Consent Orders**

Consent Orders are an agreement between Council and the Respondents to, in most cases, create an Enforcement Order with conditions that are agreed to by both Parties. This is done where a Respondent has accepted there has been a breach of the Act and wants to comply with Council's proposed Enforcement Order. This saves on time and money by avoiding a hearing or lengthy VCAT processes.

**3 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)**

Moved Cr L Wilmot Seconded Cr C Ryan

That the list of enforcement matters currently before VCAT and the Magistrates' Court (and the County Court) be noted.

Cd.

## 4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT194612

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

### RECOMMENDATION

That the report be noted.

### EXECUTIVE SUMMARY

The report provides an update on the status of active planning scheme amendments and planning scheme amendment requests received.

### Status of active amendments

The following table provides details relating to planning scheme amendments that are currently being processed.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C205	EDM Group	80 McDonalds Track Lang Lang	Rezone part of the land at 80 McDonalds Track, Lang Lang (Lot 3 on PS542732), and Lots 1 and 2 (PS542732) Westernport Road, Lang Lang, from Farming Zone to Industrial 1 Zone, apply Schedule 20 to the Development Plan Overlay to this land and concurrently consider, under Section 96A of the Planning and Environment Act 1987, a planning permit application to subdivide the land at 80 McDonalds Track, Lang Lang into two (2) lots.	Thu 02/11/2017	Mon 18/12/2017	Council adopted the amendment on 16/07/2018. Awaiting approval from the Minister for Planning.
C220	Cardinia Shire Council	Beaconsfield Precinct.	Implement the key objectives of the Beaconsfield Structure Plan December 2013 (expires March 2019) by applying the Design and Development Overlay (DDO) to the Princes Highway Gateway Precinct (Proposed DDO5), Beaconsfield Point Precinct (Proposed DDO6) and Woodland Grove Precinct (Proposed DDO7).	Thu 09/11/2017	Mon 11/12/2017	Council adopted the amendment on 21/05/2018. Awaiting approval from the Minister for Planning.
C226	Cardinia Shire Council	Lot 5 PS32119 5 67	Repair inconsistent policy in the Urban Growth Zone Schedule 3 (UGZ3) and the	Thu 22/06/2017	Mon 24/07/2017	Council received advice from

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
		Whiteside Rd Officer, Lot 2 PS32784 5 130 Whiteside Rd Officer and Lot PP PS74606 4 325 Princes Hwy Officer	applied Schedule of the Rural Conservation Zone (RCZ) that prevents development in the 3 lots identified from occurring in line with the Officer Precinct Structure Plan (PSP) that was adopted by Council in 2011. The amendment proposes to add a Schedule to the RCZ removing the minimum subdivision requirements for the 3 sites identified, that would otherwise exist in the provision. This ensures there is a match between the policy intention of the PSP and the provisions in the UGZ3 and the applied zone (RCZ).			DELWP on 11/05/2018 stating that, based on the new fire regulations, further work is required prior to the Minister considering the amendment.
C228	Cardinia Shire Council	Pakenham Activity Centre	Apply the Activity Centre Zone (ACZ) to the Pakenham Activity Centre.			On 19/11/2018 Council adopted to seek authorisation from the Minister for Planning to prepare an amendment and to adopt the updated draft Pakenham Structure Plan 2018 and the draft Pakenham Activity Centre Urban Design Framework 2018.
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply the Environmental Significance Overlay (ESO) to Tynong, Bunyip and Garfield to facilitate the provision of habitat corridors for the Southern Brown Bandicoot.	Thu 04/10/2018	Wed 07/11/2018	Exhibition closed. Submissions are under assessment.
C232	Victorian Planning Authority	Officer Precinct	Implement the revised Officer Precinct Structure Plan (Amended February 2018) by making changes to	Thu 22/03/2018	Fri 27/04/2018	A Panel Hearing was held for 6 days from the

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			the zone, overlay and ordinance provisions of the Cardinia Planning Scheme.			4th to the 12th of December 2018.
C234	Victorian Planning Authority and Cardinia Shire Council	Pakenham East Precinct	Incorporate the Pakenham East Precinct Structure Plan (PSP) and rezone the majority of land to Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP, and make a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP.	Thu 18/01/2018	Fri 23/02/2018	VPA adopted the amendment on 10/10/2018. Awaiting approval from the Minister for Planning.
C235	Planning Central	145 Rossiter Road, Koo Wee Rup	Planning scheme amendment application to rezone and subdivide the land as per the Koo Wee Rup Township Strategy.			Council adopted to seek authorisation from the Minister for Planning to prepare an amendment on 10/12/2018.
C237	Cardinia Shire Council	Multiple addresses	Amend various provisions of the Cardinia Planning Scheme to correct mapping anomalies, delete redundant controls and correct ordinance errors.	Thu 07/06/2018	Thu 19/07/2018	On 17/09/2018 Council resolved that the amendment be submitted to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987.
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	Rezone to General Residential Zone (Schedule 2) and introduce a Development Plan Overlay (DPO), a site specific Environmental Audit Overlay (EAO) and remove the Environment Significance Overlay 1 (ESO1). An ICP will be implemented at a later			Council adopted to seek authorisation to prepare an amendment on 19/02/2018. The request for

