

Members – Council Assessment Panel
CITY OF MARION



**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

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

Wednesday 21 December 2022

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.

A handwritten signature in blue ink, appearing to read "Alex Wright", is positioned above the printed name and title.

Alex Wright
ASSESSMENT MANAGER

14 December 2022

Note: The plans contained in this Agenda are subject to copyright and should not be copied without authorisation.

**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022
COMMENCING AT 6.30PM**



1. MEETING PROCEDURES

1.1 OPEN MEETING

1.2 PRESENT

1.3 APOLOGIES

1.4 IN ATTENDANCE

2. DEVELOPMENT ACT 1993 APPLICATIONS

No items listed for discussion.

3. PDI ACT APPLICATIONS

3.1 DEVELOPMENT NO 22003132

216-220 Seacombe Road, Seaview Downs

Additions and alterations to the existing control building, reconfiguration of the existing on-site carparking, introduction of a convenience drive-thru, 3-metre-high acoustic fence, dog wash and vacuum facilities and a 3.3m pylon with double sided digital signage panel.

Report Reference: CAP211222 - 3.1.....3

3.2 DEVELOPMENT NO 21021528

61A Woodend Road and 55A Woodend Road, Sheidow Park

Previously deferred at CAP161122

Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls.

Report Reference: CAP211222 - 3.2.....21

4. REVIEW OF ASSESSMENT MANAGER DECISION

4.1 DEVELOPMENT NO 22025572

25 Camille Street, Hallett Cove

Land Division (1 into 2) Conventional, Including Retain and Modify Existing Dwelling.

Report Reference: CAP211222 - 4.1.....33

5. GENERAL OPERATIONS

5.1 MEETING PROCEDURES UPDATE

Verbal Update Provided.

5.2 DELEGATIONS REVIEW

Verbal Update Provided.

6. APPEALS UPDATE

6.1 APPEALS AGAINST PANEL DECISIONS

Verbal Update Provided.

7. POLICY OBSERVATIONS

No items listed for discussion.

8. OTHER BUSINESS

No items listed for discussion.

**9. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING
HELD ON 21 DECEMBER 2022**

10. MEETING CLOSURE

**2. DEVELOPMENT ACT 1993 APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



No items listed for discussion.

**3. PDI ACT APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



**REPORT REFERENCE: CAP211222 – 3.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



Originating Officer:	Matt Falconer Development Officer – Planning (Consultant)
Applicant:	PC Infrastructure Pty Ltd
Development Description:	Additions and alterations to the existing control building, reconfiguration of the existing on-site carparking, introduction of a convenience drive-thru, 3-metre-high acoustic fence, dog wash and vacuum facilities and a 3.3m pylon with double sided digital signage panel.
Elements:	Fence Advertisement Retail Fuel Outlet Other – Drive Through Coffee and Dog Wash
Site Location:	216-220 Seacombe Road, Seaview Downs
Zone:	Suburban Activity Centre
Lodgement Date:	03/06/2022
Planning and Design Code:	9 June Version 2022.10
Referrals (External):	Commissioner of Highways
Referrals (Internal):	Development Engineer
Application Type:	Performance Assessed
Delegations Policy:	Instrument of Delegation – CAP, Clause 5.1.1.1 <i>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which: Any Performance Assessed application that has undergone 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>
Public Notification	Public Notification required <i>A retail fuel outlet is not a use that is exempt from notification in Table 5 of the Zone.</i>
Application No:	22003132
Recommendation:	That Planning Consent be GRANTED subject to Conditions

Appendices

Appendix 1: Planning and Design Code guidelines

Attachments

Attachment I: Proposal Plan and supporting documentation

Attachment II: Statement of Representations

Attachment III: Applicant's Response to Representations

SUBJECT LAND

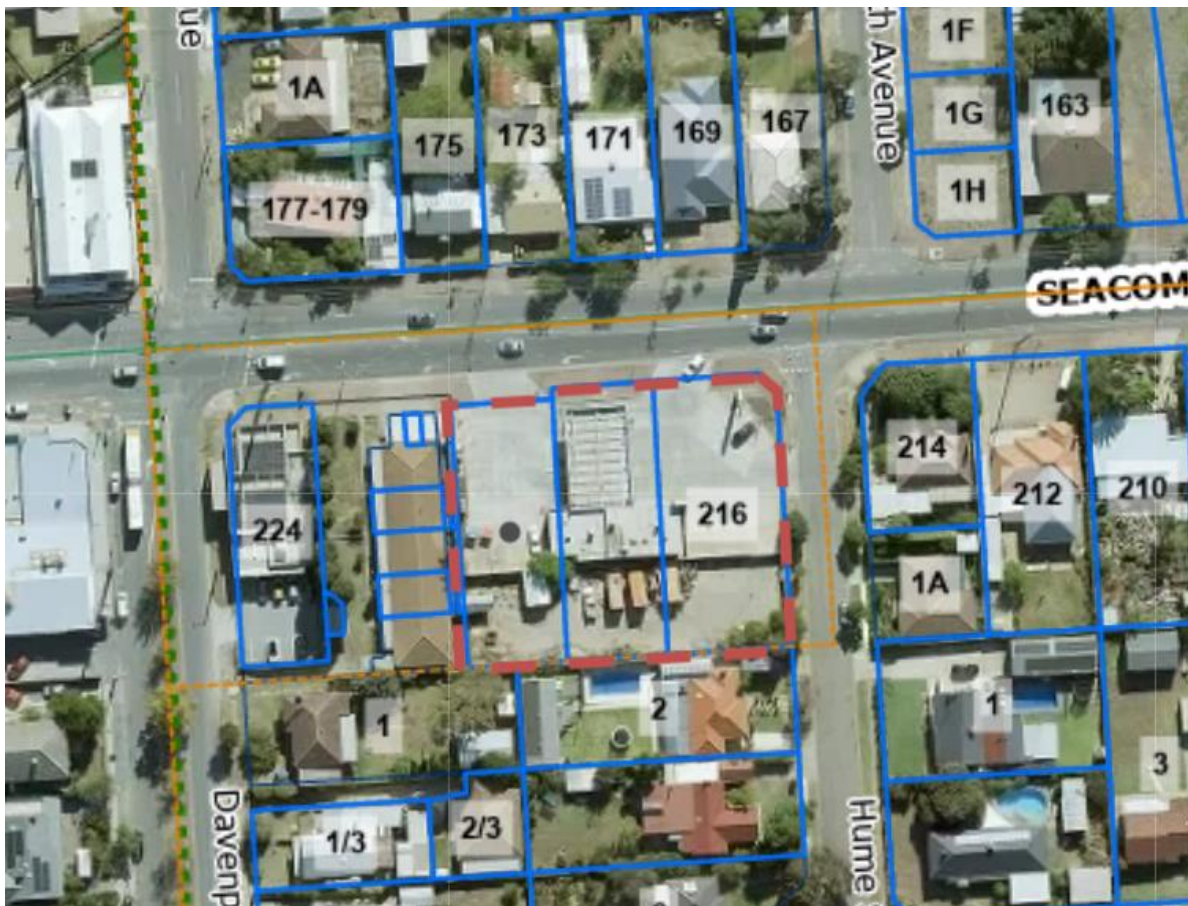
The subject land is located at 216-220 Seacombe Road, Seaview Downs and is regular in shape with a frontage of 57.9 metres to Seacombe Road and a depth of 46.66 metres with an overall site area of approximately 2697 square metres.

