



YOUR REF: DA/37/2020  
OUR REF: 2101220:IAN:bm  
CONTACT: Ian Neil  
CONTACT BRANCH: BRISBANE  
DATE: 11 March 2021

Manager Development Services  
Gladstone Regional Council  
PO Box 29  
GLADSTONE 4680

Attention: Shaunte Farrington

By email to: [Shaunte.farrington@gladstone.qld.gov.au](mailto:Shaunte.farrington@gladstone.qld.gov.au)

Dear Sir/Madam,

## RE DEVELOPMENT APPLICATIONS BY YARALLA SPORTSA CLUB

We act on behalf of the Applicant, Yaralla Sports Club Inc., and have been briefed with your correspondence of 16 February 2021, which correspondence of course includes the two submissions received in response to our client's development application.

We take the opportunity to provide Council with responses to the two submissions; firstly as set out hereunder and, secondly, as attached in the formal response by Ethos Urban to the "Needs" issues asserted by Location IQ on behalf of Alceon Pty Ltd. You will be aware of course that Ethos Urban provided the supporting information regarding "Needs" with the current development application.

We request Council take these responses into account when considering the submissions made and assessing the merits of our client's development application.

### **Submission by Mr Ian Mylne by email – 8 January 2021**

In response to Mr Mylne's statement that "*Should Yaralla be given the approval sought the current cinema complex will probably end up another white elephant in our city centre...*".

In response, we note that any assertion that the existing cinema tenancy will necessarily be vacant long-term is without any evidence and will be decided in large part by the activities of the Gladstone Central owner (Alceon Pty Ltd) to repurpose space vacated by Gladstone Cinemas.

We also note the comment by Mr Mylne that if "...*Gondoon (sic) Street (is) up-rooted and moved over there*" but struggle to understand the comment. The proposed development

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**Brisbane CBD**  
Level 9, 239 George Street  
Brisbane QLD 4000  
GPO Box 789  
BRISBANE QLD 4001

**Brisbane CBD**  
Level 7, 79 Adelaide Street  
Brisbane QLD 4000  
GPO Box 2495  
BRISBANE QLD 4001

**Cleveland**  
Cnr Queen & Waterloo Streets  
Cleveland QLD 4163  
PO Box 178  
CLEVELAND QLD 4163

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Sydney NSW 2000

involves relocation of the Gladstone Cinemas from the Gladstone Central site and we note that there will be no negative impacts on the Gladstone CBD by that cinema relocation.

**Alceon Pty Ltd Submissions – Owner’s consent**

With regards the submission on behalf of Alceon dated 8 February 2021, we advise as follows.

1. As part of Council’s Information Request of 11 July 2019, responded to 17 September 2019) for DA/37/2020 - MATERIAL CHANGE OF USE – IMPACT pertaining to parking this statement is included:

“Further to a meeting between parties it was agreed that the existence of a lease over these spaces (with an option to buy) was sufficient demonstration of the lawful right to use the spaces, and therefore the ability for the TEA to rely upon these spaces in demonstrating existing and proposed parking demand satisfaction.”

2. The development application for Material Change of Use is for Lot 2 on SP247424, which is owned by Yaralla Sports Club. The MCU proposal does not apply to the adjacent allotment and there will be no material change of use or intensification to the existing parking arrangements already in operation. Consequently, the need for consent from the owner of the adjacent lands is otiose.
3. Council’s Planning Scheme generally adopts the *Planning Regulation 2017* definition of “development footprint” but adds even more precision. The Scheme definition provides, relevantly:

**“development footprint**, for development, means a part of the premises that the development relates to, including, for example, any part of the premises that, after the development is carried out, will be covered by—

- (a) buildings or structures, measured to their outermost projection; or
- (b) landscaping or open space; or
- (c) facilities relating to the development; or
- (d) on-site stormwater drainage or wastewater treatment; or
- (e) a car park, road, access track or area used for vehicle movement; or
- (f) another area of disturbance”.

4. As the MCU application does not relate to a change in use of the adjacent premises, the development footprint cannot reasonably be argued to constitute the adjoining Lot 1 as well as the subject land (Lot 2).