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			stage.			authorisation was sent on 29/03/2018.
C242	Cardinia Shire Council	Pakenham Activity Centre	Introduce a permanent Heritage Overlay over various properties identified by the Pakenham Heritage Review and includes updating the Heritage Overlay Schedule, adds a Reference Document and an Incorporated Document.	Thu 09/08/2018	Fri 07/09/2018	Council adopted to refer submissions to an independent planning panel to be appointed by the Minister for Planning on 19/11/2018.
C244	Cardinia Shire Council	Pakenham Activity Centre Parking Precinct	Implement the key objectives of the Pakenham Parking Precinct Plan (May 2018) by applying the Parking Overlay to the Pakenham Activity Centre.	Thu 04/10/2018	Tue 06/11/2018	Exhibition closed. Submissions are under assessment.
C245	Mesh Urban Planning & Design	Cardinia Road Employment Precinct	Under Part 20(4) change Urban Growth Zone (UGZ) Schedule and make APA a recommending referral authority to allow residential village development.			Council adopted to seek authorisation to prepare an amendment under Section 20(4) of the Planning and Environment Act 1987 on 19/03/2018.
C250	Cardinia Shire Council	Cardinia Shire	Implementation of Cardinia Planning Scheme Review 2018.			On 10/12/2018 Council resolved to endorse the Cardinia Planning Scheme Review and seek the authorisation of the Minister for Planning to prepare Amendment C250.



## **4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT**

Moved Cr L Wilmot Seconded Cr C Ryan

**That the report be noted.**

Cd.

## 5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT194615

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

### RECOMMENDATION

That the report be noted.

### EXECUTIVE SUMMARY

The following matters have been dealt with under delegated powers since the last report to Council.

#### Bunyip Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
14/12/2018	T080162 - 5	5205 South Gippsland Highway, Lang Lang Victoria 3984	Amendment to the plans endorsed under T080162-3 to allow for an additional building (meal storage shed) and eight (8) additional silos	Issued	25 October 2018
16/01/2019	T130431 - PC1	Gainsborough Avenue, Lang Lang Victoria 3984	Re-subdivision (boundary realignment) and subdivision of the land to create four (4) lots and variation to Covenant PS630742P	Issued	15 November 2018

#### Central Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
4/12/2018	T180143	37, 39, 41 & 43 Rogers Street, Pakenham VIC 3810	Construction of sixty-two (62) dwellings and removal of native vegetation	Refused	15 March 2018
5/12/2018	T160624 - 1	20-22 Mill Street, Pakenham VIC 3810	Use of the land and buildings and works associated with three (3) boarding houses	Issued	29 June 2018
5/12/2018	T180361	64 Murphy Road, Pakenham VIC 3810	Development Of Land For A Second Dwelling	NOD	13 June 2018
7/12/2018	T180614	15 King Street, Pakenham VIC 3810	Subdivision of the land into fourteen (14) lots	Issued	20 September 2018
12/12/2018	T180467	45-47 Bald Hill Road, Pakenham VIC 3810	Alterations and additions to an existing warehouse (Trade Supplies)	Issued	23 July 2018
13/12/2018	T180543	21B Meeking Drive, Pakenham VIC 3810	Buildings and works associated with an outbuilding	NOD	23 August 2018
19/12/2018	T180428	Aspen Street, Pakenham VIC 3810	Development of land for nineteen (19) dwellings and subdivision of land	Issued	17 July 2018
19/12/2018	T180520	128-144 Princes Highway, Pakenham VIC 3810	Building and work in association with an education centre	Issued	15 August 2018
19/12/2018	T180673	2 Henry Street, Pakenham VIC 3810	Two (2) lot subdivision	Issued	10 October 2018
19/12/2018	T180835	9 Maria Crescent, Pakenham VIC 3810	Dual occupancy and subdivision into 2 lots - see T180835	Withdrawn	19 December 2018
20/12/2018	T180200	152 & 156 Army Road, Pakenham VIC 3810	Construction of 26 dwellings and vegetation removal	NOD	12 April 2018
21/12/2018	T170278 - PC1	12-14 Thwaites Road, Pakenham VIC 3810	Construction of ten (10) dwellings and associated buildings and works	Issued	09 November 2018
8/01/2019	T180565	Army Road,	Removal by the Cardinia Shire Council of the Reserve Status of	Issued	04