As detailed on the plans, a large area to the rear (southern side of control building) of the site is to remain vacant. The owners have historically leased this portion of land with no lawful approved use, however the land shall be lawfully returned to vacant land.

The subject land being located on the corner of Hume Street and Seacombe Road and has existing vehicle access and egress points (1 on Hume Street and 2 on Seacombe Road). The land is occupied by an existing control building which is linked to a canopy over fuel pumping stations. The site also features advertising signage and associated car parking.

The site does not contain any significant or regulated trees.

Figure 1: Subject land - - - - -



BACKGROUND

Council previously considered an application (100/2019/1861) for alterations and additions to the existing petrol filling station and associated retail components including advertising and reconfiguration of car parking areas. The Council Assessment Panel, at its meeting held 1 April 2020, resolved to Grant Planning Consent to the application.

The nature of the application comprised of the following;

- Additions to the existing control building with subsequent increase in floor area from 219 to 281 square metres which occurs to the eastern end of the building;
- The northern façade is to be refurbished and re-clad with aluminium framed glazing;
- Existing signage to be replaced with OTR branded signage.
- A new LED sign and digital panel proposed on and adjacent the front facade of the building;
- On site car parking reconfigured with 14 spaces in total; and
- A small change to the width of the Hume Street crossover.

Whilst the applicant obtained development approval on 17 August 2020 the approval has now lapsed. I am of the opinion that the impacts on surrounding properties as a result of the proposed development are very different and therefore no consideration of the previous consent shall occur and further, the previous application was assessed against Council's Development Plan whilst this new application is assessed against the Planning and Design Code.

LOCALITY

The locality is typically residential in nature, however features a commercial section along the southern side of Seacombe Road.

Offices, supermarket, chemist, post office and small shops are located further to the west of the subject land. These properties are located in the Suburban Activity Zone.

Surrounding the Suburban Activity Zone are residential properties that are located with the General Neighbourhood Zone and the Hills Neighbourhood Zone and are typically low density and low scale. The exception to this is the residential flat building directly west of the subject land and the mixed-use development sited on the south western corner of Seacombe Road and Neath Avenue.

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

Figure 2: The Locality - - - - -



PROPOSED DEVELOPMENT

The proposed development comprises of an extension to the existing retail fuel outlet by increasing the size of the existing control building, adding a drive-thru, new illuminated advertising display, dog wash, revised car parking layout, fencing and landscaping.

The proposed redevelopment shall not change any of the existing access and egress points to the subject land however the site layout is to be reconfigured internally to accommodate the proposed redevelopment. The existing control room is being increased in size by 72 square metres with the addition to the building occurring to the southern side of the building. The dog wash is proposed on the eastern side of the control building and comprises two dog wash bays, a drive through order station and servery are sited to the west of the control building along with a new acoustic fence that is to extend the length of the western property boundary. The car parking layout is to be modified along with the relocation of the refuse area. The revised site layout results in a reduction from 14 available spaces to 9 whilst there is an increase in soft landscaped areas.

PROCEDURAL MATTERS

Classification

The subject land is located in the Suburban Activity Centre Zone of the Planning & Design Code (the Code) as of 9 June 2022.

The proposed development is not prescribed as “accepted”, “deemed to satisfy” or “restricted” development in the Zone.

The proposal is therefore “performance assessed development” pursuant to Section 107(1) the Planning, Development and Infrastructure Act, 2016 and will be assessed on its merits against the various provisions of the Code.

Public Notification

A Retail Fuel Outlet is not listed as a class of development prescribed in Column A of Table 5 of the Zone. As such the application requires public notification

The application was publicly notified between 21 July 2022 and 10 August 2022. During this time nine (9) representations were received, with all representation being opposed to the development. Seven (7) of the opposing representation indicated a desire to be heard by the Council Assessment Panel (the Panel) in determining this application. Pursuant to the Marion CAP Instrument of Delegations, the Panel is the Relevant Authority in regard to a determination.

The applicant’s response to the representation forms an attachment to this report.



Properties Notified 47
Representations 9 received
 9 oppose the development



Indicates the location of representations received. The representations from 2 owners are not highlighted on the map.

Representations received		Wish to be heard
	1. Linden Edwards, 1A Hume Street, Seaview Downs	x
	2. Katrina Rowe, 2 Hume Street, Seaview Downs	✓
	3. Catherine Davies, 17 Basten Avenue, Seaview Downs	x
	4. Karin Field, 5/222 Seacombe Road, Seaview Downs	✓
	5. Scott Hanford. 3/222 Seacombe Road, Seaview Downs	✓
	6. Devender Kaur, 1/22 Seacombe Road, Seaview Downs	✓
	7. John Kathinotis, 29 Tobruk Avenue, St Marys	✓
	8. Craig Cech, 2/222 Seacombe Road, Seaview Downs	✓
	9. Jessica Hill, 175 Seacombe Road, Dover Gardens	✓

Applicant Response A response by the applicant is included within the Report attachments.

REFERRALS

External	Commissioner of Highway No objection was made whilst 8 conditions of approval have been imposed.
Internal	Development Engineer Recommendations in line with Commissioner of Highway conditions

Approach to Assessment

Part 1 – Rules of Interpretation of the Planning and Design Code (the Code) provides clarity on how to interpret the policies in the Code. Of particular note 'Designated Performance Features' (DPF) assist Councils to interpret Performance Outcomes (PO).

The Rules of Interpretation clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO i.e. the outcome can be met in another way:

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

(underline my emphasis)

A DPF provision should not be interpreted as quantitative requirements, instead they simply present one way in achieving the corresponding PO. There can be variation from DPF policies, and not just in a minor way. Emphasis should be placed on satisfying the qualitative Performance Outcome in the circumstances where a specified DPF is not met.

It is with the above approach in mind that I have assessed this development.

ASSESSMENT

Part 1 - Rules of Interpretation of the Code advises that for each Zone Table 3 specifies the policies and rules that apply to classes of development within the zone. I note:

The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable.

For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development.

Development that does not fall within a specified class in Table 3 will be considered “All Other Code Assessed Development”, to which all relevant policies apply for the purposes of assessment.

In my view the most pertinent planning considerations for this assessment relate to:

- Impact on adjoining properties
 - Noise
 - Development on boundary
 - Light Spill
- Traffic and manoeuvring

Policies relating to the above planning considerations are found in the Zone, Overlays and General sections of the Code.

