

**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

Notice is hereby given that a Council Assessment Panel Meeting will be held:

Wednesday 17 February 2021

Commencing at 6.30 p.m.

Council Chamber

Council Administration Centre

245 Sturt Road, Sturt

A copy of the Agenda for the meeting is attached. Meetings are open to the public and interested members of the community are welcome to attend. Access to the CAP Meeting is via the main entrance to the Administration building, 245 Sturt Road, Sturt.



Alex Wright
ASSESSMENT MANAGER

10 February 2021

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021
COMMENCING AT 6.30PM**



1.1 OPEN MEETING

1.2 PRESENT

1.3 APOLOGIES

1.4 IN ATTENDANCE

2. GENERAL OPERATIONS

3. APPLICATIONS

**3.1 DEVELOPMENT NO 100/2020/2087
1138A SOUTH ROAD, CLOVELLY PARK
Change in land use from office to consulting rooms and sleep study clinic with
associated alterations and additions to the existing building and car parking
Report Reference: CAP170221 - 3.1.....2**

**3.2 DEVELOPMENT NO 100/2020/0003 – (100/D202/2019)
97A MCINERNEY AVENUE, MITCHELL PARK
Change in land use of land from shops to a Torrens Title Land Division - 1 into 5
allotments and the subsequent construction of 5 single storey detached dwellings with
associated car parking and landscaping
Report Reference: CAP170221- 3.2.....13**

**3.3 DEVELOPMENT NO 100/2020/1419
1 BERRIMA ROAD SHEIDOW PARK
Freestanding illuminated sign in association with school
Report Reference: CAP170221- 3.3.....31**

**3.4 DEVELOPMENT NO 100/2020/1500
14 COMMERCIAL ROAD SHEIDOW PARK
Freestanding, illuminated, 12m high pylon sign
Report Reference: CAP170221- 3.4.....44**

4. APPEALS UPDATE

4.1 APPEALS AGAINST PANEL DECISIONS

4.2 APPEALS AGAINST DELEGATED APPLICATIONS

5. POLICY OBSERVATIONS

6. OTHER BUSINESS

**7. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING
HELD ON 17 FEBRUARY 2021**

8. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



**REPORT REFERENCE: CAP170221 – 3.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



Originating Officer:	Nicholas Timotheou Senior Development Officer - Planning
Applicant:	ERA Building Pty Ltd
Development Description:	Change in land use from office to consulting rooms and sleep study clinic with associated alterations and additions to the existing building and car parking
Site Location:	1138A South Road, Clovelly Park
Zone & Policy Area:	Commercial Zone / South Road Policy Area 2
Lodgement Date:	20/11/2020
Development Plan:	Consolidated – 22 October 2020 Gazetted 15 October 2020
Referrals:	Internal Development Engineer
Delegations Policy:	4.1.2 <i>Any 'merit' application that has undergone Category 2 or Category 3 public notification where at least one representor has expressed opposition to the proposed development and has expressed their desire to be heard by the Panel.</i>
Categorisation	Category 2 <i>Schedule 9(19) - Except where the development falls within Part 1 of this Schedule, is within the City of Adelaide, or is classified as non-complying development under the relevant Development Plan, development of a kind referred to in clause 6 of this Schedule (including a change of use of land of a kind referred to in that clause) where the site of the proposed development is adjacent land to land in a zone under the relevant Development Plan which is different to the zone that applies to the site of the development.</i>
Application No:	100/2020/2087
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

Attachments

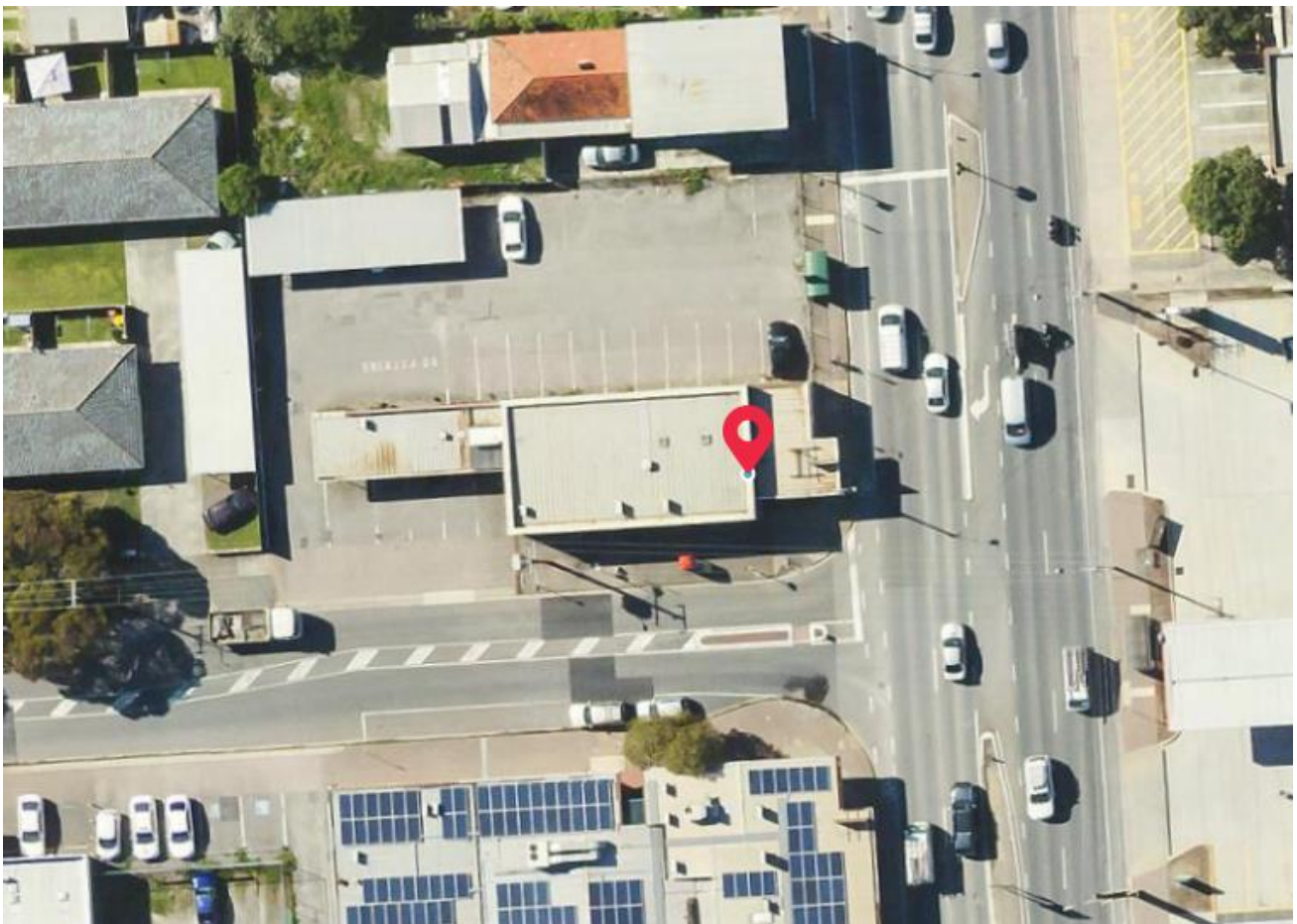
<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment III:</i>	<i>Representations</i>
<i>Attachment IV:</i>	<i>Response to Representations</i>

SUBJECT LAND

The subject land is 1138a South Road, Clovelly Park, which comprises a site area of 417 square metres, a frontage width of 5.8 metres plus corner cut-off and site depth of 42.32 metres. The site is situated on the eastern side of South Road, with secondary frontage to Newton Avenue. South Road is a primary arterial road as delineated by the Council's Development Plan, carrying approximately 50 700 vehicle per day (at this location). The subject land is flat with no discernible slope and there are no Regulated Trees present.

The subject land contains an existing single storey building in good condition and has historically been used as an office. The size of the building is approximately 258.5sqm and the layout includes a front entry facing South Road and is covered by a protruding porch. The front entry provides access to an open plan foyer area which leads to various rooms understood to have been used as general office/meeting space. A breakout/kitchen room is located towards the rear of the building along with various toilets. Bin storage is presently available to the rear of the building and is in an unscreened area.

Four on-site car parking spaces are available which gain access from Newton Avenue. A right of way measuring 4.5m in width is included adjacent the rear boundary and provides access to an allotment being used for car parking, associated with the property at 1140 South Road, Clovelly Park.



LOCALITY

The locality features a mixture of commercial properties along each side of South Road, including the Saint Marys Fire Station, consulting rooms, a petrol filling stations, car park and shops.

Residential properties are present west of the subject land and feature detached and group dwellings at low densities which are representative of the original dwelling stock.

The subject land and wider locality can be further viewed via [this link](#) to Google Maps.



THE PROPOSAL

The application proposes to change the existing use of the land from an office into a consulting room and sleep study clinic. Alterations and additions to the building will establish additional on-site car parking which will see an increase from four spaces to seven spaces. Three of the spaces will achieve access from Newton Avenue whereas the remaining achieve access/egress from the shared driveway over the existing right of way easement. The proposed hours of operation are 9:00am until 9:00pm of each day of the week.

Procedural Matters

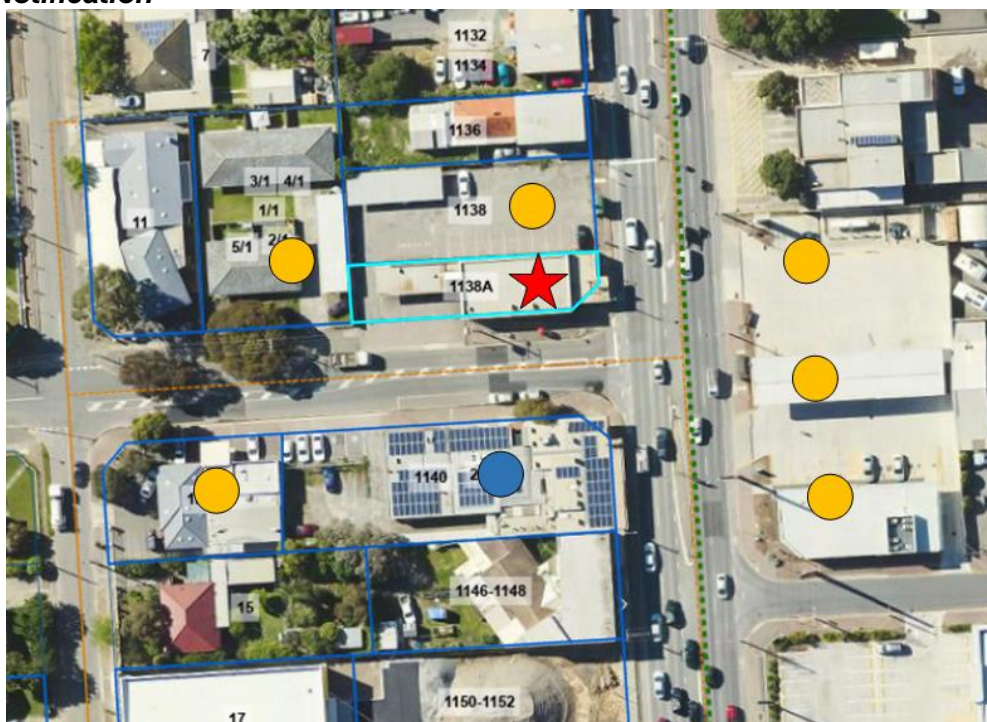
Classification

The application is listed neither as a complying nor non-complying form of development and has therefore been assessed as a 'merit' form of development.

Categorisation

The subject application is a Category 2 form of development by virtue of Schedule 9(19) of the Development Regulations 2008, which lists a kind referred to in clause 6 of this Schedule (including a change of use of land of a kind referred to in that clause) where the site of the proposed development is adjacent land to land in a zone under the relevant Development Plan which is different to the zone that applies to the site of the development, as a Category 2 form development. Given the application received written representations from those notified expressing opposition to the proposal; Council has delegated authority to the Council Assessment Panel.