		Pakenham VIC 3810	Reserve No. 3 on PS339370A and to create Road R1 & Reserve No.1 shown on the attached Plan for Army Road, Pakenham.		September 2018
10/01/2019	T180688	17 Eagle Drive, Pakenham VIC 3810	Subdivision of Land into two (2) lots	Issued	19 October 2018
11/01/2019	T180429	14 Frogmores Street, Pakenham VIC 3810	Development of the land for eleven (11) dwellings and associated subdivision	Issued	17 July 2018
11/01/2019	T180599	80 Mulcahy Road, Pakenham VIC 3810	Use of the land for a child care centre, development of the land for non-residential uses (child care centre & medical centre) and business identification signage.	Issued	10 September 2018
15/01/2019	T160464	35 Mulcahy Road, Pakenham VIC 3810	The subdivision of land, associated works and removal of native vegetation.	Issued	20 July 2016
18/01/2019	T180360 - PC1	6-8 & 10 Main Street, Pakenham VIC 3810	Development of the land for ten (10) dwellings, an office and associated waiver of car parking requirements (2 spaces)	Issued	08 October 2018
18/01/2019	T180470	5 Serene Court, Pakenham VIC 3810	Development of the land for a dwelling and associated works	Issued	25 July 2018

### Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
4/12/2018	T180365	82 Wattletree Road, Bunyip VIC 3815	Two (2) lot subdivision	NOD	14 June 2018
5/12/2018	T170614 - PC1	5 Shelton Park Drive, Koo Wee Rup VIC 3981	The development of eight (8) dwellings and associated works in accordance with the submitted plans	Issued	22 October 2018
5/12/2018	T170615 - PC1	6 Shelton Park Drive, Koo Wee Rup VIC 3981	The development of five (5) dwellings and associated works in accordance with the submitted plans.	Issued	29 October 2018
5/12/2018	T180434	1030 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	Construction of an agricultural building	Issued	14 July 2018
5/12/2018	T180654	96 Sette Circuit, Pakenham VIC 3810	Development of the land for one (1) warehouse	Issued	03 October 2018
6/12/2018	T180269	815 McDonalds Drain Road, Pakenham South VIC 3810	Use of the land for accommodation (overnight stay) and vegetation removal	Refused	04 May 2018
7/12/2018	T010679 - PC1	1-3 Station St, Lang Lang Victoria 3984	Child care centre addition	Issued	01 October 2018
7/12/2018	T180073 - PC3	2 Pinehill Drive, Pakenham VIC 3810	2 Lot Subdivision and Vegetation Removal.	Issued	02 November 2018
7/12/2018	T180546	Cardinia Road (Proposed Lot 538 Mortlake Drive), Officer South VIC 3809	Development of a dwelling on a lot less than 350sqm	Issued	24 August 2018
7/12/2018	T180547	Cardinia Road (Proposed Lot 539 Mortlake Drive), Officer South VIC 3809	Development of land for a dwelling under 350sqm	Issued	24 August 2018
7/12/2018	T180548	Cardinia Road (Proposed Lot 540 Mortlake Road), Officer South VIC 3809	Development of land for a dwelling on a lot less than 350sqm	Issued	24 August 2018
7/12/2018	T180549	Cardinia Road (Proposed Lot 541 Mortlake Drive), Officer South VIC 3809	Development of a dwelling on a lot less than 350sqm	Issued	24 August 2018
7/12/2018	T180550	Cardinia Road (Proposed Lot 542 Mortlake Drive), Officer South VIC 3809	Development of a dwelling on a lot less than 350sqm	Issued	24 August 2018
7/12/2018	T180551	Cardinia Road	Development of land for a dwelling on a lot less than 350sqm	Issued	24 August