ZONE CONSIDERATIONS

Suburban Activity Centre Zone: DO1, PO 1.1, PO.1.2, PO 1.5, PO 2.1, PO 3.1, PO 3.2, PO 4.1, PO 4.2, Table 5

RELEVANT OVERLAY CONSIDERATIONS

Airport Building Heights (Regulated): DO 1 & PO 1.1

Advertising Near Signalised Intersections: DO 1, PO 1.1 & Procedural Matters (PM) - Referrals

Traffic Generating Development: DO 1 & PO 1.1 & 1.3

Urban Transport Routes: DO 1, DO 2, PO 3.1 & Procedural Matters (PM) - Referrals

GENERAL DEVELOPMENT POLICIES CONSIDERATIONS

Advertisements: DO 1, PO 1.1, PO 1.2, PO 1.3, PO 1.4, PO 1.5, PO 2.1, PO 3.1, PO 4.1, PO 5.1, PO 5.2, PO 5.3, PO 5.4, PO 5.6

Clearance from Overhead Powerlines: DO 1 & PO 1.1

Design in Urban Areas: DO 1, PO 1.1, PO 1.4, PO 1.5, PO 2.3, PO 2.4, PO 3.1, PO 5.1, PO 7.2, PO 7.4, PO 7.5, PO 7.6, PO 7.7, PO 8.1, PO 9.1, PO 9.2 & PO 24.1,

Interface between Land Uses: DO1, PO 1.1, PO 1.2, PO 2.1, PO 3.2, PO 4.1, PO 4.2, PO 6.1 & PO 6.2,

Transport, Access and Parking: DO 1, PO 3.1, PO 3.3, PO 3.4, PO 3.8, PO 3.9, PO 4.1, PO 5.1, PO 6.1, Po 6.2, PO 6.7, Table 1

ZONE CONSIDERATIONS

As noted previously, the subject land is located in the Suburban Activity Centre Zone. The Desired Outcome for the Zone is one that provides a range of facilities to meet the shopping, community, business and recreational needs of the surrounding neighbourhood. The proposal complies with a majority of the assessment criteria for the Suburban Activity Centre Zone acknowledging that a Retail Fuel Outlet is an anticipated form of development within the zone as indicated in DTS/DPF 1.1. The Retail Fuel Outlet has been in operation at the subject land for a number of years and maintains lawful existing use rights.

The Suburban Activity Centre Zone anticipates a range of uses to meet the needs of the surrounding neighbourhood and district. The re-development and expansion of the existing use, is considered compatible with DO 1 and PO 1.1 of the zone however consideration for the adjoining neighbours which in this instance are residential land uses, is vital for any expansion.

DO 1 An active commercial precinct supporting neighbourhood-scale shopping, business, entertainment and recreation facilities to provide a focus for business and community life and most daily and weekly shopping needs of the community. Buildings and pedestrian areas create a high quality, activated public realm that is integrated with pedestrian and cycle networks and establish well-defined connections to available public transport services.

The Zone provisions provide limited guidance with respect to numerical requirements for built form. Having said this, the subject land is affected by three localised Technical & Numerical Variations (TNV) that seek a minimum building height of 2 levels, a maximum building height of 4 levels and an interface building envelope with a 30-degree plane measured 3 metres above ground level at the boundary of the site.

Whilst the proposed built form is single level, it is an expansion of an existing long-standing use on the subject land and as such I consider the height of the proposed extension to be reasonable having had regard to PO 3.1 of the Zone.

In relation to the TNV that speaks to a required building envelope, I am not of the opinion that this automatically assumes that a built form that is completely contained within the building envelope is deemed acceptable. The building envelope is to provide guidance for development to ensure it will not unreasonably overshadow or result in unreasonable bulk and scale. Rather, the assessment of the built form and the associated setbacks should be considered with regard to the potential amenity impacts upon nearby sensitive land uses.

Performance Outcome 2.1 of the Zone suggests that development adjoining residential uses in neighbourhood-type zones should be designed to minimise interface impacts.

PO 2.1

Development complements adjacent development within the zone, and mitigates interface impacts on adjoining residential uses in neighbourhood-type zones through appropriate building siting, scale and design.

As can be seen on the locality map provided in this report, the subject land is surrounded by residential properties. The dwellings sited on the northern side of Seacombe Road are located in the General Neighbourhood Zone whilst the residential properties to the east and south of the subject land are located in the Hills Neighbourhood Zone. The group of dwellings on the adjoining land immediately to the west of the site are located with the same zone (Suburban Activity Centre Zone) as the subject land.

I form the opinion that Performance Outcome 2.1 of the Zone serves to protect the amenity of residential properties that are located within zones that anticipate and encourage residential forms of development. In this case, the 'code' offers the amenity of the dwellings to the west less protection. The Suburban Activity Centre Zone seeks a variety of land uses with dwellings being encouraged in the form of mixed use developments where the residences are sited above or to the rear of non-residential uses.

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Discussion regarding the amenity considerations is detailed under the heading 'Amenity Considerations' found in the body of this report.

DESIGN AND APPEARANCE

The main façade of the control building presents to Seacombe Road and is proposed to be expanded and include new corporate signage. The walls building is clad with precast concrete panels, painted weatherboard cladding, face brick and painted fibre cement sheeting. The new dog wash facilities are proposed on the eastern side of the control building whilst the drive through is proposed on the western side with new 3-metre-high acoustic fence (6mm fibre cement sheet or similar) extending the length of the western boundary.

The control building maintains a generous setback from the site boundaries and being single storey, is not an intrusive visual element when viewed from the nearby residential properties. Furthermore, the setbacks will ensure that any illuminated signage on the building will not result in glare to motorists, cyclist or nearby residential properties. It is acknowledged this façade of the building will see an improvement to that which exists by providing a modern finish, combined with the landscaping street-side of the building, which will complement the streetscape.

The extension to the control building maintains the same single level-built form of the existing building and will not be finished in bright obtrusive colours. In my view, it is a built form that is reasonable and expected in association with a petrol filling station and are setback a sufficient distance from the residential zone to minimise visual and overshadowing impacts. Further, the increased landscaping throughout the site is seen as an improvement. Based on the above, I form the opinion the proposal satisfies PO 1.1, PO 1.2, PO 1.3, PO 1.4, PO 1.5 of Design in Urban Areas.

The proposed works to the control building and signage are considered to be an improvement to what currently exists at present however I am of the opinion the 3-metre-high fence sited along the western boundary results in impacts for the adjoining residents which needs further consideration.

AMENITY CONSIDERATIONS

Desired Outcome 1 of the Interface between Land Uses seeks to ensure development does not detrimentally affect the amenity of neighbouring properties. The subject land is surrounded by residential properties with dwellings sited on the northern side of Seacombe Road, eastern side of Hume Street and directly abutting the southern and western property boundaries.