Public Notification



Properties Notified	7
Representations	1 representation received opposing the development
Persons wishing to be heard	Dr. El-Masri (Coloured in blue)
Applicant Response	A copy of the response to representations can be found in the attachments of this report.

Referrals

Development Engineer (Internal)

The application has been referred to Council's Development Engineer to review the revised car parking layout who has advised that they are satisfied with the proposal, including parking space widths and manoeuvring areas.

ASSESSMENT

The following matters are considered pertinent in reaching a recommendation for the proposal;

1. Whether the proposed use of a Consulting room and sleep study clinic is considered appropriate within a Commercial Zone.
2. Whether the proposal poses an unreasonable impact on the amenity of the area.
3. Whether there are sufficient on-site car parking spaces for the proposed use.

The relevant objectives, desired character and principles of development control of the Commercial Zone are listed in the following table and discussed in further detail below:

Commercial Zone

OBJECTIVES

- 1 A zone accommodating a range of commercial and business land uses.
- 2 Development that minimises any adverse impacts upon the amenity of the locality within the zone.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

- 1 The following forms of development are envisaged in the zone:
 - consulting room
- 2 Development listed as non-complying is generally inappropriate.

South Road Policy Area 2

OBJECTIVES

1. Development having traffic generating characteristics and design so as to not compromise the arterial road function of South Road.
2. Development comprising lower impact uses or activities to provide a transition between development fronting South Road and residential use in adjoining residential zones.
3. Development that enhances the appearance of the policy area, particularly the streetscape of the South Road corridor.
4. Development that contributes to the desired character of the policy area.

DESIRED CHARACTER

Development along South Road is highly commercialised and provides an important servicing role to local, neighbourhood and significant district and metropolitan wide population. It contains a major concentration of motor vehicle related uses, service trade premises and bulky goods outlets. Due of the importance of South Road as a major arterial road, new development must be consistent with its arterial road function.

The intensity, floor size, scale and height of development needs to provide for an appropriate transition to residential uses, with medium levels away from residential zoning and low levels in near proximity to residential zones.

The architectural style and finishes of building development will be varied and display high aesthetic qualities to enhance the visual character of the locality.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

1. The following forms of development are envisaged in the policy area:
 - bulky goods outlet
 - indoor recreation and leisure facilities
 - light industry
 - motor vehicle related activities
 - service industry
 - service trade premises
 - small-scale office
 - storage uses
 - transport related activities
 - wholesale uses.

Form and Character

2. The gross leasable floor area of the following forms of development should be limited to that shown in the table below:

Form of development	Maximum gross leasable floor area (square metres)
Consulting room	250

- 3.
4. Development should not be undertaken unless it is consistent with the desired character for the policy area.
5. Buildings should not exceed 2 storeys or 10 metres in height above natural ground surface level, except where located within 20 metres of a residential zone in which case the building height should not exceed one storey or 6 metres.
6. Development adjacent residential zones should incorporate all of the following:
- (a) a minimum 6 metre setback for buildings from the zone boundary
 - (b) visual and acoustic buffer features
 - (c) landscaped areas having a minimum width of 2 metres
 - (d) 2 metre high fencing
 - (e) screened or obscured building openings.
7. Development should provide landscaped areas comprising at least 10 per cent of the site area and having a minimum width of 1 metre.
8. Development at Clovelly Park should be carried out in accordance with Concept Plan Map Mar/1 - Clovelly Park Centre and Commercial.

ZONE AND POLICY AREA CONSIDERATIONS

The Objectives of the Commercial Zone seek to accommodate a range of commercial and business land uses which do not impact on the amenity of the locality. The zone contemplates consulting rooms as an envisaged land use provided they are of a scale which does not detrimentally impact on the amenity of nearby residents.

The main considerations around the suitability of the use surrounds the intensity of the proposal and whether amenity impacts are resulted. It is worthy to acknowledge the total floor area of the building does not exceed the maximum 250sqm cap, which would result in the application forming a non-complying development. The proposal seeks alterations and additions to the building, reducing the total floor area to approximately 230sqm. This notwithstanding, it is important to have regard to the locality and what consequences come as a result of the proposal. When regard is had to the locality, it is acknowledged the site is situated adjacent an arterial road and non-residential land uses, noting a variety of commercial properties along South Road.

It is acknowledged South Road is a highly commercialised strip of land and comprises a variety of non-residential land uses. The site has historically been used as an office and the change in land use to a consulting room and sleep study clinic is considered acceptable for the subject land. The consulting and sleep study clinic is a small scale land use which contemplates low staffing numbers and visitors to the premise. The proposal assists in providing transition from the existing commercial buildings to the traditional residential setting to the east. It is also acknowledged the built form exists and the proposal does not result in additional floor area. The characteristics of the locality in this instance offer opportunities for a consulting room and sleep study clinic to assist in achieving the objectives of the zone.

The proposed use as a consulting room, will assist in serving the needs of the community and is consistent with the character of the locality. Despite the subject land being sited adjacent a Residential Zone (east), the character of the locality contemplates such land uses. Given the zone anticipates the form of development proposed, combined with characteristics of the locality, it is my opinion that the development can be considered small scale and will not unreasonably impact on the amenity of nearby residents.

AMENITY CONSIDERATIONS

While the site has some interface with residential properties along Newton Avenue, it is my opinion that the proposal will unlikely result in amenity impacts upon nearby residents. The proposal is considered to appropriately satisfy the applicable Objectives and Principles of Development Control section of the Development Plan and is discussed below.

NOISE AND HOURS OF OPERATION

The proposal is considered to remain in accordance with the desired outcomes of the Development Plan by limiting the consulting hours of operation from 9:00am until 5:00pm each day of the week. It is also acknowledged sleep study and monitoring requires equipment to be applied to patients which is proposed to occur between the hours of 5:00pm and 9:00pm. Given the nature of this process, low levels of noise are anticipated to occur.

The hours of operations are outside of normal sleeping hours and the use of the building as a consulting room will not create unreasonable noise impacts, particularly when regard is had to that generated by traffic along the arterial road network. The level of separation from nearby residential properties and the low scale of the proposed use is considered appropriate to minimise any amenity impacts attributed to noise and hours of operation.

Given the hours of operation, I do not believe any noise generated from the car park will unreasonably impact the amenity of nearby sensitive land uses.

WASTE COLLECTION AND STORAGE

The anticipated waste generated from the site does not extend beyond standard office materials and equipment. Council's collection services will be sufficient for the removal of waste from the site along with a private licensed waste transporter associated with the healthcare activities. The method of waste disposal is to be carried out in accordance with the noise limits referenced in the Environment Protection (Noise) Policy 2007.

TRAFFIC

The proposed traffic impacts of the development are appropriately managed through the provision of sufficient on-site car parking and the reuse of existing access/egress arrangements from the site. Additional traffic movements generated by the proposed development are not expected to compromise the safety or function of the surrounding road network.

It is acknowledged the proposal will reduce the number of vehicle parking space manoeuvring to/from Newton Avenue which is considered an improvement to the flow of traffic to the road which will assist in reducing congestion.

The proposal will see an increase in vehicle movements at the rear of the site; however, it is my opinion that any noise generated from the location of the parking area will not cause unreasonable impacts upon nearby residential properties. The hours of operation are limited to day time hours, such that any vehicle movements or traffic generated from the site can be catered for by the surrounding road network and any noise generated by vehicles will unlikely exceed that currently experienced by the arterial road or adjacent land uses.

The car parks meet the relevant Australian Standards, which has been reviewed by Council's Development Engineer, who has formed the opinion that from a traffic safety point of view, the proposal is satisfactory.

VEHICLE PARKING

Based on the total floor area of the building (230.7sqm), the Development Plan calls for a minimum 23 parking spaces (based on a rate of 10 spaces per 100sqm). The proposal provides 7 spaces in total, failing to satisfy the minimum by 16 spaces.

The existing use of the building as an office seeks a minimum number of on-site car parking equal to 10.4 (11) spaces, resulting in an existing shortfall of 6.4 (7) spaces. As such, if this is applied to the proposal, the shortfall in car parking is reduced to 9.4 (10) spaces.

Despite the deficiency in on-site parking, it is worthy having regard to the internal floor layout of the building, noting approximately 50sqm is allocated for toilet facilities and kitchen space, areas which do not generate a demand for car parking. Further, the subject land is located adjacent to public transport opportunities along South Road, which will increase accessibility to the site. These characteristics of the building and locality indicate that some discount can be afforded to the provision of on-site parking for the proposal.

Information submitted as part of the application has indicated a maximum of four employees when operating at maximum capacity (two of which are for administrative purposes). Two consultants shall operate from the facility whose hours are separated (i.e. are not working concurrently). Given the low scale of the operation, it is anticipated that the availability of on-site car parking will meet the likely demand generated by the proposed use. While four spaces can be allocated to staff, a remaining 3 spaces are available which would allow for customer parking and space for the following customer to take place.

In the event additional staff were contemplated, concerns would be held with the availability of on-site car parking and to this end, in order to ensure the use does not rely upon public parking spaces, a recommended condition of consent aims limits the number of employees which shall be on-site at any one time. Reasoning for this condition is to ensure that the number of car parks for the proposed use is acceptable. It is considered appropriate to include this condition given the relatively low scale of the proposed use. This aims to protect the amenity of the locality and in the event additional staff are contemplated, a separate application would be required with Council to vary such condition.

Given the above, it is my opinion that the provision in on-site parking is not considered fatal to the ability of the site to function appropriately and that the spaces shall meet typical peak parking demands generated by the proposal. It is not anticipated that customers visiting the site will need to rely on the adjacent road network for vehicle parking.

To this end, I am reasonably satisfied the availability of on-site parking and management of traffic throughout the site is appropriate to meet the likely demand generated from the facility and shall not result in unsafe traffic movements or compromise the flow of traffic upon the adjacent arterial and local roads.

CONCLUSION

The proposal displays reasonable support with the Development Plan and Commercial Zone. Consulting rooms no more than 250sqm that minimise adverse amenity impacts upon the locality are an envisaged land use in the zone. The proposed use is consistent with the character of the locality and complements the function of South Road as a highly commercialised arterial road. The proposal assists in meeting the objectives and principles of development control of the zone, demonstrated that it shall not detrimentally impact the amenity of nearby residents in terms of noise, traffic or hours of operation.

Interface between adjacent land uses have been appropriately addressed through limitations on hours of operation, built form outcomes and separation from nearby residential uses. Modifications to the car parking layout point are appropriately located and will improve traffic flows along Newton Avenue.

The largest non-compliance attributed to the proposal relates to the number of on-site car parking spaces. Modifications to the building result in a floor area of 230sqm, requiring 23 on-site parks. An existing non-compliance is attributed to the current use of the land as an office (6.4 spaces). The proposal incorporates 7 on-site car parks which aim to cater for the use of the building as a consulting room. It is acknowledged the consulting room is of a relatively small scale which contemplates low staffing numbers and visitors to the site. This includes two administration and two consultants. As part of the submission to Council, it has been identified the two consultants operate at separate times in order to avoid overlapping of customers. A condition included as part of this report's recommendation aims to limit the number of employees being on-site at any one time. With a maximum of three employees on-site, the availability of car parking is considered appropriate to meet the likely peak demand of the facility, without the need to rely on adjacent land uses or the local road network.

It is also acknowledged the subject land is located along South Road which contains public transport opportunities adjacent the site. This is considered to assist in increasing accessibility to the site and as such, a discount in on-site car parking could be applied.

The proposed use as a consulting room will assist in serving the needs of the community and is consistent with the character of the locality. Despite the subject land being sited adjacent a Residential Zone (east), the character of the locality contemplates such land uses. The considerations in this report have demonstrated the use unreasonably impact on the amenity of nearby residents.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent subject to Conditions.