		(Proposed Lot 543 Mortlake Drive), Officer South VIC 3809			2018
7/12/2018	T180552	Cardinia Road (Proposed Lot 544 Mortlake Drive), Officer South VIC 3809	Development of a dwelling on a lot less than 350sqm	Issued	24 August 2018
7/12/2018	T180553	Cardinia Road (Proposed Lot 545 Mortlake Drive), Officer South VIC 3809	Development of a dwelling on a lot less than 350sqm	Issued	24 August 2018
10/12/2018	T170095 - PC2	270 Cardinia Road, Officer South VIC 3809	Development of the land for seven (7) dwellings on a lot	Issued	31 August 2018
10/12/2018	T180279	3 Morris Way, Bunyip VIC 3815	Two (2) lot subdivision and vegetation removal	Issued	11 May 2018
11/12/2018	T180517	105 Yarrabubba Road, Nar Nar Goon North VIC 3812	Two Lot Boundary Re-Alignment.	Issued	14 August 2018
11/12/2018	T180529	540 Garfield North Road, Garfield North VIC 3814	Extension to existing outbuilding (shed) to be used as a Habitable Outbuilding	NOD	17 August 2018
12/12/2018	T170291	280-284 Rossiter Road, Koo Wee Rup VIC 3981	Buildings and works (including partial demolition and development of a fence) associated with two retail premises (shops), the construction of two dwellings and subdivision of the land (boundary re-alignment)	Issued	22 May 2017
12/12/2018	T180380	FY 18/18 Racecourse Road, Pakenham VIC 3810	Use of the site for Indoor Recreation Facility (escape room)	Issued	19 June 2018
12/12/2018	T180497	27 Tarmac Way, Pakenham VIC 3810	Development of the land for two (2) warehouses and reduction in on-site car parking (2 spaces)	Issued	07 August 2018
12/12/2018	T180655	94 Sette Circuit, Pakenham VIC 3810	Development of the land for one (1) warehouse	Issued	03 October 2018
13/12/2018	T180458	37-39 Hope Street, Bunyip VIC 3815	Subdivision of the land into ten (10) lots and common property	Issued	20 July 2018
13/12/2018	T180526	270 Fourteen Mile Road, Garfield VIC 3814	Buildings and works associated with two (2) agricultural outbuildings	Issued	15 August 2018
14/12/2018	T180193 - PC1	Cardinia Road, Officer South VIC 3809	Subdivision of the land	Issued	11 December 2018
14/12/2018	T180656	92 Sette Circuit, Pakenham VIC 3810	Development of the land for one (1) warehouse	Issued	03 October 2018
17/12/2018	T170776 - PC1	91 Gainsborough Avenue, Lang Lang VIC 3984	Multi lot subdivision and associated works	Issued	02 July 2018
17/12/2018	T180402	80 Railway Avenue, Tynong VIC 3813	Subdivision of the land into two (2) lots	Issued	02 July 2018
17/12/2018	T180657	90 Sette Circuit, Pakenham VIC 3810	Development of the land for one (1) warehouse	Issued	03 October 2018
18/12/2018	T180577	Southeast Business Park, National Avenue, Pakenham VIC 3810	Development of the land for twenty-six (26) warehouses with ancillary offices and associated works.	Issued	10 September 2018
18/12/2018	T180626	11 Corporate Terrace, Pakenham VIC 3810	Development of the land for two (2) warehouses and a reduction in car parking	Issued	20 September 2018
18/12/2018	T180734	We 4/9 Southeast Boulevard, Pakenham VIC 3810	Buildings and works associated with an existing warehouse (addition of internal floor area) and associated reduction in on-site car parking (1 space)	Issued	13 November 2018
19/12/2018	T180355	21 Croft Road, Nar Nar Goon North VIC 3812	Alterations & additions to an existing dwelling and associated earthworks	Issued	13 June 2018
19/12/2018	T180370	455 Bunyip-Modella Road, Iona VIC 3815	Development of the land for a dwelling	Issued	13 June 2018