The proposed alterations and additions to the existing petrol filling station results in an intensification of the use of the land. The proposal includes noise generating sources such as dog wash, vacuum bays and drive thru that have the potential to impact neighbouring sensitive receivers in the form of residential dwellings.

In undertaking the assessment of the noise related impacts, I have not only considered the relevant provisions in the Planning and Design Code but also the Environment Protection (Noise) Policy 2007.

As detailed in the acoustic report prepared by Sonus, the expected levels of noise as a result of the proposed development are lower than the accepted maximum levels as provided in the Environment Protection (Noise) Policy 2007. As such the proposal is considered to achieve compliance with Performance Outcome 4.1 of Interface between Land Uses.

Given that the dog wash and vacuum bays are located more centrally to the site and are able to be restricted in their hours of operation, I form the opinion that the drive thru has the greatest potential to cause the noise impact given its proposed 24-hour operation. Whilst I do concede that an alternative location for the proposed drive thru, and in particular the ordering station, would have been more

desirable and was suggested during the assessment, the application required to be assessed in its presented form.

The proposed development includes an acoustic fence that extends along the western property boundary and returns into the site behind the drive thru. The acoustic fence is designed to ensure the maximum noise levels do not exceed the accepted levels outlined in the Environmental Protection (Noise) Policy 2017. The fence along the western boundary is designed such that it remains vertical for a height of 2.4 metres on the property boundary and extends into the subject land on a 45 degree angle to a total height of 2.9 metres.

A 3-metre-high acoustic fence was initially proposed along the western boundary with Council staff advising the applicant after the public notification process that the impact on the neighbouring properties was unreasonable due to loss of light and impact on amenity. Consequently, the applicant reviewed the design and submitted an amended design which is subject of this assessment.

The relevant noise provisions contained in Interface between Land Uses are DO 1, PO 1.2, PO 2.1, PO 4.1, PO 4.2.

DO 1

Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses

PO 1.2

Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.

PO 2.1

Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- 1. the nature of the development**
- 2. measures to mitigate off-site impacts**
- 3. the extent to which the development is desired in the zone**
- 4. measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.**

PO 4.1

Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).

PO 4.4

External noise into bedrooms is minimised by separating or shielding these rooms from service equipment areas and fixed noise sources located on the same or an adjoining allotment

The drive thru ordering station is positioned on the western boundary of the subject land adjacent the courtyard of residence 2 and approximately 2.5 metres from the dwelling. It is acknowledged that there is limited space to the eastern side of all five units of the associated residential flat building which is the primary area of private open space afforded to these dwellings. The ordering station will utilise a speaker and audio system for taking and confirming orders. The 24-hour nature of the

operation has the potential to cause noise impacts at any time of day and night however, this has been mitigated by the proposed acoustic fence.

Whilst it's acknowledged that an alternative location may have been more desirable, the proposal has demonstrated the ability to satisfy the noise standards as set out in the Environmental Protection (Noise) Policy 2017 through the construction of an acoustic fence that shall extend along the western boundary adjacent the neighbouring group of flats. The fence shall be 2.4 metres in height and shall angle into the subject land on a 45-degree angle to a maximum height of 2.9 metres. Based on the introduction of an acoustic fence, the proposal will not unreasonably impact the amenity of sensitive receivers in accordance with DO 1 and PO 1.2, PO 4.1 and PO 4.4 of Interface between Land Uses.

As mentioned the acoustic fencing extending along the western boundary of the site has been amended following the public notification process to reduce the visual bulk of the previous design as well as the potential for loss of light. I am of the opinion that the fencing satisfies PO 9.1 of Design in Urban Areas.

PO 9.1

Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.

In addition to the above, the dog wash and vacuum bay both have the potential to cause noise impacts. The independent acoustic report prepared by Sonus provides a recommendation that the dog wash and vacuum bays be limited for use between the hours of 7am to 10pm. Performance Outcome 2.1 of Interface between land uses states the following,

PO 2.1

Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- 1. the nature of the development**
- 2. measures to mitigate off-site impacts**
- 3. the extent to which the development is desired in the zone**
- 4. measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.**

The existing petrol filling station and associated shop is lawfully able to operate 24 hours per day and no change to these hours are proposed, nor is it considered it appropriate for these to be further restricted. The associated DTS/DPF indicates that a shop should operate between the hours of 7 am to 9 pm Monday to Friday and 8m to 5 pm on weekends. I am of the view the operation times of the dog wash and vacuum facilities need to be further restricted as to ensure the amenity of the nearby properties is not adversely affected. Whilst it is acknowledged these uses are sited more central to the site or with greater buffers to adjoining residential properties, I am of the opinion the hours of operation for both the dog wash and vacuum bay should be restricted to 7am to 9pm, of each day, so as to minimise impacts on adjoining properties (a 1-hour reduction in operating times from what is suggested in the independent acoustic report).

A proposed illuminated pylon sign is to be sited at the north-western corner of the subject land. The potential light spill from the proposed illuminated pylon sign is assessed in greater detail under the heading Advertisements.

TRAFFIC, CARPARKING AND ACCESS

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. The applicant has engaged a traffic consultant to assess to the change to car park configuration and numbers, review the proposed development and demonstrate the on-site manoeuvring with the proposed drive through and change to refuse location.

Whilst the proposed development does result in a reduction in car parking numbers from the 14 spaces that currently exist to the proposed 9 car parking spaces, the development satisfies Table 1 of the Transport, Access and Parking section of the code that relates to Retail Fuel Outlets. Table 1 provides a rate of 3 space per 100 square metres of gross leasable floor area. The upgraded control building is 275 square metres in area and such a total of 9 spaces is required. All spaces have been designed in accordance with the dimensional requirements as set out in the Australian and New Zealand Standards for Off-Street Car Parking.

The carpark dimensions and overall layout meet the relevant Australian Standards, which has been reviewed by an independent traffic consultant, Council's Development Engineer and Commissioner of Highways, all of whom have formed the opinion that from a traffic safety point of view, the proposal is satisfactory. To this end, I am 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 complies with DO 1, PO 3.1, PO 3.3, PO 3.4, PO 5.1 and Table 1 of Transport, Access and Parking

During the referral process to both Commissioner of Highway and Council's engineering staff, traffic movements internally were questioned particularly in relation to traffic flows and the queuing of cars in the drive-thru. Upon the receipt of additional detail and data from similar forms of development relating to the frequency of consumers both Commissioner of Highways and Council's engineering department supported the application.

Commissioner of Highways have included a condition of approval that seeks the Seacombe Road access points be signed and line-marked to reinforce the desired traffic flow (entry via the eastern access and egress via the western access).

ADVERTISEMENTS

The proposed advertising signage consists of a new 3.3-metre-high pylon sign with 2.5 x 2 metre LED panel is proposed in the north-eastern corner of the subject site.