RECOMMENDATION

Having considered all relevant planning matters in relation to the subject development application:

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No. 100/2020/2087 for a change in land use from office to consulting rooms and sleep study clinic with associated alterations and additions to the existing building and car parking at 1138a South Road, Clovelly Park be GRANTED subject to the following Conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2020/2087, except when varied by the following conditions of consent,
- 2. The hours of operation of the premises shall be restricted to the following times:
 - 8:00 am to 9:00 pm of each day of the week.
- 3. No more than three employees of the business shall be on-site at any one time.
- 4. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
- 5. All car parking spaces shall be linemarked or delineated in a distinctive fashion prior to occupation of the premises, with the marking maintained in a clear and visible condition at all times.
- 6. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
- 7. All waste disposal and pick up shall be undertaken in accordance with the requirements stipulated within the *Environment Protection (Noise) Policy 2007*, or subsequent legislation.
- 8. All waste and other rubbish shall be stored in a manner so that it does not create insanitary conditions, unreasonable nuisance or pollution to the environment and shall be screened from public view to the reasonable satisfaction of Council.
- 9. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.
- 10. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.

**REPORT REFERENCE: CAP170221 – 3.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



Originating Officer:	Nicholas Timotheou Senior Development Officer - Planning
Applicant:	Caziopia Pty Ltd
Development Description:	Change in land use of land from shops to a Torrens Title Land Division - 1 into 5 allotments and the subsequent construction of 5 single storey detached dwellings with associated car parking and landscaping
Site Location:	97A McInerney Avenue, Mitchell Park
Zone & Policy Area:	Local Centre Zone
Lodgement Date:	02/01/2020
Development Plan:	Consolidated – 15 August 2019 Gazetted 8 August 2019
Referrals:	External SA Water State Commission Assessment Panel (SCAP) Internal Development Engineer
Application Type:	Non-Complying <i>Local Centre Zone</i> <i>Dwelling - Except where the dwelling is in conjunction with a non-residential development and is sited above or behind the non-residential development on the same allotment.</i>
Delegations Policy:	1.4.1.1 <i>Non-complying applications – the Panel will decide to refuse the application or seek the concurrence of the State Commission Assessment Panel to approve the application, except for the following:</i> <ul style="list-style-type: none"><i>the decision to proceed with an assessment of a non-complying application pursuant to Regulation 17 (3)(b) of the Development Regulations 2008).</i> <i>non-complying applications deemed to be minor in accordance with Regulation 17 and Schedule 9 Part 1 (3) of the Development Regulations 2008.</i>
Categorisation	3 <i>Not defined by the Development Plan or the Development Regulations 2008, and not considered minor in nature pursuant to Schedule 9, Part 1 – 2(g).</i>
Application No:	100/2020/3 (100/D202/19)
Recommendation:	That Development Plan Consent be GRANTED subject to concurrence of the State Commission Assessment Panel (SCAP), Reserved Matter and Conditions

Attachments

Attachment I: Certificate of Title
Attachment II: Proposal Plan and supporting documentation
Attachment III: External Agency Referral Comments

SUBJECT LAND

The subject land comprises Allotment 1 in Deposited Plan 137914 in the area named Mitchell Park, Hundred of Adelaide (as contained within Crown Record Volume 5252 Folio 94). This land is more commonly referred to as 97f McInerney Avenue, Mitchell Park. The allotment is irregular in shape, presenting the main frontage to McInerney Avenue, with secondary frontage to Greenglade Drive. The land comprises a total area of approximately 1700 square metres. The subject land is located entirely within a Local Centre Zone and is bordered by a Residential Zone, Medium Density Policy Area 12.

The land comprises a single storey building comprising eight shop tenancies facing McInerney Avenue. An outbuilding is located to the rear of shops along with an unkept surface. The building is in poor condition and has not been in operation for some time (since approximately 2015), such that the site is bordered by temporary fencing. The building is set back approximately 10 metres from the McInerney Avenue frontage and 2 metres from the Greenglade Drive frontage.

Access to/from the site is currently available via an open crossover to McInerney Avenue for the entire length of the eastern boundary and via a standard crossover to the north on the Greenglade Drive frontage.



LOCALITY

The locality is typically residential in nature, which is evident of the respective zoning bordering the site. The subject land comprises a Local Centre Zone, whereas a Residential Zone, Medium Density Policy Area 12 surrounds the site.

The locality predominantly consists of single storey detached dwellings at low densities, which are representative of the original dwelling stock. A number of redeveloped/sub-divided properties are also evident in the locality, which typically take the form of single-storey and two storey detached, semi-detached, row and group dwellings.

The wider locality includes Maldon Avenue Reserve, located some 100m south-west of the land. The Tonsley Innovative District is located approximately 600 metres east of the land and includes the newly constructed Tonsley Rail station.

The subject site and locality can be viewed via this [google maps link](#).



PROPOSED DEVELOPMENT

The application is best described as a "Torrens Title Land Division - 1 into 5 allotments and the subsequent construction of 5 single storey detached dwellings with associated car parking and landscaping".

The dwellings incorporate a mixture of three and four bedrooms (main with ensuite), laundry, bathroom and separate WC as well as open plan kitchen/living/meals areas with direct access to the associated area of private open space. Each dwelling is provided with a single width garage and an associated visitor space within the driveway. Lots 2 to 5 seek to utilise an existing crossover, whereas Lot 1 proposes a modified access point off Greenglade Drive.

The dwellings incorporate a mixture of materials and finishes including exposed brick, panel lift doors, Colorbond roofing and fenestration. Each dwelling incorporates a selection of landscaping within the front yard of each property.

No fencing details are provided as part of the subject application and any such fencing will be at the discretion of the future owners/occupiers (and in accordance with the relevant legislative requirements).

PROCEDURAL MATTERS

Classification

The subject application is a Non-Complying form of development by virtue of the Procedural Matters section of the Local Centre Zone, where dwellings are listed as a non-complying form of development except where the dwelling is in conjunction with a non-residential development and is sited above or behind the non-residential development on the same allotment. Given the proposal incorporates freestanding detached dwellings the proposal comprises a Non-Complying form of development.

Categorisation

Council administration were of the view that the proposal was not of a minor nature having regard to the size of the site of the development and the location of the development within that site, and the manner in which the development relates to the locality. As such, it was Council administration's view that the proposal could not be deemed as a Category 1 development, and therefore the proposal was considered to constitute a Category 3 form of development.

Referrals

External SA Water and SCAP

Standard land division comments and conditions which have been included within the Conditions section of this report.

Internal Development Engineer

Council's Development Engineer has reviewed the proposed development and supporting documentation and advised they are satisfied with the proposal.

PUBLIC NOTIFICATION



Properties Notified
Representations

27
No representations received

ASSESSMENT

The assessment is split into three main sections:

1. Zone Consideration, which considers relevant qualitative Zone Objectives, Desired Character and Principles of Development Control;
2. Quantitative Snapshot, which details the proposal's performance against relevant quantitative Principles of Development Control;
3. Assessment Discussion, which involves detailed discussion of pertinent matters.

Zone and Policy Area Considerations

Local Centre Zone

Objectives

1. *A centre accommodating small-scale convenience shopping, office, medical and community facilities to serve the day-to-day needs of the local community.*
2. *A centre characterised by traditional corner stores or small groups of shops located within easy walking distance of the population they serve.*
3. *A centre accommodating residential development above non-residential development.*
4. *Development that contributes to the desired character of the zone.*

Relevant Principles of Development Control

1. *The following forms of development are envisaged in the zone:*
 - advertisement
 - community facility
 - consulting room
 - dwelling sited above a non-residential land use
 - office
 - office and dwelling
 - shop with a maximum gross leasable floor space in the order of 450 square metres
 - shop and dwelling.
2. *Development listed as non-complying is generally inappropriate.*
3. *Residential development and development comprising a variety of residential and non-residential uses may be undertaken provided such development does not prejudice the operation of existing or future non-residential activity within the zone.*
4. *Development should not be undertaken unless it is consistent with the desired character for the zone.*
5. *Dwellings should be located above non-residential uses on the same allotment.*
6. *Residential development should include a diversity of housing types and densities while not detracting from the primary function of the centre.*
7. *Shop development should generally comprise a maximum gross leasable floor area in the order of 450 square metres.*
8. *Buildings should have a maximum height of no more than two storeys or 9 metres above natural ground level.*
9. *Interface issues such as noise and air emissions between residential and non-residential land uses should be addressed by the use of appropriate air quality and sound attenuation techniques.*
10. *Land division in the zone is appropriate provided new allotments are of a size and configuration to ensure the objectives of the zone can be achieved.*

Desired Character

The zone comprises a number of local centres that are generally surrounded by, or adjacent to, residential development and provide for the daily needs of the local community.

It is envisaged that local centres will provide a focus for the local community and will mature to offer retail opportunities at ground level and residential development positioned above. A high level of accessibility for non-vehicular traffic and facilities like bike storage and public seating encourage people in surrounding areas to walk and cycle to these local centres.

High street style shop frontages positioned close to roads are the desirable urban design for local centres. On-street parking will be available for the convenience of passing traffic, with the balance of any associated car parking spaces positioned behind or to the side of centre buildings to ensure such areas do not become the predominant character element of centre sites.

Local centres are intended to accommodate medium density residential development in the form of mixed use/shop top housing, where non-residential uses are established at ground floor level, so that not all land within the centre zone is taken for residential use. Residential development forms will be limited to dwellings that are located above non-residential development on the same allotment and where in conjunction with that non-residential development.

The built form character will be established through appropriate design, including interesting roof forms, varied building articulation and landscaping. Garaging should not dominate the streetscape.

Development in the zone will be compatible in height, scale and form to the immediate locality and create a high standard of presentation to main roads and contribute to a cohesive residential urban form.

The Objectives of the Local Centre Zone seek to primarily accommodate small scale uses to serve the day-to-day needs of the local community. The zone seeks to provide a focus for the local community as well as accommodating medium density residential development in the form of mixed use/shop top housing so that not all land within the centre zone is taken for residential use. Whilst the Zone contemplates some aspect of residential development, it should be in a form which is sited above (shop-top) or behind (shop front) non-residential development. The proposal is a non-complying form of development as it proposes five dwellings on individual allotments.

The Local Centre Zone contemplates both commercial and residential uses, albeit, the policy envisages both being on the same allotment with a greater desire for dwellings to be located above non-residential land uses. The proposed development seeks the introduction of entirely residential development into the Local Centre Zone, thereby removing opportunities for the zone objectives to be met and eliminating future non-residential uses.

The Mitchell Park Local Centre Zone is a small strip shopping complex on McNerney Avenue, a local street which extends through the southern and central parts of the Mitchell Park residential area between Sturt Road and Alawoona Avenue. The centre comprises eight small retail tenancies with a total building area of approximately 650 sqm. At present the centre is fenced off with no operating businesses. The building is in poor condition and appears to have been vandalised in the absence of any activity or maintenance.