Further, apart from our rejection of the Alceon assertion, we note that the Planning and Environment Court has a broad and unfettered discretion to excuse the noncompliance, pursuant to section 37 of the *Planning and Environment Court Act 2016*. The discretion prescribed at section 37 allows the Court to deal with any noncompliance “*in the way it considers appropriate*”. In our opinion and respectful submission, the circumstances of the long-standing lease arrangement and the circumstances of the development proposal make it unarguable that the Court would in any case excuse any perceived non-compliance (which we stress is not conceded) with the requirement for ‘owner’s consent’ to the proposal.

**Alceon Pty Ltd Submissions – Needs issues.**

We refer Council to the accompanying formal response by Ethos Urban.

**Summary**

We respectfully request Council to favourably consider the above and attached responses to the two submissions received in response to the development application proposed by our client in assessing the merits of that application. If any clarification is required we would be happy to assist further.

Yours faithfully



**Ian Neil**  
Director



**Jane Dillon**  
Solicitor

**Email:** [iann@mdl.com.au](mailto:iann@mdl.com.au)  
**Phone Number:** 07 3370 5100

# ETHOS URBAN

16 March 2021

Our Ref: 3200162

Mr Ben Lewis  
Town Planning Manager  
Bartley Burns  
Unit 1, 1027 Manly Road  
Tingalpa QLD 4173  
Via email: [ben@bartleyburns.com.au](mailto:ben@bartleyburns.com.au)

Dear Ben,

## **RE: Response to Gladstone Cinema Submissions**

In October 2020 we prepared an Economic Needs Assessment for the proposed construction of a purpose-built and state-of-the-art cinema at the Yaralla Sports Club (YSC) facility located at 20 O'Connell Street, Barney Point. The facility will be a relocation of the existing Gladstone Cinema and is to be located adjacent to the main club foyer area. A total of eight screens is proposed with a capacity of 468 seats, an integrated candy bar, ticketing area and licensed bar, arcade games and commercial snack kitchen.

Subsequent to a planning application for the project, Gladstone Regional Council has disclosed that only two public submissions have been made. This includes a submission on behalf of Alceon, the current owners of the Gladstone Central centre in which the Gladstone Cinemas is presently located, which also includes advice provided by Location IQ. A submission by a Mr Ian Mylne was also made.

This letter considers the key matters raised in the submissions as relevant to our expertise.

### **1. Use of Cinema operator information**

As an initial comment, the Alceon submission makes the assertion that the economic need report prepared in association with the planning application is biased, as it relates to constraints associated with the existing facility, on the input of the Struik family as the cinema operators.

This is correct. In preparing the economic needs assessment we deliberately sought, and received, feedback on the constraints and issues associated with the existing facility. It is neither surprising, nor unusual, for us as economic consultants to engage with relevant stakeholders with insights and expertise specific to an issue outside our direct knowledge or expertise.

Certainly, the elements of the feedback from the Struik family within our expertise was confirmed by a subsequent site visit. That is, the poor performance of the Gladstone Central Centre and the lack of any strong destinational entertainment appeal complementary to the operation of a cinema.

We also note components of the Alceon submission also rely on guidance and input from the landlord which are unable to be independently verified.

## **2. Potential for urban blight**

A concern is raised that the loss of the cinema at Gladstone Central would result in blight as the former tenancy remains vacant.

This concern is expressed in a situation in which the cinema is already located on a level of the centre with three of the six other tenancies vacant, and over 40% of all tenancies vacant. As such, it is appropriate that a multi-million dollar refurbishment of the Gladstone Central centre is imminent (notwithstanding an apparent COVID-19 related delay), as is stated in the submission.

We expect that any such refurbishment would include outcomes likely to enhance the attractiveness of the upper level to other potential non-cinema tenants.

That is, no certainty can be applied that the existing cinema tenancy will necessarily be vacant long-term. This will be decided in large part by the activities of the landlord (Alceon) to repurpose this space, as well as overall levels of market demand for a potentially wide range of possible uses.