The relevant Zone Performance Outcomes that are applicable to signage are PO 4.1 and 4.2 that seeks ensure the applicable signage relates to the use on the land and maintains a consistent theme across a particular site without being of a unreasonable in its size and scale. Based on the fact the subject land has a 57.9 metre frontage to Seacombe Road with one sign at present, I am of the opinion a second sign is not unreasonable and shall not result in visual clutter. As such I am of the opinion the signage satisfies PO 4.1 and 4.2 of the Zone.

PO 4.1

Advertisements are sited and designed to achieve an overall consistency of appearance along individual street frontages.

PO 4.2

Freestanding advertisements:

- a) identify the associated business(es)**
- b) are of a size that is commensurate with the scale of the centre and the street frontage**
- c) avoid visual clutter**
- d) positively respond to the context without dominating the locality.**

Further to the above, the Advertising provisions in the general development policies sections are relevant in the assessment. I am of the opinion that DO 1, PO 1.5, PO 2.2 and PO 3.1 reinforce both PO 4.1 and 4.2 of the Zone and as such are considered to be satisfactorily addressed. Of due consideration however is the fact the proposed sign is to be illuminated. Being illuminated, the sign requires assessment in relation to the safety of road users as well as the impact on adjoining properties regarding light spill.

Firstly, it is noted that the application was referred to Commissioner of Highways. Whilst undertaking a review of the traffic related elements of the proposal, they also assessed the advertising signage given its proximity to a signalised intersection. Commissioner of Highways raised no objection to the advertising sign and stipulated some maximum Lux levels in varying conditions. As such the signage is considered to be in accordance with PO 5.1, PO 5.2, PO 5.3, PO 5.4, PO 5.5 and Po 5.6.

Also of relevance is PO 4.1 of Advertising given the proposed development seeks to place the pylon sign toward the front of the subject land adjacent the residential properties. Whilst the Sonus Acoustic report suggests that a construction of a 2.4-metre-high fence along the western property boundary of the site is necessary, the proposed plans demonstrates that no fencing is proposed in line with the rear (southern edge) of the sign.

The applicant has provided a response to the representations which provides some clarity regarding the level of light spill that is to be expected from the proposed pylon sign. The applicant has noted that the sign is capable of being dimmed and has a proposed lux level of 5 during pre-curfew hours and a maximum of 1 at all other times. The applicant has indicated that a condition to this affect would be acceptable should the Panel determine to support the application.

PO 4.1

Light spill from advertisement illumination does not unreasonably compromise the amenity of sensitive receivers.

To ensure compliance with PO 3.1 of Advertising, a condition of consent is recommended so as to ensure that the signage shall not display third party advertising or unrelated content.

PO 3.1

Advertisements are limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land and avoid unrelated content that contributes to visual clutter and untidiness.

LANDSCAING

Landscaping is to be provided mostly around the perimeter of the retail fuel outlet noting that the large area of land to the south of the control room is to remain vacant. With a variety of tree species to be planted, the newly established landscaping on the site will assist in enhancing the appearance of the subject land and assist in minimising heat absorption and reflection as well as maximise stormwater infiltration in accordance with PO 3.1 of Design in Urban Areas.

CONCLUSION

The proposed development does achieve compliance with a majority of the relevant provisions of the Planning and Design Code. Whilst I form the view the proposed drive thru could have been designed to reduce impacts on neighbouring properties the proposal sufficiently addresses the provisions relating to noise impacts. It is acknowledged that the assessment is finely balanced however when undertaking the assessment of the relevant provisions I form the opinion the proposed development is appropriate for the following reasons.

- The development will improve the visual appearance of the subject land.
- The proposal will not result in unreasonable impacts to residential properties in adjoining neighbourhood-type zoning.
- The proposed development will not exceed the accepted noise levels on the adjoining residents.
- The development does not result in conflicts with traffic movements.

On balance, the proposed development exhibits sufficient merit when assessed against the relevant Desired Outcomes and Performance Outcomes of the Code and as such it is recommended the application be granted Planning Consent.

RECOMMENDATION

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

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concurs that the proposed development is not seriously at variance¹ to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and
- (c) That Planning Consent for Development Application ID: 22003132 for additions and alterations to the existing control building, reconfiguration of the existing on-site carparking, introduction of a convenience drive-thru, 3-metre-high acoustic fence, dog wash and vacuum facilities and a 3.3m pylon with double sided digital signage panel at 216-220 Seacombe Road, Seaview Downs be GRANTED, subject to the following Conditions.

CONDITIONS

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. Operation of the dog wash and vacuum facilities shall be restricted to the following times;
 - 7am to 9pm, each day of the week.
3. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.
4. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.
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. All waste and other rubbish shall be stored in the designated areas and screened from public view in accordance with the approved plans.
7. Wheel stopping devices shall be placed and maintained within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping in accordance with Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6.2009).

¹ Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016 (or Section 35(2) of the Development Act 1993 for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act).

What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

8. The advertisement(s) and supporting structure(s) shall be maintained in good repair at all times.
9. The content of the advertisement(s) shall relate only to the legitimate use of the land and shall not display any third-party advertising.

Conditions of Commissioner of Highways

10. Vehicular access to the site shall be in accordance with Site and Floor Plan by ADS Architects, dated 12/09/2022.
 11. All vehicles shall enter and exit the site in a forward direction and all vehicle manoeuvring areas shall be kept clear of impediments to manoeuvring.
 12. The Seacombe Road access points shall be signed and line-marked to reinforce the desired traffic flow (entry via the eastern access and egress via the western access).
 13. The illuminated signage shall be installed as shown on the Site and Floor Plan and Elevation Plan by ADS Architects, dated 12/09/2022 and 07/12/2021 respectively.
 14. The LED screens shall be permitted to display one self-contained message every 45 seconds. The time taken for consecutive displays to change shall be no more than 0.1 seconds. The images/messages shall not flash, scroll or move and shall not be permitted to display or imitate a traffic control device. Sequential messages (i.e., messages that are displayed as part messages over two or more displays) shall not be permitted.
 15. The signs visible from the adjacent roads 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. The internally illuminated signage shall be limited to a low level of illumination so as to minimise distraction to motorists ($\leq 150 \text{cd/m}^2$). The LED screens shall be limited to the following stepped luminance levels:
- | | | |
|------------------------|---|-------------------------------------|
| 16. Ambient Conditions | Sign Illuminance Vertical Component (Lux) | Sign Luminance (Cd/m ²) |
| Sunny Day | 40000 | 6300 |
| Cloudy Day | 4000 | 1100 |
| Twilight | 400 | 300 |
| Dusk | 40 | 200 |
| Night | <4 | 150 |
17. The operational system for the LED screens 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.
 18. Stormwater run-off shall be collected on-site and discharged without impacting the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