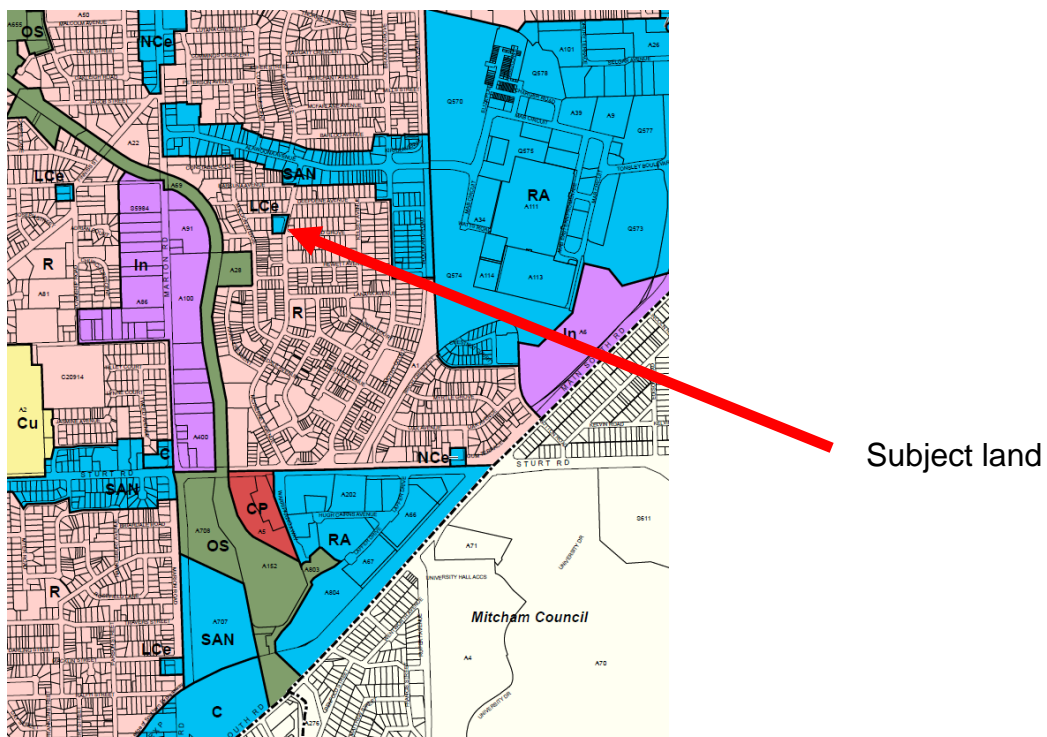
Before the suitability of the proposal is considered, it is considered pertinent in reaching a conclusion as to whether the subject Local Centre Zone is appropriately located to meet the desired objectives. To this end, the applicant has engaged a qualified Retail Economist and Analyst to review the subject land and provide their opinion on the sustainability of a retail offer on the site. Their report considers whether the use of the site for the accommodation of a Local Centre is sustainable having regard to all relevant matters, in particular

- Site location and surrounding context;
- Competition; and
- Potential catchment.

The main conclusions drawn from the retail analysis are that due to the location and context of the land, it lacks visibility and potential role as a shopping destination. A number of competitive facilities are located within close proximity to the land, including large supermarkets and convenience stores. Given the nearby competition, location of the site being separated from public transport opportunities, being “internalised” and physical barriers, the subject Local Centre Zone is one which is only expected to serve a localised catchment, where income levels within this area are 26.7% below the Adelaide metropolitan average. Due to low-income levels, the retail analysis concludes *“Many residents within the catchment will necessarily be frugal with its expenditure and in any case the level of retail expenditure per capita will also be below average”*. Competition near the land removes the opportunity for any sizeable food/grocery shop to be viable, similarly with any cafes or restaurants. This is evident through a lack in retailing on the site. The above matters indicate the Local Centre Zone is not viable to meet the intent of the policy.

As part of the assessment process, Administration engaged an independent Retail Analyst to peer review the applicants report who concluded they were in agreement with the findings. It found the McInerney Avenue Local Centre Zone has location and catchment constraints that make it difficult to sustain a stable and meaningful range of local retail stores for the area. A copy of the peer review will be forwarded to Members prior to the meeting.

I consider there is merit in the above considerations and the opportunity for the subject Local Centre Zone to satisfy the Objectives, Desired Character statement and Principles of Development Control can be difficult to achieve in this instance. The existing shops appear underutilised with a number of tenancies remaining vacant for a long period of time. With various shopping precincts within close proximity to the Local Centre Zone, it is not expected the commercial uses will expand to take advantage of the zoning of the subject land. The below image indicates the location of other zones in the wider locality which aim to accommodate commercial land uses. The subject Local Centre Zone is nestled in the within the suburb of Mitchell Park away from arterial roads or pedestrian/cycling/public transport routes, unlike other similar zones where activity is higher and likely to help support the viability of the zone. To this end, the development of the site for low density housing is considered one which has merit and provides opportunity make better use of underutilised land which has been in decline for some time. The site is nestled within with an area dominated by residential development and the built form provides a character consistent with the locality, including generous setbacks from boundaries which promote landscaping opportunities.



Mar Mina (SA) Pty Ltd v City of Marion & Anor [2008] SASC 120, involved a judicial review of an application for a change in land use to establish a small school in a Neighbourhood Centre Zone. Justice Debelle stated the following:

“Considering a Development Plan as a flexible, advisory planning policy document and as a practical guide for practical application, and not as a mandatory legal statute, is an acceptable and sensible way of approaching a Development Plan. However it does not enable the Objective and the essential Principles of Development Control to be ignored simply because the view is taken that the Objective of the plan is unlikely to be achieved for various reasons... Nor is it any answer to ignoring the Objective and the Principles of Development Control to say that the Objective of the plan cannot be or is unlikely to be achieved”.

“While not mandatory, the provisions of the Development Plan are directory and persuasive and one would normally expect a planning authority to apply them unless, as a matter of planning judgment, there is good reason to depart from them”.

The judgement continues to state that the proposed change in land use defeats the intent of the Neighborhood Centre Zone, by removing the opportunity/further development of the land, to achieve the Zone Objectives and was found to be seriously at variance with the Development Plan.

Whilst the proposal will ultimately result in the loss of the zone and potential for a mixture of activities, it has been clearly demonstrated the zone is no longer suitable for it's location. The information submitted as part of this application concludes the Mitchell Park site is no longer a suitable location to establish a range of viable retail and commercial uses envisaged under the Local Centre Zone, and existing uses could be accommodated within the immediate and wider locality.

The Mitchell Park Local Centre Zone comprises a longstanding group of shops which has historically served the local community. It is acknowledged over time the role of this local centre has diminished with numerous opportunities to meet the need for small-scale convenience shopping, office, medical and community facilities having evolved in the wider locality.

The underutilised nature of the existing site, combined with a low population catchment, changing consumer needs and location of other zones accommodating commercial and retail land uses within a short radius of the site, has created a dynamic where it is no longer considered necessary to accommodate a range of uses on the land which serve the local community.

An assessment in strict accordance with the zone policy suggests the proposed development does not satisfy the relevant Objectives and Principles of Development Control for the Local Centre Zone. In the absence of any relevant provisions which might otherwise help to assist with the assessment of this particular application (from a qualitative perspective), an assessment can consider the relevant Objectives, Desired Character and Principles of Development Control for Medium Density Policy Area 12, being the nearest Residential Policy Area to the site of the proposed development. The below Quantitative snapshot displays the proposal level of compliance when assessed against the Local Centre Zone as well as the Residential Zone, Medium Density Policy Area 12.

Qualitative Snapshot – Local Centre Zone

Criteria							
		Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	
Site area	No minimum	397sqm	375sqm	336sqm	313sqm	314sqm	Not Applicable
Frontage width	No minimum	10.08	10.36	10.0	10.08	10.95	Not Applicable
Depth	No minimum	-32.6-38.9m	38.9-36.2m	36.2-33.5m	33.5-30.9m	30.9-29.5m	Not Applicable
Site coverage	No Maximum	172sqm 43.4%	158.57sqm 42.26%	139.2sqm 41.4%	137.45sqm 43.9%	137.4sqm 44%	Not Applicable
Pervious area	20%	609.8sqm / 35.8%					Satisfies
Front setback	In-line with adjacent building	7m	6m	6m	7.7m	5m	Satisfies
Carport/garage setback	5.5m and behind or in-line with main face	n/a	9.9m	6.3m	8.4m	8.4m	Satisfies
Rear setback	No minimum	14.9m	11.2m	10.5m	6.4m	6.4m	Not Applicable
Side setbacks	No minimum	1.38m	0.9-1.1m	1-1.1m	1.2m	1.7-1.2m	Not Applicable
Secondary street setback	0.9m	Carport on boundary and 0.9m to dwelling	n/a	n/a	n/a	n/a	Departure
Building height	2 storeys	All dwellings are single storey.					Satisfies
Private open space	60sqm	155sqm	112sqm	116sqm	62.8sqm	65.6sqm	Satisfies
Private open space dimension	4 x 4 metres	All areas of POS exceed a 4 x 4 metre dimension.					Satisfies
Garage width	6m or 50% of dwelling façade width (the lesser)	4.8m (secondary street)	2.4m (26.3%)	2.4m (20.4%)	2.7m (31.7%)	2.7m (31.7%)	Satisfies
Off-street parking	2 (1 covered)	2	2	2	2	2	Satisfies
On-street parking	1 per 2 allotments	6 on-street car parks across the site					Satisfies

Quantitative snapshot - Residential Zone, Medium Density Policy Area 12

Criteria							
		Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	
Site area	300sqm	397sqm	375sqm	336sqm	313sqm	314sqm	Satisfies
Frontage width	10m	10.08	10.36	10.0	10.08	10.95	Satisfies
Depth	20m	-32.6-38.9m	38.9-36.2m	36.2-33.5m	33.5-30.9m	30.9-29.5m	Satisfies
Site coverage	40%	172sqm 43.4%	158.57sqm 42.26%	139.2sqm 41.4%	137.45sqm 43.9%	137.4sqm 44%	Departure
Pervious area	20%	609.8sqm / 35.8%					Satisfies
Front setback	5m	7m	6m	6m	7.7m	5m	Satisfies
Carport/garage setback	5.5m and behind or in-line with main face	n/a	9.9m	6.3m	8.4m	8.4m	Satisfies
Rear setback	3m (50% and 6m)	14.9m	11.2m	10.5m	6.4m	6.4m	Satisfies
Side setbacks	0.9m	1.38m	0.9-1.1m	1-1.1m	1.2m	1.7-1.2m	Satisfies
Secondary street setback	2m	Carport on boundary and 0.9m to dwelling	n/a	n/a	n/a	n/a	Departure
Building height	2 storeys	All dwellings are single storey.					Satisfies
Private open space	20%	155sqm / 39%	112sqm / 29.8%	116sqm / 34.5%	62.8sqm / 20%	65.6sqm / 20.8%	Satisfies
Private open space dimension	5 x 5 metres	All areas of POS exceed a 5 x 5 metre dimension.					Satisfies
Garage width	6m or 50% of dwelling façade width (the lesser)	4.8m	2.4m	2.4m	2.7m	2.7m	Satisfies
Off-street parking	2 (1 covered)	2	2	2	2	2	Satisfies
On-street parking	1 per 2 allotments	6 on-street car parks across the site					Satisfies

The above quantitative snapshots indicate the proposal achieves a high level of compliance with the quantitative provisions of the Development Plan. The secondary street setback of the carport associated with Lot 1 is at odds with the desired 900mm setback; however, is not considered a fundamental non-compliance, which will have detrimental streetscape impacts.

The proposed dwellings reflect the existing character of the locality, as they incorporate an attractive presentation to the streetscape. The dwelling façades incorporate elements including a mixture of exposed brick and protruding porches the front façade, eave overhang and pitched roof form and fenestration to enhance their design and appearance.

The dwellings incorporate a Colorbond roof, with a mixture of exposed brick to the front facade. The associated garages feature exposed brick and a Colorbond roof. These materials should not result in glare to neighbouring properties, drivers or cyclists.

On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.

As the subject application also seeks land division consent, the proposal has been assessed against the relevant

Land Division

Objectives

1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.

Satisfies

The proposed division of land is considered to be orderly and in keeping with the density of development that is envisaged the locality.

It is considered that the proposed increase in the number of dwellings to be constructed on the subject land will make optimum use of existing infrastructure and facilities.

2 Land division that creates allotments appropriate for the intended use.

Satisfies

Principles of Development Control

1 When land is divided:

- (a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner*
- (b) a sufficient water supply should be made available for each allotment*
- (c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health*
- (d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.*

Satisfies

Satisfies PDC 1 as stormwater disposal system is satisfactory and SA Water have confirmed that water supply is available (subject to conditions). SA Water have also confirmed that sewerage connection is available (subject to conditions).

2 Land should not be divided if any of the following apply:

- (a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use*
- (b) any allotment will not have a frontage to one of the following:*
 - (i) an existing road*
 - (ii) a proposed public road*
 - (iii) access to a public road via an internal roadway in a plan of community division*
- (c) the intended use of the land is likely to require excessive cut and/or fill*
- (d) it is likely to lead to undue erosion of the subject land or land within the locality*
- (e) the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development*
- (f) the intended use of the land would be contrary to the zone objectives*
- (g) any allotments will straddle more than one zone, policy area or precinct.*

Satisfies

The proposed division of land achieves compliance in relation to all the requirements listed opposite.