In our view, Gladstone Central is not delivering to the community as a vibrant family entertainment destination, anchored by a cinema complex. As such, re-location of the cinema frees up opportunities for other land uses which may be more suited to this location. For example, currently occupied tenants adjacent to the existing cinema are primarily health/lifestyle-related (gym, spa, Orthodontist).

Further, we note the long-term population growth forecast for the region over the next 20-years (growth of 10,000-plus persons) as another positive influence on potential demand for a replacement tenant at the centre.

## **3. Potential implications for Gladstone Central**

The Alceon submission also raises a concern that the proposed cinema development and relocation would threaten the viability of Gladstone Central. This assumes:

- That an alternative use is unable to be accommodated at the existing cinema tenancy, which (as we identify in Point 2) we do not believe to necessarily be the case
- That visitation generated by the cinema is significantly relied upon by other tenants in Gladstone Central.

In practical terms, none of the other tenants on the upper level of the centre (gym, spa, Orthodontist) has any significant synergies with the cinema in terms of providing a complementary leisure and entertainment offer. Further, the other three vacant tenancies on this level are an indicator that the cinema is not a use at the centre generating significant synergies for other nearby tenancies.

The only tenant in Gladstone Central likely to experience a reduction in sales and visitation of any significance directly associated with the relocation of the cinemas is the Dicey's Bar and Grill. This tenant is located to the south on a lower level, and with an internal connection to the cinema. Customer exposure and access via the Dawson Highway frontage is also available to Dicey's Bar and Grill and will remain in place whatever the outcome of the adjacent cinema tenancy.

## **4. Co-location of complementary uses at YSC will not result in an improved outcome**

Plans for a major refurbishment of Gladstone Central are indicated in the Alceon submission. It is argued, these changes would negate the relative benefits of co-location of complementary facilities associated with the current proposal at the YSC facility.

At the current time, the specific plans to refurbish Gladstone Central remain unknown. Within the Alceon submission, no indication is provided on:

- Timing of any investment
- Nature of any investment in the centre
- How the investment would enhance the cinema and create a complementary entertainment offer at Gladstone Central
- Why any such investment is, at least partially, reliant upon retention of cinema when the synergies with current non-cinema tenants are so minimal.

The above lack of information in regard to any plans to refurbish Gladstone Central also reflects a tacit admission in the submission that the current circumstance is not conducive to a complementary cinema and entertainment offer at Gladstone Central. We are in agreement with this.

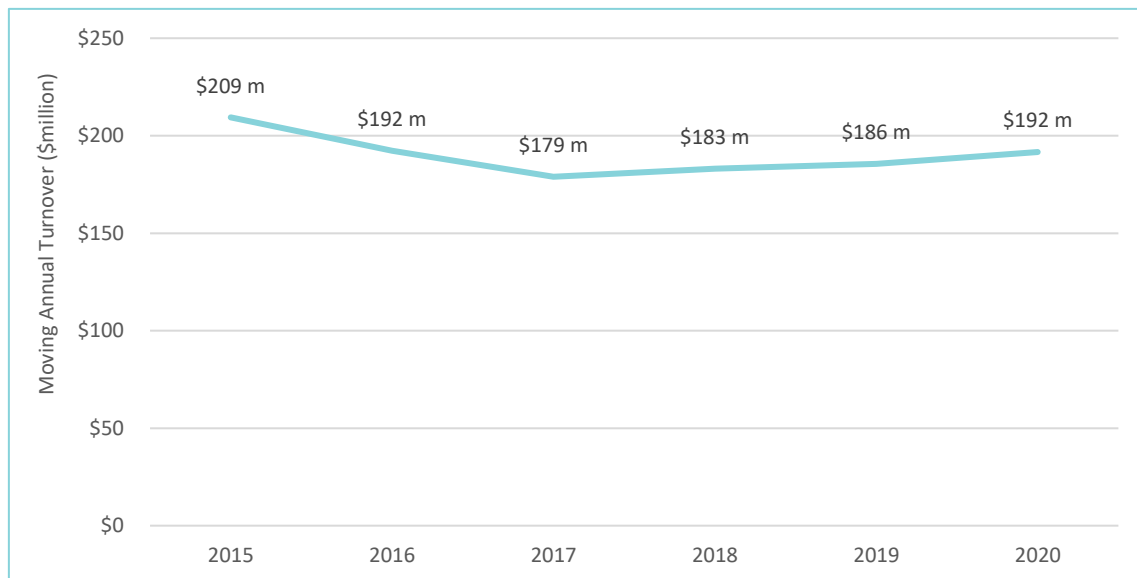
**5. The downturn in recent Gladstone Cinema visitation is due to broad economic trends not Gladstone Central.**

Within the Location IQ analysis attached to the Alceon submission is the view that the downturn in visitation to the current cinema is associated with the performance of the Gladstone economy rather than a factor specific to Gladstone Central.