**REPORT REFERENCE: CAP211222 – 3.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



Originating Officer:	Joanne Reid Development Officer – Planning
Applicant:	Mr Simon Voss
Development Description:	Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls
Elements:	Land division Fences and walls (retaining wall) Other residential (earthworks)
Site Location:	61A Woodend Road and 55A Woodend Road, Sheidow Park
Zone:	Hills Neighbourhood
Lodgement Date:	08/06/2022
Planning and Design Code:	26 May 2022 Version 2022.9
Referrals (Internal):	Development Engineer Coordinator Traffic and Parking Open space operations Senior Environmental Planner
Referrals (External)	SPC Planning Services
Application Type:	Performance Assessed
Delegations Policy:	Instrument of Delegation – CAP, Clause 5.1.1.1 <i>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which: Any Performance Assessed application that has undergone 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>
Public Notification	Public Notification required <i>An application that involves a retaining wall that does not satisfy Hills Neighbourhood Zone DTS/DPF 11.3, and earthworks requires public notification as the exceptions to the exclusion from notification is triggered per Column B in Table 5 of the Zone.</i> <i>(Excavating and filling are listed within Part 5 of the P & D Code as additions to the definition of Development under Clause 1, Schedule 3 of the PDI Regulations, 2017)</i>
Application No:	21021528
Recommendation:	That Planning Consent be GRANTED subject to Conditions

Attachments

Attachment I: Minutes from Council Assessment Panel Meeting held 16 November 2022
Attachment II: Proposal Plan and supporting documentation

BACKGROUND

The subject application was considered by the Panel at its meeting on 16 November 2022, whereby a decision upon the application was deferred for the following reason:

1. **The application be DEFERRED to enable the applicant to provide further details having regard to Desired Outcome 1 and Performance Outcomes 2.1 and 11.3 of the Hills Neighbourhood Zone and Performance Outcomes 1.2 and 2.1 of General Policies Land Division;**
 - **Cross sections of the site demonstrating the extent of cut and fill north-south through the site and east-west through the site at key locations**
 - **Details of the proposed retaining walls, including methods of construction, colours and material**

The applicant has provided an amended bulk earthworks plan and cross-sectional elevations to provide greater clarification on the extent of earthworks proposed.

A manufacturer's brochure provides further information on the likely colours, materials and building techniques, noting that more detailed construction methods would be considered at building rules consent stage.

The original report, plans and attachments can be found in 16 November 2022 agenda. Members not present at the previous meeting will be provided a copy of the previous report, proposal plans and supporting documentation. This documentation will be uploaded to Members lpad and provided via email (by way of dropbox) the day the Agenda is released.

DISCUSSION

The supporting documentation is considered to provide information and clarification, as sought by the Panel in its reasons for deferral.

The Panel is reminded that a deferral is limited to enable the applicant to provide additional information/clarification regarding a matter(s) to be considered and that it is not an opportunity to seek changes or further amendments.

The reason for the deferral was to enable the applicant to provide further details having regard to Desired Outcome 1 and Performance Outcomes 2.1 and 11.3 of the Hills Neighbourhood Zone and Performance Outcomes 1.2 and 2.1 of General Policies Land Division.

The applicant has provided additional information to support the further assessment of the proposal in relation to:

Hills Neighbourhood Zone, Desired Outcome 1

Development provides a complementary transition to adjacent natural and rural landscapes. Low density housing minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, earthworks and retaining walls.

Hills Neighbourhood Zone, Performance Outcome 1.1 :

Predominantly low-density residential development with complementary non-residential uses compatible with natural landforms and a low density residential character.

Hills Neighbourhood Zone, Performance Outcome 2.1

Allotments/sites created for residential purposes are of suitable size and dimension to accommodate residential development that is sensitive to the natural topography and compatible with the housing pattern in the locality.

The following information has been provided:

- Amended bulk earthworks plan;
- Cross sections of
 - Lots 228 to 332 – North to south (Section A)
 - Lots 321 to 327 – North to south (Section B)
 - Lots 329 and 337 – West to east (Section C)
 - Lots 331 and 335 – West to east (Section D)
 - Lot 322 – West to east (Section E)
 - Lot 326 – West to east (Section F)
- Elevations including relative natural and proposed ground levels of:
 - Retaining wall adjoining Lot 328 and roadway (Section G)
 - Retaining wall adjoining Lot 337 and roadway (Section H)
 - Retaining wall adjoining Lot 335 and Lot 101 (Section I)
- Manufacturers brochure for retaining wall materials and colours

Earthworks

There are no changes to the proposed allotment sizes and the bench levels for the roadway and as such Lots 322 to 333 remain the same.

Amendments have been made to Lots 334 to 337 by reducing the split between the allotments from 3m to 2.5m. This is considered to assist in reducing the potential future wall heights of the lower level of dwelling - potentially reducing the cost of a split level home. Although this has increased the internal retaining wall to 1.85m from 1.5, the extent of this is retaining cut, and is not considered to adversely impact on the future amenity of proposed neighbouring properties or land within the existing locality.

As mentioned in the original report, it is acknowledged that the earthworks are significant, however they are considered to be managed in a way which minimises impacts to existing dwellings.

Allotments on the eastern side will result in more excavation which minimises the impacts nearer to established dwellings and allotments.

The filling of land is predominantly restricted to the western side allotments where the land is generously separated from existing dwellings by the 'future reserve' and due to the large land size of adjoining allotment (59 Woodend Road).

The cross-sections demonstrate the relationship of the allotments with the proposed roadway and seek to provide a balance between a regulated grade for the access road, integrating with the natural topography of the land, providing each site with suitable access to the associated road, minimising the height of retaining walls (particularly in areas of fill) and encouraging split level homes to minimise the height future retaining walls on the boundaries of each site.

The transitions between each allotment are reasonable and follow the fall in the land without requiring large retaining walls between each site. Furthermore, the proposed outcome maintains a pattern of division and cut/fill profile similar to other recently approved and constructed large scale divisions within the immediate locality. The benching of fill, which tapers down to existing levels, over the allotment identified as a 'future reserve' assists in alleviating the need for retaining walls without impacting on the intent of the open space zone or significantly affecting the natural character of the space or any existing vegetation.

Retaining walls

The retaining wall elevations demonstrate the variances in the height. The retaining wall adjoining lot 228 reaches a maximum height of 2m (300mm higher than in the original plan), however a large extent of the wall maintains a height of 1.4m or below and reflects the height sought by the Planning and Design Code. This notwithstanding, its proximity away from the nearest existing dwelling reduces any visual impact, and will not result loss of light of overall amenity.

The retaining wall adjoining Lot 337 will result in a 2.8m high wall, in cut, and therefore only visible within the site. Future dwellings can be designed to minimise the impacts of these retaining walls such as minimising habitable room windows along this façade and incorporating landscaping.

A reduction in the height of the retaining wall between Lot 335 and lot 101 from 3.3m to a maximum height of 2.6m is proposed. As above, the wall is in cut and can be managed to minimise impacts to the occupants of Lot 335 through appropriate dwelling design and landscaping.

The retaining walls are proposed to be constructed using smooth concrete sleepers in the colour 'Comet'. This can be seen on page 4 of the brochure included with the attachments. The colours and materials are consistent with the retaining walls in the immediate and greater locality. The walls will be fully engineered and constructed using steel beams for reinforcement.