3 Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.

Satisfies

11 The layout of a land division should provide for efficient solar access.

Satisfies

All lots achieve a west facing rear boundary; however, will receive some northern light throughout the day.

21 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of:

(a) the size of proposed allotments and sites and opportunities for on-site parking

(b) the availability and frequency of public and community transport

(c) on-street parking demand likely to be generated by nearby uses.

Satisfies

The allotments and associated dwellings provide opportunities for adequate on-site car parking and on-street parking.

22 A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).

Satisfies

Each of the dwellings approves adequate on-site parks and room for at least 6 on-street parks will remain available adjacent the subject land.

CONCLUSION

Whilst the site of the development is located within a Local Centre Zone, the preceding assessment has demonstrated that the proposed development reflects a form and density of housing development that comfortably complements the locality.

Although the proposed dwellings will remove the opportunity for the Mitchell Park Local Centre Zone to meet the desired outcomes and prevent what is sought for the zone for the foreseeable future, an analysis of the site, locality, nearby competition and catchment area has demonstrated the land is no longer viable to achieve this outcome.

The existing shops on the subject land appear underutilised with a number of tenancies remaining vacant for a long period of time. The site is internalised to the suburb of Mitchell Park compared to centre zones fronting arterial roads or walking/cycling/public transport routes that benefit from greater activity or foot traffic. With a combination of small and large shopping precincts/convenience stores within close proximity to the Local Centre Zone, it is not expected a commercial use is viable on the land.

The development of the site for medium-density housing is not expected to have a detrimental impact on the locality, rather the proposal is nestled in with the prevailing residential character. As such, I am of the opinion that the proposed use of the subject land for residential purposes to be a more efficient and economic use of land despite being listed as a non-complying kind of development within the Local Centre Zone.

It is considered that the proposal complies with a majority of the quantitative and qualitative provisions of the Development Plan with all dwellings providing adequate building setbacks from adjoining properties, suitable areas of private open space and sufficient provision for at least two on-site car parking spaces per dwelling. Where shortfalls have been identified, they have been found to have minor repercussions without having a detrimental impact on the function of the proposed or existing dwellings within the locality.

In terms of design and appearance, the proposed dwellings will be well articulated incorporating various design elements along external walls to provide a high degree of visual interest, which complement existing development in the locality.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants the support of the Council Assessment Panel.

RECOMMENDATION

Having considered all relevant planning matters in relation to the subject development application:

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/3/2020 for a change in land use from shops to a Torrens Title Land Division - 1 into 5 allotments and the subsequent construction of 5 single storey detached dwellings with associated car parking and landscaping at 97A McLnerney Avenue, Mitchell Park be GRANTED subject to concurrence of State Commission Assessment Panel, Reserved Matter and Conditions

RESERVED MATTER

Pursuant to Section 33(3) of the Development Act, Council RESERVES its decision in relation to the following matters. Development Approval cannot be issued by the Council unless and until it has assessed such matters and granted its consent in respect thereof.

- 1. A revised site plan, landscape plan and engineered siteworks and drainage plan shall be submitted to Council detailing all crossovers being perpendicular to the kerb and a minimum 1m from the existing stobie pole adjacent to Lot 4 and Lot 5, to the reasonable satisfaction of the Administration.

Pursuant to Section 33(3) of the Development Act 1993 the Council reserves its decision on the form and substance of any further conditions of development plan consent that it considers appropriate to impose in respect of the reserved matter outlined above.

CONDITIONS

- 1. The development shall be constructed and maintained in accordance with the plans and details submitted with and forming part of Development Application No.100/2020/3, except when varied by the following conditions of consent.
- 2. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.
- 3. All areas nominated as landscaping or garden areas on the approved plans shall be planted and maintained with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 4. Any existing vegetation nominated to be retained and/or any new vegetation proposed to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

5. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
6. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
7. Stormwater must be disposed of in such a manner that does not flow or discharge onto land of adjoining owners, lie against any building or create insanitary conditions.

Land Division Consent

8. All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
9. The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
10. The financial requirements of the S A Water Corporation shall be met for the provision of water supply and sewerage services. (S A Water H0093547)

On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

11. Payment of \$30,464.00 into the Planning and Development Fund (4 allotment/s @ \$7,616.00 /allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Department of Infrastructure and Transport marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.
12. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Commission Assessment Panel for Land Division Certificate purposes.

**REPORT REFERENCE: CAP170221 – 3.3
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Aria Digital Screens
Development Description:	Freestanding illuminated sign in association with school
Site Location:	1 Berrima Road Sheidow Park
Zone:	Residential Zone
Policy Area:	Southern Policy Area 18
Lodgement Date:	28/08/2020
Application Type:	Category 3 / Non-complying
Development Plan:	Consolidated – 9 July 2020
Referrals:	Department of Infrastructure and Transport
Delegations Policy:	<i>Non-complying applications except for the following:</i> <ul style="list-style-type: none"><i>• The decision to proceed with an assessment of a non-complying application pursuant to Regulation 17 (3) (b) of the Development Regulations 2008</i><i>• Non-complying applications deemed to be minor in accordance with Regulation 17 and Schedule 9, Part 1 (3) of the Development Regulations</i>
Application No:	100/2020/1419
Recommendation:	Development Plan Consent (GRANTED) subject to conditions

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment III:</i>	<i>DIT referral comments</i>

SUBJECT LAND

The subject land is a 2.44 ha site located on the southern side of the T-junction with Lonsdale Road and Lander Road and to the west of Berrima Road. The address of the site is 1 Berrima Road, Sheidow Park.

The site contains an educational establishment in the form of a primary school and includes several single storey school buildings, a place of worship and associated verandahs, outbuildings, car parking and signage.

There are several small to medium sized trees located on the edge of the school grounds adjacent the roadway.



LOCALITY

The locality which the subject land is located within is predominantly residential which comprises detached dwellings on large allotments.

The road network around the land consists largely of cul-de-sacs as well as the main arterial road of Lonsdale Road located west of the subject land.

The subject site and locality can be viewed via this [google maps link](#).



PROPOSED DEVELOPMENT

The proposed development seeks to replace two existing signs adjacent the corner of Lonsdale Road and Lander Road with a freestanding illuminated (LED) sign.

The sign has a total height of 5m with a fascia area of 3.2m x 2.46m, totalling 7.87m². The LED display area with the fascia is 2.88m x 1.28m, resulting in a total advertising area of 3.68m².

The messages will promote the school in general, along with the promotion of school related events.

The proposed sign can be seen in figure 1 below.

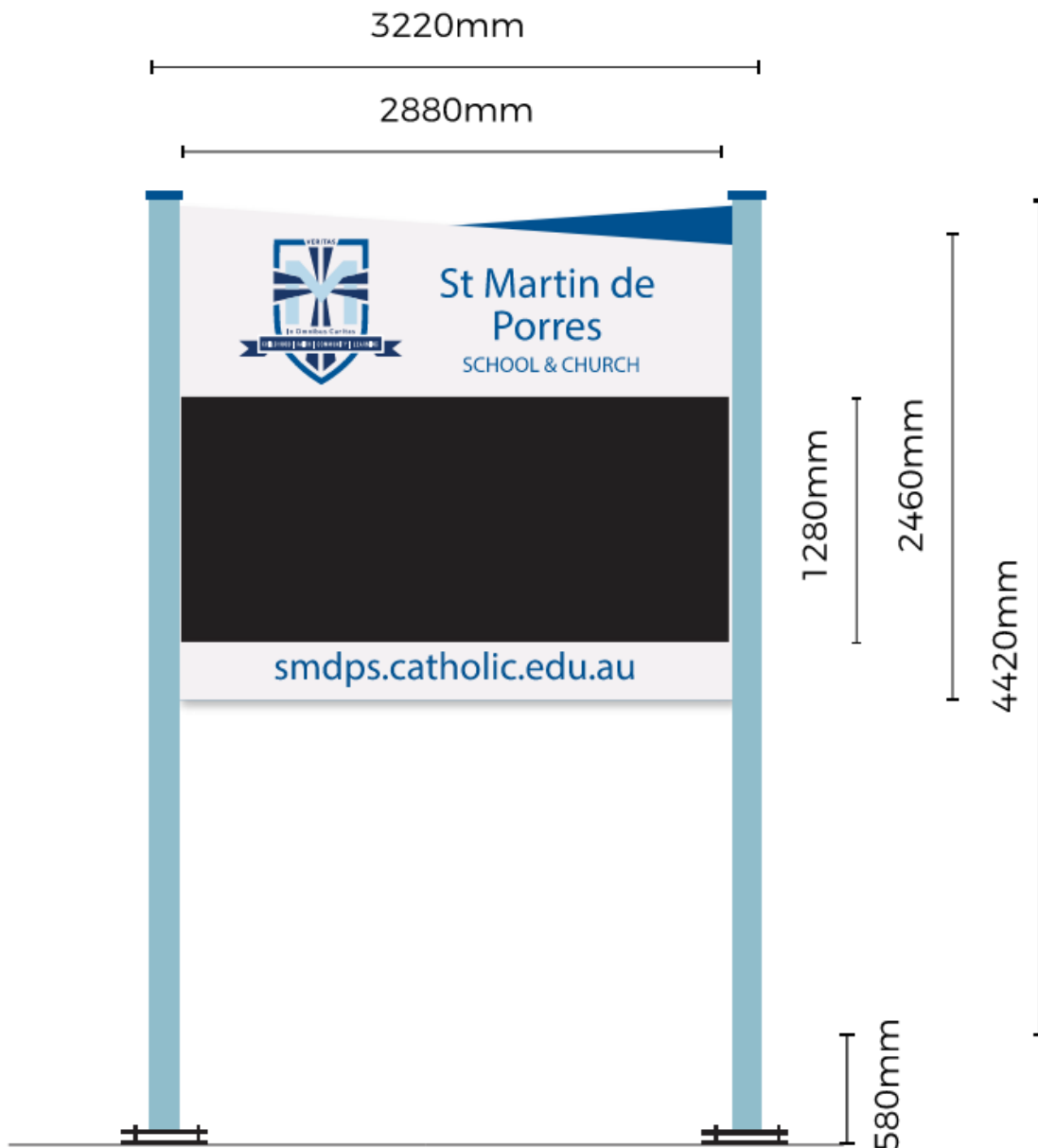


Figure 1: Proposed sign & LED display area

PROCEDURAL MATTERS

Classification

The subject application is a Non-Complying form of development by virtue of the Procedural Matters section of the Residential Zone, where the proposed development does not satisfy the following relating to Advertisements

- (c) (i) has a panel size exceeding 4 square metres
- (c) (ii) has a maximum height exceeding 4m
- (d) there is more than one advertisement on the allotment

Categorisation

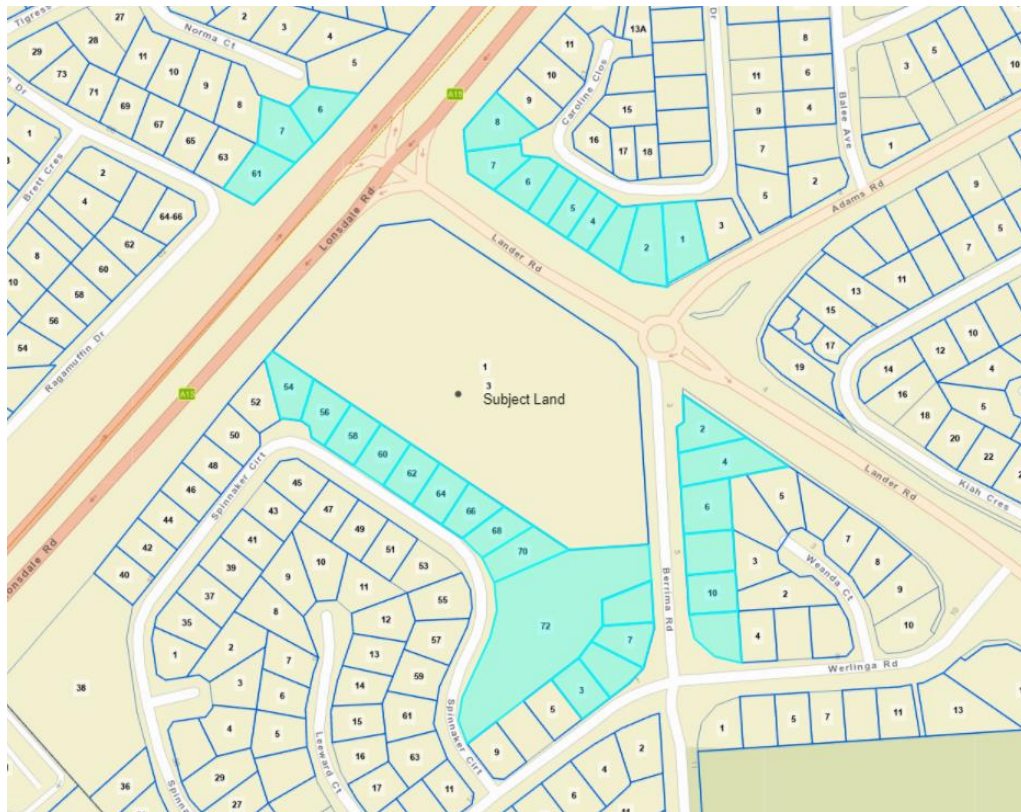
Council administration were of the view that the proposal was not of a minor nature having regard to the size of the development and the location of the development within that site, and the manner in which the development relates to the locality. As such, it was Council administration's view that the proposal could not be deemed as a Category 1 development, and therefore the proposal was considered to constitute a Category 3 form of development.