A particular factor cited by Location IQ is the loss of temporary workers associated with the completion of the LNG plant.

We do note that Stockland Gladstone Shopping Centre sales did fall from \$209 million in 2015 to \$179 million by 2017. However, sales have since increased every subsequent year to \$192 million in 2020. This recent sales growth would potentially be even higher without the opening of the nearby ALDI in early 2017.

**Figure 3.1: Stockland Gladstone Shopping Centre Sales, 2015 to 2020**



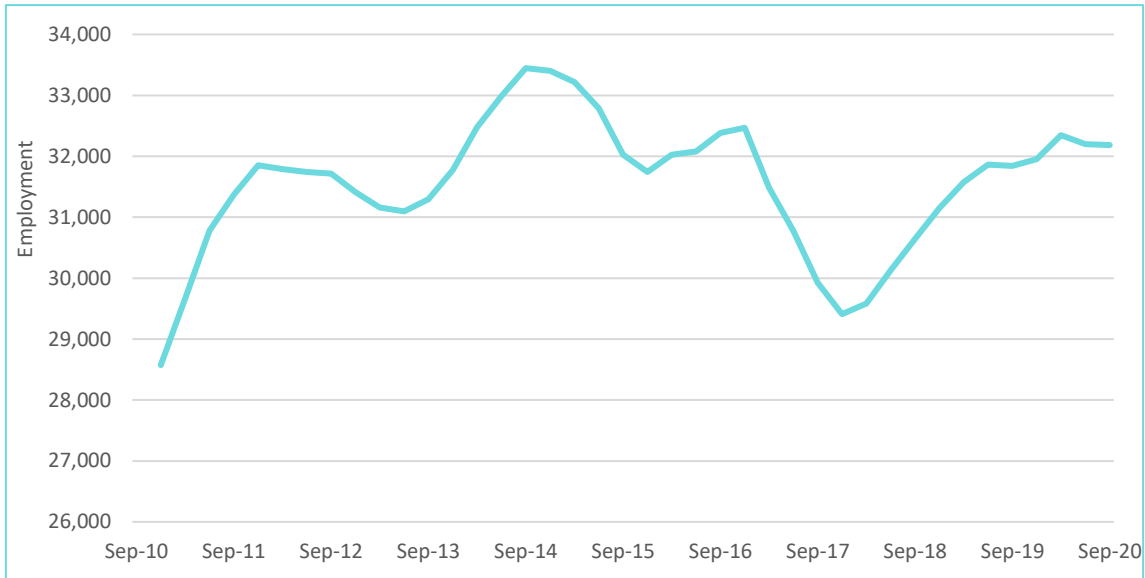
Source: Shopping Centre News, *Little Guns 2020*

**Non-resident Workers**

The Location IQ report also references the decline in the number of non-resident workers between 2014 and 2016 as the LNG plant construction finished. We agree this will have had some impact on cinema patronage at the time.

However, we note that according to the Department of Education, Skills and Employment, total employment in Gladstone increased between September 2017 and September 2020 (latest available data) by +2,260 workers, and is only marginally below employment levels at the height of the LNG plant construction program in 2014.