Given the site and location of this development away from areas of high amenity and frequent use, the use of 'moulded' retaining walls is not considered necessary and the proposed colours and materials are considered to be a practical and appropriate outcome.

The height of retaining walls, where exposed to existing properties, are not of a height that is out of character with the locality and the larger retaining walls are in cut are not exposed to existing land. Sites could be adapted to minimise their visual impact in future through landscaping or building design.

CONCLUSION

The information provided and additional amendments to the proposal reaffirm the previous recommendation of support.

The allotment sizes reflect a low-density pattern of development, consistent with the scale and pattern of development within the wider Sheidow Park locality. The shortfalls are not considered to inhibit the ability for future dwellings to be constructed that reflects the Planning and Design Code's Performance Outcomes.

The proposed earthworks seek to create roadway access that achieves regulation grade, accommodate allotments that gain access to the road and provide pre-determined bench levels that will assist in minimising future earthworks when the allotments are developed. The earthworks are predominantly in cut for the eastern side with some filling proposed for the western side allotments, including some grading of the fill into the 'future reserve'.

The variances between each allotment are reasonable and benched and graded in a manner that reflects the topography of the land; and retaining walls, where necessary, are not out of character with what exists in the locality. Where walls are to retain fill and therefore exposed to existing properties, they are varied in height and positioned such a distance from the dwelling that they will not produce unreasonable impacts. Retaining walls required to maintain excavation works are not exposed to existing properties and dwellings can be designed or landscaping applied in a manner which can minimise its impact.

The proposed development will provide connectivity to the recent land divisions of the sites from 63 to 67 Woodend Road and provide access to a 'land-locked' parcel of residential zoned land and the proposal is co-ordinated and complementary in this regard. The proposal will also delineate the boundaries between the residential area and the open space area and retain the open landscape interface to the west and the south.

To this end, the proposed development is considered to satisfy the relevant provisions of the Planning and Design Code and warrants Planning and Land Division Consent to be granted.

RECOMMENDATION

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

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concurs that the proposed development is not seriously at variance¹ to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and
- (c) That Planning Consent and Land Division Consent for Development Application ID: 21021528 for a Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls at 61A and 55A Woodend Road, Sheidow Park be GRANTED, subject to the following Conditions:

CONDITIONS

Planning Consent

1. The development granted Development Approval shall be undertaken and completed in accordance with the stamped plans and documentation,
 - Plan of Division, Job no. 18330, dated 22/6/22
 - Bulk Earthworks Plan with drawing no. 2109071-C100/PE, dated April 2022
 - Stormwater Management Report 2109071_SMR_B, by TMK Consulting Engineers and dated 19 May 2022)except where varied by conditions below (if any).
2. Prior to the commencement of any civil works being undertaken on the land in association with the approved development, a Soil Erosion and Drainage Management Plan (SEDMP) shall be prepared in accordance with best practice guidelines of the Environment Protection Authority 'Stormwater Management, Building and Construction', last modified 06 January 2021,
3. https://www.epa.sa.gov.au/environmental_info/water_quality/programs/stormwater/pollution_prevention_for_building_and_construction_activities
The SEDMP must be first approved in writing by the relevant authority, prior to the commencement of any civil works being undertaken on the land in association with the approved development. The person(s) having the benefit of this consent shall ensure that the management measures outlined in the approved SEDMP are complied with at all times to the satisfaction of the Council.
4. All drainage infrastructure shall be located within registered easements on the land. A final plan depicting all proposed easements on the land, including the purpose, location and dimensions of any easement, together with the details of the land which is burdened by/in favour of any easement shall be provided to the relevant authority for its assessment and approval prior to a request for clearance being made pursuant to section 138 of the PDI Act 2016.

¹ Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016 (or Section 35(2) of the Development Act 1993 for applications under that Act), a "development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code" (or the Development Plan if under the Development Act). What is 'seriously at variance' is not a defined legislative term and is not synonymous with a proposal that is merely 'at variance' with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

5. Upon the completion of all works associated with the development, all necessary temporary road access arrangements and temporary barriers are to be installed on the land in accordance with the details submitted and shall conform at all times to Australian Standard AS/NZS 3845.1:2015 and shall be to the Council's satisfaction.
6. A final plan depicting all proposed easements on the land, including the purpose, location and dimensions of any easement, together with the details of the land which is burdened by/in favour of any easement shall be provided to the relevant authority for its assessment and approval prior to a request for clearance being made pursuant to section 138 of the PDI Act 2016.

Land Division Consent

1. Upon the completion of all works, all drainage infrastructure that is necessary to be installed on the land so as to ensure that all roads and allotments that are created within the land division can be adequately drained, shall be constructed to the satisfaction of the Council.
2. All roads and drainage infrastructure associated with the approved development shall be constructed in accordance with the Council's Standard Drawings, City of Marion Standard Drawings Combined, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
3. Stormwater associated with the development shall not be discharged into any watercourse without the prior written approval of the Council. In the event any discharge is proposed to any existing watercourse, the details of erosion prevention measures must first be provided to the Council for its consideration, assessment and approval.
4. Any drain which is necessary for the safe and efficient drainage of the land and the disposal of stormwater and effluent from the land shall be provided and constructed on the land in accordance with recognised engineering practice and shall be to the satisfaction of the Council.
5. All culverts, underground drains and inlets reasonably necessary for any proposed road forming part of the development shall be constructed on the land, in accordance with recognised engineering practice and shall be in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
6. All stormwater infrastructure which is necessary for the safe and efficient drainage of the land and the safe and efficient disposal of stormwater from the land shall be designed and installed on the land in accordance with recognised engineering practice, and shall be to the satisfaction of the Council.
7. All side entry pits associated with the approved development shall be double chamber units comprising a concrete lintel frame and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.