19/12/2018	T180586	41-45 A` Beckett Road, Bunyip VIC 3815	Buildings and works associated with an outbuilding extension	Issued	05 September 2018
19/12/2018	T180802	25 Industrial Drive, Pakenham VIC 3810	Buildings and works associated with Industry (Concrete batching plant)	Issued	05 December 2018
20/12/2018	T180539	National Avenue, Pakenham VIC 3810	Development of the land for one (1) warehouse with ancillary office and associated works	Issued	21 August 2018
21/12/2018	T000618 - 1	70 Racecourse Road, Nar Nar Goon Victoria 3812	Amendment to Planning Permit T000618 that allowed for the use of the land for intensive animal husbandry (poultry farming) and the development of two 45,000 bird capacity poultry sheds, a dam, three feed silos and ancillary facilities to delete condition 6	Issued	21 June 2018
21/12/2018	T180364	100 O` Briens Road, Yannathan VIC 3981	Dwelling additions and alterations	Issued	12 June 2018
21/12/2018	T180375 - 1	195 Seven Mile Road, Nar Nar Goon VIC 3812	Amended Permit to Change from development of the land for a dwelling extension and an outbuilding to a new dwelling and outbuilding	Issued	21 November 2018
21/12/2018	T180447	93 Pioneer Road, Lang Lang VIC 3984	Construction of a shed	Issued	19 July 2018
21/12/2018	T180514 - PC1	Murray Road, Iona VIC 3815	Buildings and works associated with an agricultural building (shed)	Issued	26 October 2018
21/12/2018	T180600 - PC1	43 Commercial Drive, Pakenham VIC 3810	Development of the land for a warehouse	Issued	19 November 2018
21/12/2018	T180601 - PC1	43 & 45 Commercial Drive, Pakenham VIC 3810	Development of the land for a warehouse	Issued	19 November 2018
21/12/2018	T180628	1 Ravendene Court, Maryknoll VIC 3812	Buildings and works associated with an outbuilding	Issued	20 September 2018
21/12/2018	T180709	157 McInnes Road, Tynong North VIC 3813	Earthworks associated with a Dam	Issued	25 October 2018
21/12/2018	T180712	105 Daleys Road, Koo Wee Rup VIC 3981	Development of the land for an outbuilding, agricultural building, fence and associated works	Issued	29 October 2018
21/12/2018	T180786	Southeast Boulevard (Proposed Lot 19 PS823245), Pakenham VIC 3810	Use of the land for an Indoor Recreation Facility (Dancing School), development of the land for two (2) buildings associated with a Dancing School and development of the land for one (1) warehouse with ancillary office and associated works.	Issued	27 November 2018
24/12/2018	T180509 - PC1	Southeast Boulevard, Pakenham VIC 3810	Development of the land for Industry (Warehouse) and associated reduction in on-site car parking (24 spaces)	Issued	05 December 2018
2/01/2019	T180607	43 Archer Road, Garfield VIC 3814	Development of the land for a second dwelling (second storey studio above garage)	Lapsed	11 September 2018
3/01/2019	T180631	95 Brownbill Road, Garfield VIC 3814	Development of the land for a replacement dwelling	Issued	21 September 2018
7/01/2019	T180437	180 Rossiter Road, Koo Wee Rup VIC 3981	Development of the land for a second dwelling	Withdrawn	16 July 2018
8/01/2019	T180497 - PC1	27 Tarmac Way, Pakenham VIC 3810	Development of the land for two (2) warehouses and reduction in on-site car parking (2 spaces)	Issued	21 December 2018
9/01/2019	T170291 - PC1	280-284 Rossiter Road, Koo Wee Rup VIC 3981	Buildings and works (including partial demolition and development of a fence) associated with two retail premises (shops), the construction of two dwellings and subdivision of the land (boundary re-alignment)	Issued	17 December 2018
9/01/2019	T180451	34 Tarmac Way & 8A Commercial Drive, Pakenham VIC 3810	Subdivision of the land into eight (8) lots and common property and the creation of easements	Issued	19 July 2018
9/01/2019	T180645	45 Bastin Road, Bunyip VIC 3815	Development of the land for two (2) outbuildings (shed and garage) and associated earthworks	Issued	27 September 2018
9/01/2019	T180646	3747 Ballarto Road, Bayles VIC 3981	Development of the land for an non habitable outbuilding	Issued	11 October 2018
10/01/2019	T180744	350 McDonalds	Use of Vehicle Store and Earth and Energy Resource Material Store	Issued	12

		Track, Lang Lang VIC 3984	(Sand)		November 2018
11/01/2019	T180804	19 Shidders Close, Bunyip VIC 3815	Development of the land for an outbuilding (shed) in association with the use of the land for a dwelling.	Issued	05 December 2018
14/01/2019	T180587	14 Barongarook Road, Maryknoll VIC 3812	Development of the land for an outbuilding (shed) and associated works (earthworks)	Issued	05 September 2018
15/01/2019	T160294 - 1	290 Hall Road, Yannathan VIC 3981	Development of the land for a dwelling, outbuildings and equestrian facility	Withdrawn	11 September 2018
15/01/2019	T160295 - PC1	2345 Ballarto Road, Cardinia VIC 3978	Boundary re-alignment	Issued	13 November 2018
15/01/2019	T180789	8 Shidders Close, Bunyip VIC 3815	Earthworks exceeding 1 metre in cut and fill	Issued	28 November 2018
15/01/2019	T180810	1 Jakobi Court, Bunyip VIC 3815	Development of the land for an outbuilding (shed) and associated works (earthworks)	Issued	06 December 2018
16/01/2019	T180669	18D Tynong Road, Tynong VIC 3813	Development of the land for an outbuilding (shed) outside a building envelope	Issued	11 October 2018
17/01/2019	T180471	33 Tarmac Way, Pakenham VIC 3810	Two (2) Lot subdivision	Issued	26 July 2018
18/01/2019	T150603 - PC2	49 Tynong Road, Tynong Victoria 3813	Earthworks associated with agriculture and the construction of a dam and removal of native vegetation	Withdrawn	11 December 2018
18/01/2019	T180340	84 Railway Avenue, Tynong VIC 3813	Subdivision of the Land into Two (2) Lots and the creation of an easement	Issued	01 June 2018
18/01/2019	T180654 - PC1	96 Sette Circuit, Pakenham VIC 3810	Condition 1- a) no vegetation to show b) no trees within 3m c) pathways shown on plans d) plants noted on plans e) landscaping has been shown on visible areas at rear of property not behind building.	Issued	07 December 2018

### Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
4/12/2018	T170323	280 Princes Highway, Officer VIC 3809	Subdivision of land adjacent to a Road Zone Category 1 and, creation and removal of easements.	Issued	30 May 2017
4/12/2018	T180510	75 Norris Road, Pakenham VIC 3810	Development of the land for an outbuilding (shed)	Withdrawn	21 August 2018
4/12/2018	T180644	31 Oakrind Rise, Officer VIC 3809	Building and works (dwelling) within the Bushfire Management Overlay	Issued	27 September 2018
5/12/2018	T150670 - PC3	96 Brunt Road, Beaconsfield Victoria 3807	Development of the land for thirty-five (35) dwellings, subdivision of land and removal of an easement in accordance with the endorsed plans.	Issued	03 December 2018
5/12/2018	T180115 - PC1	35 Seaview Road, Cockatoo VIC 3781	Development of the land for a dwelling and outbuilding	Issued	19 October 2018
5/12/2018	T180388	30 Brown Road, Pakenham VIC 3810	Dwelling additions and alterations	Issued	27 June 2018
6/12/2018	T160686 - 1	90 Rix Road, Officer VIC 3809	Subdivision of land in stages in accordance with the submitted plans.	Issued	14 September 2018
6/12/2018	T180431	7 Corringham Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding, earthworks and the removal of one (1) native tree	Issued	11 July 2018
6/12/2018	T180435	69 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Development of dwelling additions and alterations	Issued	14 July 2018
6/12/2018	T180724	19 Harpfield Road, Beaconsfield Upper VIC 3808	Construction of veranda	Issued	06 November 2018
6/12/2018	T180806	8 Moola Road, Cockatoo VIC 3781	Development of the land for an outbuilding and associated earthworks	Issued	06 December 2018
7/12/2018	T180725	11 Garden Street,	Vegetation Removal - Removal of 2 x dead trees and 1 x heavily	Withdrawn	06

Cockatoo VIC 3781 leaning tree

November  
2018

10/12/2018	T160569 - PC2	32 McMullen Road, Officer VIC 3809	Condition 13 (Creek design and management plan) - Use and development of the land for a Residential Village to be completed in stages, removal of native vegetation, buildings and works on land within a Land Subject to Inundation Overlay and buildings and works on land shown as Encumbered Open Space associated with the re-alignment of Gum Scrub Creek	Issued	06 April 2018
10/12/2018	T160569 - PC5	32 McMullen Road, Officer VIC 3809	Condition 21 (Landscape Plan) Use and development of the land for a Residential Village to be completed in stages, removal of native vegetation, buildings and works on land within a Land Subject to Inundation Overlay and buildings and works on land shown as Encumbered Open Space associated with the re-alignment of Gum Scrub Creek	Issued	18 July 2018
10/12/2018	T160569 - PC6	32 McMullen Road, Officer VIC 3809	Condition 22 (Landscape Plan) Use and development of the land for a Residential Village to be completed in stages, removal of native vegetation, buildings and works on land within a Land Subject to Inundation Overlay and buildings and works on land shown as Encumbered Open Space associated with the re-alignment of Gum Scrub Creek	Issued	18 July 2018
10/12/2018	T160597	11 Aclare Road, Cockatoo VIC 3781	Three (3) lot subdivision (re-subdivision of existing titles)	Issued	15 September 2016
10/12/2018	T180203	27 Burton Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding (shed)	Withdrawn	11 April 2018
11/12/2018	T180353	13 Telopea Road, Emerald VIC 3782	Development of the land for an outbuilding (garage)	Lapsed	29 June 2018
12/12/2018	T170351 - PC2	Officer South Road, Officer VIC 3809	Use and development of the land as a childcare centre	Issued	19 July 2018
12/12/2018	T180037 - PC1	Linden Road, Pakenham Upper VIC 3810	Use and development of the land for a dwelling, associated earthworks and vegetation removal	Issued	26 November 2018
12/12/2018	T180256	63 Main Street, Gembrook VIC 3783	Development of the land for a dwelling and creation of an access to a road in a Road Zone Category 1	Issued	03 May 2018
12/12/2018	T180411	271 Ure Road, Gembrook VIC 3783	Use and development of the land for a dwelling and associated works	Issued	06 July 2018
13/12/2018	T160686 - PC1	90 Rix Road, Officer VIC 3809	Condition 1 plans - Subdivision of land in stages in accordance with the submitted plans.	Withdrawn	17 September 2018
17/12/2018	T180575	30 Sugarloaf Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding (shed)	Issued	31 August 2018
17/12/2018	T180697	Siding Avenue, Officer VIC 3809	Subdivision of land into two (2) lots	Issued	25 October 2018
17/12/2018	T180736	48 Westlands Road, Emerald VIC 3782	Works associated with the removal of one tree	Issued	09 November 2018
18/12/2018	T170524	40 Starling Road, Officer VIC 3809	Subdivision of land	Issued	10 August 2017
18/12/2018	T180145	32 Aura Vale Road, Menzies Creek VIC 3159	Construction of an outbuilding (garage and horse stable)	Lapsed	16 March 2018
18/12/2018	T180495	45 Station Road, Gembrook VIC 3783	Two (2) lot subdivision and removal of vegetation	NOD	06 August 2018
18/12/2018	T180502	275 Huxtable Road, Pakenham Upper VIC 3810	Use and development of the land for a Dependent Person's Unit (DPU) and development of the land for three (3) outbuildings	Issued	07 August 2018
18/12/2018	T180612	25 Blue Ridge Road, Dewhurst VIC 3808	Removal of three (3) native trees	Issued	13 September 2018
18/12/2018	T180664	7 Old Gembrook Road, Emerald VIC 3782	Development of the land for an addition to existing dwelling	Issued	16 October 2018
18/12/2018	T180671	36 Beaconsfield- Emerald Road, Emerald VIC 3782	Development of the land for an outbuilding (garage)	Issued	15 October 2018
18/12/2018	T180696	2984 Gembrook- Launching Place Road, Gembrook	Development of the land for a dwelling	Issued	24 October 2018