Referrals

The sign is within 100m of traffic lights and therefore required referral to DIT pursuant to Schedule 8 of the Development Regulations.

DIT's comments form Attachment III.

PUBLIC NOTIFICATION



Properties Notified
Representations

37 (shown in blue)
No representations were received

ASSESSMENT

The proposed advertising structure and its associated messaging is associated with an existing non-residential use and therefore, in my opinion, the sign can be a contemplated use. In saying this, there are a number of elements that are pertinent in reaching a recommendation for the proposal, namely:

1. Zone and Policy Area considerations
2. Assessment of the General Section Advertisement provisions
3. Interface Impacts
4. Traffic Impacts

Zone and Policy Area Considerations

Residential Zone

Objectives

1. *An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.*
2. *Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.*

Principals of Development Control

1. *The following forms of development are envisaged in the zone:*
 - *affordable housing*
 - *outbuilding in association with a dwelling*
 - *domestic structure*
 - *dwelling including a residential flat building*
 - *dwelling addition*
 - *small scale non-residential uses that serve the local community, for example:*
 - *child care facilities*
 - *consulting rooms*
 - *health and welfare services*
 - *offices*
 - *open space*
 - *primary and secondary schools*
 - *recreation areas*
 - *shops*
 - *supported accommodation.*
2. *Development listed as non-complying is generally inappropriate.*
3. *Vacant or underutilised land should be developed in an efficient and co-ordinated manner to increase housing choice by providing dwellings at densities higher than, but compatible with adjoining residential development.*
4. *Non-residential development such as shops, offices and consulting rooms should be of a nature and scale that:*
 - (a) primarily serves the needs of the local community*
 - (b) is consistent with the character of the locality*
 - (c) does not detrimentally impact on the amenity of nearby residents.*

The proposed sign is associated with an existing school and will replace two existing signs. In my opinion, the nature of the development itself is considered reasonable, particularly as the associated use is deemed to be envisaged within the zone. However further assessment on the size, presentation and location of the structure is required.

It is noted that Principle 2 of the Residential Zone specifies that Development listed as non-complying is generally inappropriate. The applicant has chosen to pursue the development in the form proposed as they consider there are circumstances in which the sign will sit comfortably within its surroundings and will not adversely affect nearby properties.

The sign has been deemed non-complying by way of its display area, height and the number of signs already existing on the land. These elements and whether they will result in impact on the amenity of the locality will be discussed and further assessment against the Advertisement provisions and interface and traffic impacts will provide a basis in coming to a determination.

ADVERTISEMENTS

The relevant advertisement provisions focus on determining if the location, siting, design, materials, size and shape of the advertising hoarding is appropriate, along with hazard considerations for vehicles and pedestrians. The Marion Council Development Plan Advertisements provisions are discussed below;

Objectives

1 Urban and rural landscapes that are not disfigured by advertisements and/or advertising hoardings.

The proposed sign will replace two existing signs and therefore the consolidation will remove any clutter and lack of co-ordination associated with the existing signs. I am therefore of the view the proposed signage is not considered to result in a lesser outcome in its presentation to the street.

2 Advertisements and/or advertising hoardings that do not create a hazard.

3 Advertisements and/or advertising hoardings designed to enhance the appearance of the building and locality.

Hazards are discussed in the safety section below.

Principles of Development Control

1 The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:

- (a) consistent with the predominant character of the urban or rural landscape*
- (b) in harmony with any buildings or sites of historic significance or heritage value in the area*
- (c) co-ordinated with and complement the architectural form and design of the building they are to be located on.*

Whilst it is noted that the height and display area of the sign exceed the desired standards, the sign will be located in a position adjacent the main road network. When compared to other signage further south along Lonsdale Road, the sign is not considered excessive in size and will replace signage that already exists in that location of the site. LED signage is a common siting on main roads and the proposed sign is in keeping with the predominant character within the wider locality.

2 The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:

- (a) clutter*
- (b) disorder*
- (c) untidiness of buildings and their surrounds*
- (d) driver distraction.*

The proposed sign will reduce the number of signs by removing two signs and replacing it with the one sign.

This will improve the overall appearance from the street to achieve this principle. Considerations relating to driver distraction will be discussed in traffic safety below.

4 The content of advertisements should be limited to information relating to the legitimate use of the associated land.

The applicant's Statement of Effect indicates that message will be related to the school, promoting school activities and upcoming events such as tours and open days. The advertising is therefore considered to be related to the legitimate the use of the land.

5 Advertisements and/or advertising hoardings should:

- (a) be completely contained within the boundaries of the subject allotment*
- (b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees*
- (c) not obscure views to vistas or objects of high amenity value.*

The proposed advertising hoarding is not proposed to be erected at a location as identified in PDC 5 (a) and (b).

The sign is located on the edge of the school oval area and adjacent Lonsdale Highway/Landers Road intersection. It is located well away from residential properties and will not obscure views to vistas or objects of high amenity value.

6 Advertisements and/or advertising hoardings should not be erected on:

- (a) a public footpath or veranda post
- (b) a road, median strip or traffic island
- (c) a vehicle adapted and exhibited primarily as an advertisement
- (d) residential land.

The proposed advertising hoarding is not proposed to be erected at a location as identified in PDC 6.

9 Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.

The proposed sign is freestanding and is not projected to the sky in any manner beyond the height of any building on the site.

10 Advertisements should be designed to conceal their supporting advertising hoarding from view.

The sign will be constructed in a manner that will conceal the supporting hoarding from view.

11 Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.

The indicative sign image indicates that the messaging will be clear and concise print with colours related to the school branding. The presentation is considered to be inobtrusive and in keeping with its surroundings.

13 Advertisements which perform a secondary role in identifying the business, goods or services should only be readable in the immediate vicinity of the site.

The proposed advertising hoarding will only be able to be viewed within the immediate vicinity of the site.

18 Freestanding advertisements and/or advertising hoardings should be:

- (a) limited to only one primary advertisement per site or complex
- (b) of a scale and size in keeping with the desired character of the locality and compatible with the development on the site.

The proposed sign is proposed to replace two existing smaller signs on the site. Whilst the number of signs over the total site will be exceed one, the site is large and each sign is well separated from others in a manner that does not result in clutter or over proliferation.

Whilst it is acknowledged that the sign exceeds the 4m desired height limit, the location of the sign, which is on a large site, adjacent a main arterial road and well away from residential properties suggests that it is compatible with its surroundings. LED signs exceeding this height are commonly seen on main roads and examples of such exist further South on Lonsdale Highway.

20 The maximum height and display area or panel size of freestanding advertisements and/or advertising hoardings should not exceed the following dimensions within the respective zones:

Zone	Maximum Height (metres)	Maximum Display Area or Panel Size (square metres)
Non-residential sites within the Residential Zone	4	4 (2 per side if double-sided)

The display area frame and the height of the sign exceeds the specified requirements of PDC 20. In saying that, I am of the view that the additional 1m in height will not result in detrimental impacts on the locality. Whilst the frame size is some 4m² larger, the LED messaging is below 4m² and further, I am of the view that where it will be located, the relative space around the sign and surrounding landscaping will lessen the visual impact of the sign, such that it will not be a dominant element in the landscape.

24 Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.

The adjacent roads to where the sign will be located do not have a speed limit of more than 80 km/h.

Interface considerations

The sign will be located some 60m away from the nearest residential property. The sign will be directed towards the intersection of Lonsdale Highway and Landers Road and it is unlikely that there will be any light overspill occurring beyond the (rear) fencelines of the nearest properties.

With regards to the visual impact of the sign, it is nestled in amongst trees and will sit below the canopy. The sign, at the proposed height, is unlikely to be seen beyond any property boundaries to a significant extent.

In my opinion, the size is commensurate with the land size and is located a sufficient distance away from residential land such that its size and messaging will not interfere with the amenity of the neighbouring properties.

Traffic Safety

As a result of the sign being located within 100m of traffic lights, the illumination of the sign has been assessed by DIT and the safety of road users considered.

DIT supports the proposed development, stating:

The Department for Infrastructure and Transport (DIT) has released the 'Advertising Signs Assessment Guidelines for Road Safety' publication to assist with the review and assessment of advertising signs abutting the arterial road network. DIT has reviewed the proposed signage against the above guidelines and considers it is unlikely to cause undue distraction to road users at this location.

DIT has advised some conditions be attached to the approval and have been included in the recommendation, should the Panel wish to support the application.

CONCLUSION

The proposed sign will replace two existing signs and will assist the school to advertise school related information electronically as opposed to manually changing the existing signage.

Whilst it is acknowledged that the sign's height and panel exceed the specified standard for the residential zone; the location of the sign being adjacent the intersection of two busy roads, being within an open area and amongst relatively dense landscaping and being some 60m away from the nearest residential land, does not result in the sign being obtrusive in its setting and will not detrimentally impact the streetscape or the amenity of the locality.

The sign is considered to be satisfactory in regards to traffic safety and will not result in a distraction to drivers on the adjacent road network.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent, Land Division Consent and Development Approval (where relevant) subject to conditions.

RECOMMENDATION

Having considered all relevant planning matters in relation to the subject development application:

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/1419/2020 for a Freestanding illuminated sign in association with school at 1 Berrima Road, Sheidow Park be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall be constructed and maintained in accordance with the plans and details submitted with and forming part of Development Application No.100/1419/2020, except when varied by the following conditions of consent.
2. The advertisement and supporting structure shall be prepared and erected in a professional and workmanlike manner and maintained in good repair at all times, to the reasonable satisfaction of the Council.
3. The proposed sign shall be constructed wholly on the subject site and no part shall extend beyond the property boundaries.
4. The display messaging on the sign shall be related to the primary use of the associated land and shall not incorporate third party advertising without obtaining further development authorisation from Council.