**Figure 3.2: Gladstone Employment Trends, September 2010 to September 2020**

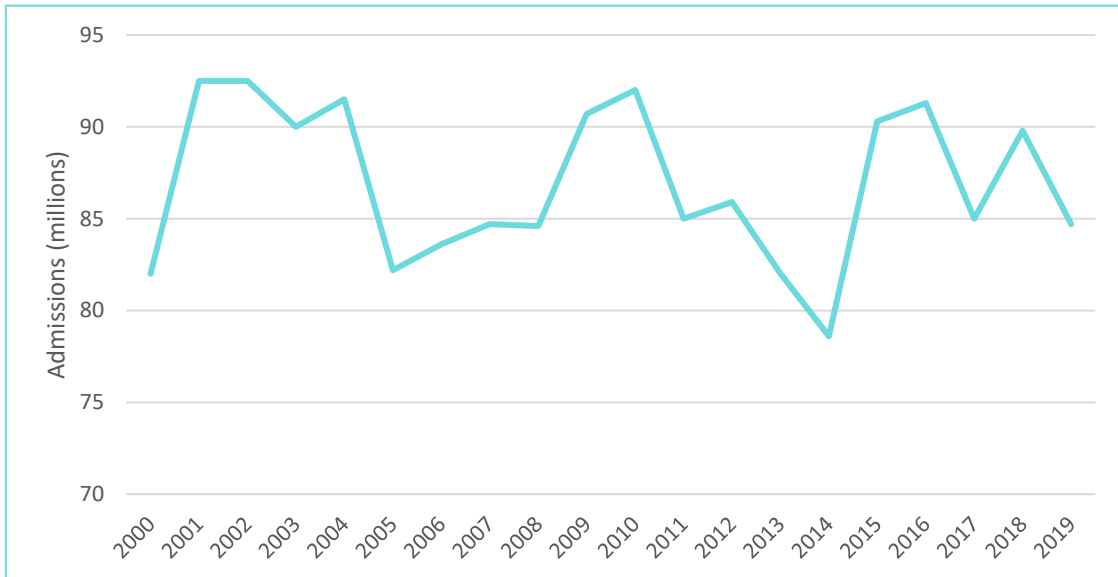


Source: Department of Education, Skills and Employment, *Small Area Labour Markets*, September 2020

**National Trends in Cinema Attendance**

We recognise a 6% national fall in cinema attendance between 2015 and 2019, as identified by Location IQ from data compiled by Screen Australia.

**Figure 3.3: National Cinema Attendance, 2000 to 2019**



Source: Compiled by Screen Australia using multiple sources

However, this decline in national cinema attendances also demonstrates the highly competitive nature of the cinema industry with other forms of entertainment.

In our view, the need in Gladstone for a modern, purpose-built cinema facility in a location delivering a range of complementary uses is clear in this context. The proposed development will deliver for

Gladstone a leading-practice regional cinema facility that will be of direct benefit to the cinema-going public, and help mitigate the considerable difficulties the cinema industry faces from other competing forms of entertainment.

### Summary

Overall, we remain of the view that the attendance levels, and level of service to the community, at the Gladstone cinema is negatively impacted by:

- The condition and performance of the Gladstone Central centre
- The lack of any significant complementary entertainment uses (including food) within the immediate precinct
- Very high tenant vacancy levels.

### **6. A replacement cinema operator could be attracted to the existing tenancy easily**

The existing Gladstone cinema is poorly located in terms of lack of exposure to potential customers, and the lack of any complementary surrounding uses. The description in the Alceon submission of a potential future refurbishment program at Gladstone Central recognises and responds to the fact that something is wrong at the centre and this location around the existing cinema.

We understand the current cinema operator retains ownership of the fit-out and equipment for the tenancy, including seats, projectors and audio equipment, curtains, stages and luxury furnishings. As such, any new cinema operator would need to invest in a new fit-out and equipment prior to re-opening at this location.

In this context, significant uncertainty exists around the potential to attract another cinema operator to the tenancy. This is particularly so in view of the general underperformance of Gladstone Central as a cinema and entertainment destination.

### **7. Other Centre Zoned land locations.**

In relation to Centre Zoned land, no other cinema development is proposed at a centre location in Gladstone. Furthermore, no submissions have been received from any other centres seeking the location of a cinema.

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We trust this letter of advice addresses your requirements to respond to the submissions relating to the economic needs assessment for the proposed development.



Sean Stephens  
Group Director, Economics  
(03) 9419 7226 and 041536 1784  
sstephens@ethosurban.com