## VIC 3783

18/12/2018	T180714	155 Paternoster Road, Cockatoo VIC 3781	Development of the land for an Outbuilding (storage of vehicles and hay)	Issued	30 October 2018
18/12/2018	T180747	26 Oakrind Rise, Officer VIC 3809	Buildings and works associated with accommodation (dwelling) within the Bushfire Management Overlay	Issued	13 November 2018
18/12/2018	T180751	17 Foott Road, Beaconsfield Upper VIC 3808	Development of land for an outbuilding (shed)	Issued	14 November 2018
19/12/2018	T180476	35 Maisey Road, Gembrook VIC 3783	Use and development of the land for a Dependant Persons Unit (DPU) and associated native vegetation removal.	Issued	30 July 2018
19/12/2018	T180580	311 Army Road, Pakenham VIC 3810	Use and development of the land for a dwelling, outbuilding and earthworks	Issued	03 September 2018
20/12/2018	T180296	214 Toomuc Valley Road, Pakenham VIC 3810	Construction of one (1) dwelling	Withdrawn	17 May 2018
20/12/2018	T180354	49 Wallace Street, Beaconsfield VIC 3807	Use and development of the land for a medical centre and associated car parking waiver	Issued	07 June 2018
20/12/2018	T180477	411 Princes Highway, Officer VIC 3809	Business Identification Signage	Issued	30 July 2018
20/12/2018	T180768	2042 Wellington Road, Clematis VIC 3782	Development of the land for an outbuilding and associated earthworks	Issued	20 November 2018
21/12/2018	T170376 - PC3	33 Officer Road, Officer VIC 3809	Use and development of the land for a place of worship and the removal of native vegetation	Issued	05 December 2018
21/12/2018	T170671 - PC1	Rix Road, Officer VIC 3809	Condition 1 plans for approval - Subdivision of the land in stages, associated works (including road-works within land affected by the Land Subject to Inundation Overlay) and creation of restrictions	Issued	26 November 2018
21/12/2018	T180374 - 1	2 Nangana Street, Cockatoo VIC 3781	Hello, the positioning of the proposed shed has changed slightly on the property by a few meters to the right. We have had the draftsman adjust the positioning and figure on the plan attached.	Withdrawn	21 December 2018
21/12/2018	T180640	18 Oakrind Rise, Officer VIC 3809	Buildings and works associated with accommodation (dwelling) within the Bushfire Management Overlay	Issued	01 October 2018
21/12/2018	T180715	2 Boyd Road, Gembrook VIC 3783	Construction of a Garage and Carport for vehicles	Issued	30 October 2018
21/12/2018	T180749	34 Warrawee Avenue, Beaconsfield VIC 3807	Development of the land for an outbuilding (shed)	Issued	13 November 2018
4/01/2019	T180024 - PC1	Carpenter Road, Beaconsfield Upper VIC 3808	Use and development of the land for the purpose of a dwelling and outbuilding and removal of native vegetation.	Issued	23 November 2018
4/01/2019	T180846	20A Tivendale Road, Officer VIC 3809	Section 72 Application for Extended Hours	Withdrawn	20 December 2018
7/01/2019	T180024 - PC2	Carpenter Road, Beaconsfield Upper VIC 3808	Use and development of the land for the purpose of a dwelling and outbuilding and removal of native vegetation.	Issued	04 December 2018
8/01/2019	T140401 - PC2	37 Mary Street, Officer Victoria 3809	Development of the land for seventy-two (72) dwellings (in stages).	Issued	05 December 2017
8/01/2019	T180780	20A Tivendale Road, Officer VIC 3809	The erection and display of business identification signage (retrospective) and alterations to the existing building façade, generally in accordance with the approved plans.	Issued	23 November 2018
9/01/2019	T180748	2905 Gembrook-Launching Place Road, Gembrook VIC 3783	Building and works for a telecommunications monopole	Issued	13 November 2018
9/01/2019	T180841	326 Beaconsfield-Emerald Road, Guys Hill VIC 3807	Development of the land for an outbuilding (carport)	Issued	21 December 2018