Department of Infrastructure and Transport Conditions

5. The LED sign shall display a self-contained message every 45 seconds. The time taken for consecutive displays to change should be no more than 0.1 second. The sign should not flash, scroll, move, change or imitate a traffic control device.
6. Illuminated signage shall not be permitted to operate in such a manner that could result in impairing the ability of a road user by means of high levels of illumination or glare. Subsequently, the LED components of the sign/s shall be limited to the following stepped luminance levels:

Ambient Conditions	Sign Illuminance Vertical Component (Lux)	Sign Luminance (Cd/m2) Max
Sunny Day	40,000	6,300
Cloudy Day	4,000	1,100
Twilight	400	300
Dusk	40	200
Night	<4	150

7. **The operational system for the LED sign shall incorporate an automatic error detection system that will turn the display off or to a blank, black screen should the screen or system malfunction.**

**REPORT REFERENCE: CAP170221 – 3.4
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Andrash Sheidow Park Pty Ltd
Development Description:	Freestanding, illuminated, 12m high pylon sign
Site Location:	14 Commercial Road Sheidow Park
Zone & Policy Area:	Commercial Zone
Lodgement Date:	10/09/2020
Development Plan:	Consolidated – 9 July 2020
Referrals:	Nil
Delegations Policy:	1.4.1.1 <i>Non-complying applications except for the following:</i> <ul style="list-style-type: none"><i>The decision to proceed with an assessment of a non-complying application pursuant to Regulation 17 (3) (b) of the Development Regulations 2008</i><i>Non-complying applications deemed to be minor in accordance with Regulation 17 and Schedule 9, Part 1 (3) of the Development Regulations</i>
Categorisation	Category 3 / Non-complying Not defined by the Development Plan or the Development Regulations 2008, and not considered minor in nature pursuant to Schedule 9, Part 1 - 2(g).
Application No:	100/2020/1500
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment III:</i>	<i>Views analysis</i>

SUBJECT LAND

The subject land is located at 14 Commercial Road, Sheidow Park on the corner of Commercial Road and Lonsdale Road and comprises a total area of 2197m². The site has a frontage to Commercial Road of 84.77m. The rear (north-western) boundary has a length of 70m and the side (north-eastern) boundary a depth of 46.52m.

The site accommodates an integrated service station with associated shop and a fast food takeaway with associated drive-through.

Signage in the form of a 7.2m freestanding pylon sign on the western edge of the site and an 8m freestanding monopole sign along the northern boundary exist on the subject land.



LOCALITY

The site is located amongst a number of non-residential properties located within a small precinct off Lonsdale Highway. Adjoining the subject site to the north is a consulting room and motor repair station. Further along Commercial Road there is a builder's yard, place of worship, carwash, a service station, hardware store and fast food outlet.

To the south of the subject site is a vacant greenfield site located within a Residential Zone. There is a development application currently under assessment comprising several new residential allotments. Residential dwellings are also located on the other side of Lonsdale Road to the west of the subject land.

The Hallett Cove shopping centre is located on the other side of Lonsdale Road to the west of the site as well as community uses such as the Cove Civic Centre and library, a place of worship and Children's Centre.

The subject site and locality can be viewed via this [google maps link](#).



PROPOSED DEVELOPMENT

The proposal seeks to replace the existing 7.2m high pylon sign located adjacent the western boundary with a 12m high sign.

Figure 1 shows a comparison of the existing sign with the proposed sign can be seen below (not to scale).

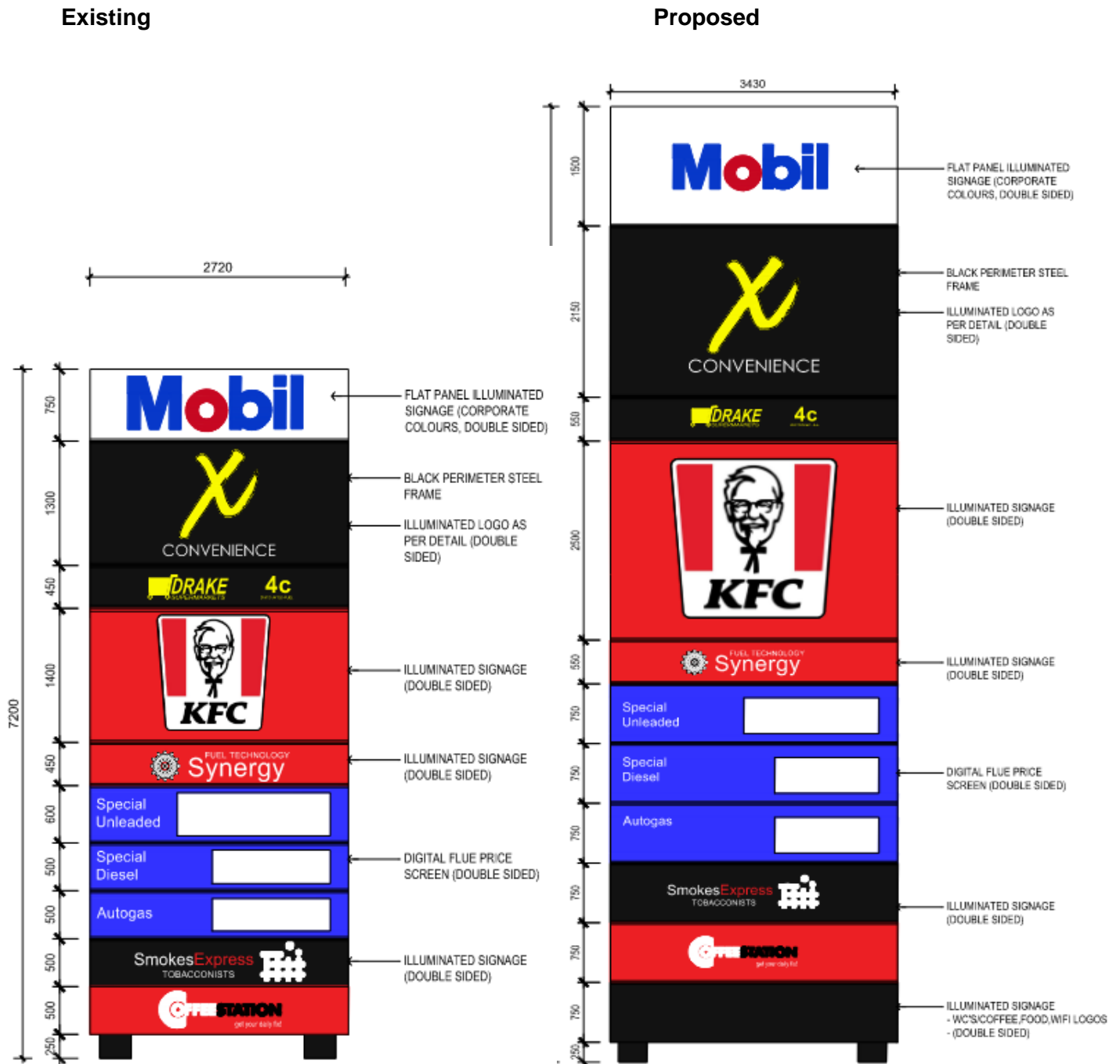


Figure 1: Existing and proposed signs

PROCEDURAL MATTERS

Classification

The subject application is a Non-Complying form of development by virtue of the Procedural Matters section of the Commercial Zone, where a sign exceeding 8m in height is assessed as a non-complying form of development.

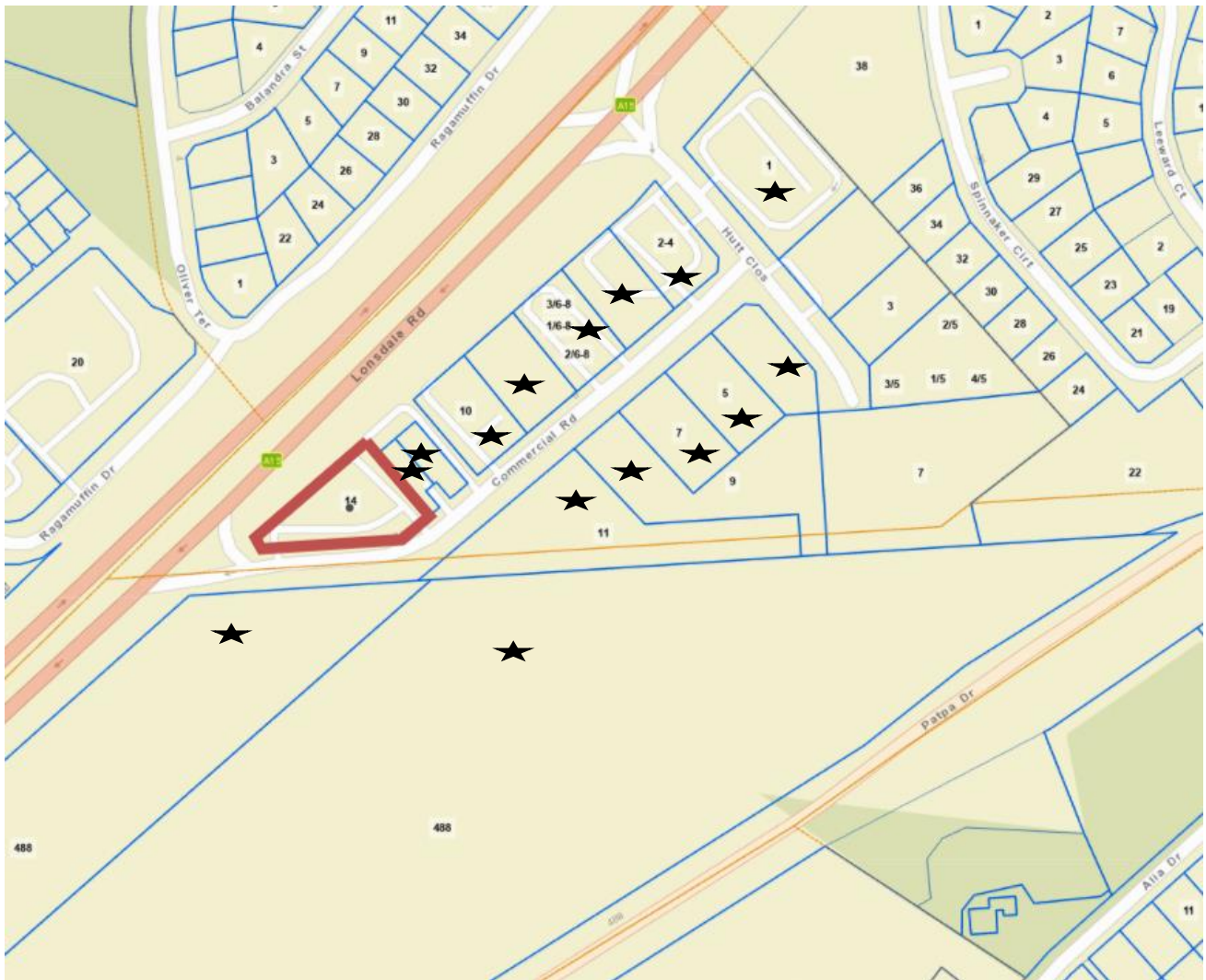
Categorisation

Council administration were of the view that the proposal was not of a minor nature having regard to the size of the site of the development and the location of the development within that site, and the manner in which the development relates to the locality. As such, it was Council administration's view that the proposal could not be deemed as a Category 1 development, and therefore the proposal was considered to constitute a Category 3 form of development.

Referrals

The sign is not located within 100m of traffic lights and therefore did not require referral to DIT pursuant to Schedule 8 of the Development Regulations. The original application for the construction of the service station was referred to DIT and should the CAP seek to support the proposal, any conditions which were advised by DIT and relates to the signage will be included as part of the recommendation.

PUBLIC NOTIFICATION



Properties Notified
Representations

28 (shown with black star)
No representations were received

ASSESSMENT

The proposed advertising structure and its associated messaging can be contemplated within a Commercial Zone. In saying this, there are a number of elements that are pertinent in reaching a recommendation for the proposal, namely:

1. Zone and Policy Area considerations
2. Assessment of the General Section Advertisement provisions
3. Interface Impacts
4. Traffic Impacts

Zone and Policy Area Considerations

Commercial Zone

Objectives

1. *A zone accommodating a range of commercial and business land uses.*
2. *Development that minimises any adverse impacts upon the amenity of the locality within the zone.*

Principals of Development Control

1. *The following forms of development are envisaged in the zone:*
 - *bulky goods outlet*
 - *consulting room*
 - *motor vehicle related business other than wrecking yard*
 - *office*
 - *petrol filling station*
 - *service trade premises*
 - *shop with a gross leasable area of 250 square metres or less*
 - *store*
 - *warehouse.*
2. *Development listed as non-complying is generally inappropriate*
3. *Retail development in the zone should not hinder the development or function of any centre zone.*

The proposed sign is associated with an existing commercial use on the land and to that extent the nature of the proposed development is not in question. The height of the sign exceeds 8m which results in the proposal being processed as a non-complying development.