9/01/2019	T180843	23 Paramount Boulevard, CRANBOURNE WEST VIC 3977	Two (2) Lot subdivision.	Withdrawn	09 January 2019
10/01/2019	T180169	92 Foott Road, Beaconsfield Upper VIC 3808	Boundary realignment of two (2) lots	Issued	28 March 2018
10/01/2019	T180738	335 Beaconsfield- Emerald Road, Guys Hill VIC 3807	Building and works for a telecommunications facility	Issued	09 November 2018
10/01/2019	T180764	115 Warwick Road, Gembrook VIC 3783	Development of the land for an outbuilding (replacement shed)	Issued	15 November 2018
11/01/2019	T180528	10 Upton Road, Emerald VIC 3782	Buildings and works associated with a dwelling extension and a garage	Issued	20 August 2018
15/01/2019	T160811 - PC1	McBride Road, Beaconsfield Upper VIC 3808	Section 173 Agreement- Buildings and works associated with a dwelling on L3 PS632116 and removal of one (1) pine tree on L2 PS632116, McBride Road, Beaconsfield Upper VIC 3808 generally in accordance with the approved plans	Issued	04 October 2017
15/01/2019	T170626 - PC1	85 Kitchen Road, Beaconsfield Upper VIC 3808	Development of the land for a dependent persons unit	Issued	28 November 2018
15/01/2019	T180149 - 1	49 Burgess Avenue, Officer VIC 3809	Condition 15 amended to remove reference to the prior Waste Management Plan (Lanigan Civil, Subdivision Concept, Waste Management Plan and Service Track Swept Path, Issue F. The amended plan is enclosed. Condition 16 amended to require an alternative method of implementation for the new interim WMP (i.e. not a Section 173 Agreement). We request that an amended condition allow for a range of options including Title restriction) to the satisfaction of Council. As suggested in your email, one implementation method might be to amend the design guidelines to include the interim WMP as an attachment.	Issued	21 December 2018
15/01/2019	T180636	5 Fraser Avenue, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding (shed)	Issued	25 September 2018
15/01/2019	T180811	214 O`Neil Road, Officer VIC 3809	Development of the land for an outbuilding (shed)	Issued	06 December 2018
16/01/2019	T180149 - PC3	49 Burgess Avenue, Officer VIC 3809	Subdivision of land into fifteen (15) lots	Issued	23 October 2018
16/01/2019	T180853	20 Brunt Road, Beaconsfield VIC 3807	Buildings and works associated with an existing residential village	Issued	28 December 2018
18/01/2019	T180770	20 Hillside Road, Cockatoo VIC 3781	Development of the land for an outbuilding (carport)	Issued	21 November 2018

**5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY**

Moved Cr L Wilmot Seconded Cr C Ryan

**That the report be noted.**

Cd.

## **6 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES**

FILE REFERENCE INT194618

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

### **RECOMMENDATION**

That the report be noted.

### **Attachments**

*Nil.*

### **EXECUTIVE SUMMARY**

The following list is presented to keep Council informed of applications that are currently the subject of appeals proceedings.

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
29/4/19	T180349	740 Seven Mile Rd, Nar Nar Goon	Use and development of the land for a dwelling	Refusal	Applicant	Waiting on hearing
3/04/2019	T180415	77-81 Henry Street, Pakenham	Construction of an ALDI supermarket, sale of packaged liquor and associated car parking reduction	Failure to determine in time	Applicant	Waiting on hearing
21/03/2019	T160577-3	Ascot Park Drive, Pakenham	Amendment to approved permit – removal of petrol station, retail and food aspects	Failure to determine in time	Applicant	Waiting on hearing
22/1/2019	T170634	2A Salisbury Road, Upper Beaconsfield	Use and development of land for a vet clinic and reduction in on-site car parking	Refusal	Applicant	Waiting on hearing
26/11/2018	T170024	1 Station Street Officer	Buildings and works and use of a hotel, sale and consumption of liquor, installation and use of land for eighty (80) Electronic Gaming Machines	Refusal	Applicant	Applicant withdrawn
26/11/2018	T170046	2 May Road & 215 Princes Highway Beaconsfield	Subdivision of the land	Approval	Applicant – appeal against conditions	Permit issued
4/3/2019	T170698	Rix Road Officer	Multi lot subdivision	Refusal	Applicant	Permit issued

4/3/2019	T170671	Rix Road Officer	Multi lot subdivision	Refusal	Applicant	Permit issued
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**6 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES**

Moved Cr L Wilmot Seconded Cr C Ryan

That the report be noted.

Cd.

Meeting closed at 7:02pm

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Minutes Confirmed  
Chairman