It is noted that Principle 2 of the Commercial Zone specifies that Development listed as non-complying is generally inappropriate. The applicant has chosen to pursue the development in the form proposed as they consider there are circumstances in which the sign will sit comfortably within its surroundings and will not adversely affect nearby properties.

The applicant considers that the signage provides a form which is consistent with other signage in the immediate locality including a larger freestanding sign associated with the On the Run service station approximately 125m to the north-east within the same Commercial Zone precinct.

For the panels reference and provide context to the proposed sign, the heights on visible freestanding signs within the immediate locality where Council records exist, are shown in the following table:

Site Address	Business	Height of Sign
2-4 Commercial Road	OTR integrated Service Station	11.9m
2 Ramrod Avenue	Coles Express Service Station	7m
6 Ramrod Avenue	McDonald's	10m
6 Ramrod Avenue	Hallett Cove Tenancy Sign	14.5m

Notably, there are also two telecommunication towers within the vicinity of the subject land, which are approximately double the height of the proposed sign. One is located approximately 70m away on the 'Mitre 10' site within the same Commercial precinct. The other is located on the opposite side of Lonsdale Road within the car park of the Church and adjacent the Cove Civic Centre.

It is my opinion that there is merit in the proposition that the signage is not obtrusive when compared to what already exists within the locality, however further assessment against the Advertisement provisions and Interface and traffic impacts will provide further basis in coming to a determination.

ADVERTISEMENTS

The relevant advertisement provisions focus on determining if the location, siting, design, materials, size and shape of the advertising hoarding is appropriate, along with hazard considerations for vehicles and pedestrians. The Marion Council Development Plan Advertisements provisions are discussed below;

<p>Objectives</p> <p><i>1 Urban and rural landscapes that are not disfigured by advertisements and/or advertising hoardings.</i></p> <p><i>2 Advertisements and/or advertising hoardings that do not create a hazard.</i></p> <p><i>3 Advertisements and/or advertising hoardings designed to enhance the appearance of the building and locality.</i></p>	<p>The subject land currently has a 7.2m high sign in the position of where the subject sign is proposed and therefore, the question lies around whether the additional 4.8m will result in a visual impact that will detrimentally impair the landscape.</p> <p>Whilst the additional height proposed above the current sign is not insignificant, I also consider that where the sign will sit, this being within a commercial environment and a variety of buildings and structures within its surroundings, when viewing the sign from a distance, the sign is not considered to significantly disfigure the urban landscape compared to that which exists on the land.</p> <p>Hazards are discussed in the Traffic and Safety section below.</p>
<p>Principles of Development Control</p> <p><i>1 The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <ul style="list-style-type: none"> <i>(a) consistent with the predominant character of the urban or rural landscape</i> <i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i> <i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i> 	<p>The proposal will see a taller sign with a larger display area compared to that which was originally approved by the Panel. An additional 4.8m in height and an additional 710mm in width is sought.</p> <p>Despite additional height and display area sought to the original application the location, siting, design, materials, size, and shape of hoardings is not considered to significantly detract from the existing character of the locality. The locality features a variety of commercial properties, two telecommunication towers and signage which is of a similar height to the proposed sign. To this end, the advertisement display is not considered to significantly detract from the prevailing character of the urban landscape.</p>
<p><i>2 The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:</i></p> <ul style="list-style-type: none"> <i>(a) clutter</i> <i>(b) disorder</i> <i>(c) untidiness of buildings and their surrounds</i> <i>(d) driver distraction.</i> 	<p>The proposal does not increase the number of advertisements on the site and is not consider to result in clutter, disorder, untidiness or driver distraction as a result of the increasing size.</p>

<p><i>3 Buildings occupied by a number of tenants should exhibit co-ordinated and complementary advertisements and/or advertising hoardings to identify the tenants and their type of business.</i></p>	<p>The proposal does not impact the ability to provide opportunity for all businesses on the site to advertise in a co-ordinated manner and reduce the need for additional advertising on the site.</p>
<p><i>4 The content of advertisements should be limited to information relating to the legitimate use of the associated land.</i></p>	<p>All advertisements on the proposed sign is directly related to the land use. The messaging on the sign is not proposed to change, only made larger in scale.</p>
<p><i>5 Advertisements and/or advertising hoardings should:</i> <i>(a) be completely contained within the boundaries of the subject allotment</i> <i>(b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees</i> <i>(c) not obscure views to vistas or objects of high amenity value.</i></p>	<p>The proposed advertising hoarding is not proposed to be erected at a location as identified in PDC 5 (a) and (b). When viewed looking at the sign in a northerly direction, there is a backdrop of non-residential properties, such that the additional height is not considered to obscure views of high amenity value.</p>
<p><i>6 Advertisements and/or advertising hoardings should not be erected on:</i> <i>(a) a public footpath or veranda post</i> <i>(b) a road, median strip or traffic island</i> <i>(c) a vehicle adapted and exhibited primarily as an advertisement</i> <i>(d) residential land.</i></p>	<p>The proposed advertising hoarding is not proposed to be erected at a location as identified in PDC 6.</p>
<p><i>9 Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.</i></p>	<p>The proposed sign is freestanding and is not projected to the sky in any manner. The structure is taller than the associated building however, this is not considered unusual for freestanding signs as reflected in the display of the existing sign.</p>
<p><i>10 Advertisements should be designed to conceal their supporting advertising hoarding from view.</i></p>	<p>The sign will be constructed in a manner that will conceal the supporting hoarding from view.</p>
<p><i>11 Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.</i></p>	<p>No changes are sought by the applicant which relate to the content of the sign.</p>
<p><i>13 Advertisements which perform a secondary role in identifying the business, goods or services should only be readable in the immediate vicinity of the site.</i></p>	<p>The proposed advertising hoarding will only be able to be viewed within the immediate locality. In my estimation, the primary elements of the sign could be viewed from about 500m away and most visibly heading in a northerly direction. The secondary messages on the sign can be seen within approximately 300m of approaching the sign.</p>
<p><i>18 Freestanding advertisements and/or advertising hoardings should be:</i> <i>(a) limited to only one primary advertisement per site or complex</i> <i>(b) of a scale and size in keeping with the desired character of the locality and compatible with the development on the site.</i></p>	<p>The proposed sign is proposed to replace the existing smaller sign on the site. The number of signs on the site will not change, despite two signs existing on the land, albeit the proposed sign being the primary advertisement and the smaller sign being secondary in nature.</p> <p>Whilst it is acknowledged that the sign exceeds the 8m desired height limit, I do not consider that it is incompatible with what exists in the locality. In my view, the existing sign of a similar height as well as the telecommunications tower</p>

	provide a backdrop that will not render the proposed sign to be out of character within its setting.
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INTERFACE CONSIDERATIONS

The land to the north and west of the site is primarily non-residential however, land to the south is zoned residential with a masterplan residential development likely to be constructed in future. Accordingly, the main interface issues relate to light overspill and visual impacts.

Lighting and Glare

As part of the original application for the service station, an external light modelling report was provided which identified that all proposed external lighting complies with the criteria outlined in AS/NZS 4282:2109 (Control of the obtrusive effects of outdoor lighting). Despite the increased height of the sign, it is not considered that this will result in a greater luminosity of the sign.

All conditions relating to lighting that was included in the original consent to restrict brightness and animation can be transferred, should the Panel wish to support the application. As such, it is not considered that the signage will result in unreasonable interference and conflict between the residential land.

Visual Impacts

Whilst the proposed sign displays some similarities to existing signage in the locality, the sign will be in closer proximity to a residential area and as such, requires greater consideration with regards to the potential visual impacts upon future neighbouring dwellings.

The residential land is separated by Commercial Road with the nearest boundary (likely to be the rear property boundary) approximately between 20-40m away. The sign is orientated towards the south-western boundary and directed towards Lonsdale Road. The boundary of the Residential Zone is orientated with a view in a northerly direction and for a vast majority of potential future allotments, the view of the sign is likely to be the side of the structure which is less obtrusive and not of significant visual dominance when compared to the view of the main face of the sign (see interpretation in appendix 3).

Furthermore, the locality to the north and west is predominantly commercial and community uses. The locality contains structures which are considered to maintain a dominant presentation in the existing landscape, namely two telecommunication towers located at 6-8 Commercial Road to the north and 1A Ramrod Avenue to the west.

In my opinion, the proposed sign, once erected will adequately blend in within the commercial landscape and will not look out of character within its setting nor be a dominant or bulky element when viewed from the nearby residential properties.

Traffic Safety

In my opinion, the increased height of the sign is not considered result in additional implications with respect to traffic safety.

As the messaging, lighting and location of the sign are not proposed to be altered, the considerations of the original applications with regards to traffic safety are still relevant and it was determined that there would be no unreasonable impacts on the site or the adjacent road networks.

Further, the illumination of the original sign has been assessed by DIT and the safety of road users considered. All conditions suggested by DIT on the original application relating to the sign have been included on the recommendation should the Panel support the proposal.

CONCLUSION

The proposed sign will see an increase in height of 4.8m above the existing sign.

The increased height, albeit above the desired height of 8m specified in the Development Plan, is not considered to be out of character with what exists in the locality where signs of similar heights as well as telecommunication towers currently exist.

The main considerations attributed to the variance in height relate to the additional visual impact on the nearby residentially zoned land opposite the subject site. It is my view, that the orientation of the sign which is directed to the main road will not directly face the residential land and views of the sign from these potential properties are likely to be of the side of the sign, this being a less dominant angle with the messaging directed away from properties. Accordingly, I do not consider the increased height to significantly detract from the amenity of the locality, to the extent where refusal would be warranted.

The sign is considered to be satisfactory in regards to traffic safety, light overspill and overall presentation with respect to messaging and position within the context of its commercial setting.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent, Land Division Consent and Development Approval (where relevant) subject to conditions.

RECOMMENDATION

Having considered all relevant planning matters in relation to the subject development application:

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/1500/2020 for Freestanding, illuminated, 12m high pylon sign at 14 Commercial Road, Sheidow Park be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall be constructed and maintained in accordance with the plans and details submitted with and forming part of Development Application No.100/1500/2020, except when varied by the following conditions of consent.
2. The advertisement(s) and supporting structure(s) shall be prepared and erected in a professional and workmanlike manner and maintained in good repair at all times, to the reasonable satisfaction of the Council.
3. The proposed sign shall be constructed wholly on the subject site and no part shall extend beyond the property boundaries.

Department of Infrastructure and Transport Conditions

4. The digital pylon sign shall not flash, scroll, move, change or imitate a traffic control device. The LED shall be white on a black background only.
5. Illuminated signage shall not be permitted to operate in such a manner that could result in impairing the ability of a road user by means of high levels of illumination or glare. Subsequently, the LED components of the sign/s shall be limited to the following stepped luminance levels:

Ambient Conditions	Sign Illuminance Vertical Component (Lux)	Sign Luminance (Cd/m2) Max
Sunny Day	40,000	6,300
Cloudy Day	4,000	1,100
Twilight	400	300
Dusk	40	200
Night	<4	150

6. The operational system for the LED sign shall incorporate an automatic error detection system that will turn the display off or to a blank, black screen should the screen or system malfunction.

**4. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**



4.1 APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2020/568	373 Diagonal Road, Sturt	3/11/20	Granted	Refused	Conference set 18 th February 2021.

4.2 APPEALS AGAINST DELEGATED APPLICATIONS

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2017/2090	79-81 Thomas Street, South Plympton	2/10/2020	Refused	Refused / Appeal Dismissed	Matter dismissed by the Supreme Court.

**5. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 FEBRUARY 2021**