8. All centrally graded road carriageways shall include a centralised spoon drain that shall be engineered so as to withstand heavy vehicle traffic loads, and shall be constructed to the Council's satisfaction.
9. The minimum road carriageway widths, as measured from the inside face of each kerb shall be 7.2m wide and shall be to the Council's satisfaction. Any indented parking bays on roads are to be constructed in accordance with the Council's requirements as set out in City of Marion Road Hierarchy Plan, dated November 2005, https://cdn.marion.sa.gov.au/sp/City-of-Marion-Road-Hierarchy-Plan-1_2021-11-30-032632_slsh.pdf.
10. All road verges on both sides of any carriageway shall be no less than 3.0 metres wide, when measured from the inside face of the adjoining kerb, and shall have a crossfall of 2.5%, and shall be to the Council's satisfaction.
11. Adequate road corner cut-offs shall be provided to ensure the provision of adequate sight lines for road users (including cyclists and pedestrians) to the satisfaction of the relevant authority.
12. All roads shall be designed and constructed in a manner which provides for safe and convenient access from adjoining driveways. Batter grades from all roads to adjoining allotments within the approved division shall be no steeper than 1 in 5, unless otherwise approved in writing by the Council.
13. All roads shall be designed in such a way so as to provide for the safe movement of all road users within the approved development, to the satisfaction of the Council.
14. The width of the road at the head of every cul-de-sac must be at least 20 metres for a length of not less than 20 metres, or such other dimensions as may be acceptable to the Council, provided such dimensions are first approved in writing by the relevant authority. Adequate provision shall be made for the turning of vehicles at the head of a cul-de-sac.
15. Sections of roads with direct property access shall have a maximum longitudinal grade of 12.5 percent and the head of any cul-de-sacs shall have a maximum grade of 10 percent unless otherwise approved in writing by the Council. Sections of road without direct property access may have a maximum longitudinal grade of 15 percent. Roads shall have a minimum grade of 0.3 percent.
16. All road pavement shall be designed and constructed to provide for a 20 year design life and shall be designed in accordance with the Austroads Pavement Research Group 21 document entitled; "A guide for the design of new pavements for light traffic" dated 3 March 2006 <https://austroads.com.au/publications/pavement/ap-t36-06> and the ARRB publication entitled "Sealed Local Road Manual" dated 2021 <https://www.arrb.com.au/bestpracticeguides> save and except the additional requirement for collector roads, namely that the minimum pavement thickness shall be 350mm incorporating 50mm asphalt seal, unless, in the Council's opinion, the design of the road requires a greater depth, which depth shall be to the Council's satisfaction.
17. Road reserves must only be filled with materials that are in accordance with Australian Standard 3798, and such filling must be supervised and subsequently certified by a suitably qualified Engineer, to the Council's satisfaction.
18. Before the roadway of any proposed road is sealed, the applicant must satisfy the Council that all connections for water supply and sewerage services to any allotment delineated on the approved plan, which, in the opinion of the Chief Executive of the

South Australian Water Corporation are necessary and need to be laid under the surface of the proposed road, have been made.

19. Road batters shall be constructed in a manner so as to ensure that such batters are stable and that the risk of soil erosion is minimised, and shall be to the satisfaction of the Council.
20. Footpaths shall be constructed on both sides of the street and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
21. Footpaths and driveway crossovers shall be constructed using reinforced concrete paving and shall be at least 1.5 metres wide, and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
22. All kerbing shall be of barrier kerbing type construction and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
23. The person(s) having the benefit of this consent shall, at their cost, ensure that any electricity mains are placed underground with all electricity services to be installed in accordance with recognised engineering practice, and shall be to the Council's satisfaction.
24. All necessary electrical services shall be installed on the land in accordance with recognised engineering practice, to the satisfaction of the Council.

Conditions imposed by SPC Planning Services under Section 122 of the Act

25. Payment of \$142,344.00 into the Planning and Development Fund (18 allotment/s @ \$7908.00 /allotment).
This payment will not become payable until the Certificate of Approval application under Section 138 has been lodged. At that time the Land Division Registration fee (currently \$1048.00), will also become payable. The total of the two fees must be paid in a single payment. Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.
26. A final plan complying with the requirements for plans 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 Planning Commission for Land Division Certificate purposes.

NOTES

1. The conditions imposed on this development approval are associated with an Infrastructure Agreement between the developer and City of Marion.
2. A Land Management Agreement has been entered into which stipulates that
 - Development of any allotment created by deposit of the approved plan of division must incorporate a stormwater retention tank that complies at all material times with the following requirements:
 - a) capacity of not less than 10kL
 - b) connected to the roof of any dwelling;
 - c) plumbed into the laundry and toilets within the dwelling;
 - d) overflow discharge connected to the Council's stormwater drainage system;
 - e) installed prior to occupation of the dwelling erected thereon; and
 - f) maintained in good working order (or replaced in the event that maintenance is no longer viable).
3. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
4. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.

All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).

Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).

5. If you are a developer or owner-builder, there are important Commonwealth telecommunications rules you need to comply with. For more information visit www.infrastructure.gov.au/tind
6. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
7. The owner/applicant is advised that consent from any relevant easement or encumbrance owner may be required prior to any construction.

Easements may include, but are not limited to: drainage, Council easements (i.e. stormwater, encroachments, access etc), power transmission (SA Power Networks), telecommunications, or other forms of access (such as vehicle) rights of way.

Easements and encumbrances would be registered on the relevant Certificate of Title. The location of easements on the land would be shown on the Deposited Plan. A copy of the Certificate of Title and Deposited Plan can be obtained from the South Australian Integrated Land Information System (SAILIS) at: <https://sailis.lssa.com.au/home/auth/login>.

DPTI Mark Maintenance Advisory Note:

8. The following development application has been examined for PSM requirements: (see attachment)

DA100/D491/22

App ID 21021528

2 PSM's are required to be placed at the positions marked on the attachment.
The following numbers shall be used: 6627/30015 & 6627/30016

The new PSM's must be witnessed.

The following is to be supplied once the PSM's have been placed:

- Location sketches
- MGA 2020 coordinates

<https://app.plan.sa.gov.au/suite/webapi/file-download?doc=536BEF26-148E-1F19-8EA1-7E626C521B6F>

**4. REVIEW OF ASSESSMENT MANAGER DECISION
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



**REPORT REFERENCE: CAP211222 – 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



Matter for Review:	Appeal Against the Decision of the Marion Assessment Manager (Delegate) to REFUSE the proposal
Delegate:	Harry Stryker Development Officer – Planning
Applicant:	Zaina Stacey Development Consultants
Development Description:	Land Division (1 into 2) Conventional, Including Retain and Modify Existing Dwelling
Elements:	Land Division Dwelling Additions/Alteration Internal Building Work
Site Location:	25 Camille Street, Hallett Cove
Zone:	Hills Neighbourhood
Lodgement Date:	29 June 2022
Decision Date:	5 October 2022
Appeal Date:	6 October 2022 (payment received 4th November)
Planning and Design Code:	Published on portal 23 June 2022 Version number 2022.11
Referrals (Internal):	Nil
Application Type:	Code Assessed - Performance Assessed
Application No:	22025572

Attachments

<i>Attachment I:</i>	<i>Stamped plans (refusal)</i>
<i>Attachment II:</i>	<i>Working documents including indicative dwelling 2 plans</i>
<i>Attachment III:</i>	<i>Planning advice email</i>
<i>Attachment IV:</i>	<i>Planning report</i>
<i>Attachment V:</i>	<i>Delegate assessment report and appendix code rules with comments</i>
<i>Attachment VI:</i>	<i>Decision notification form (refusal)</i>
<i>Attachment VII:</i>	<i>Decision review request</i>

Pursuant to Section 203 of the *Planning, Development and Infrastructure Act 2016* an applicant has the right to apply to the assessment panel to review a prescribed matter where an assessment manager has acted as a Relevant Authority.

Any review must be undertaken taken in accordance with the '*Marion Council Assessment Panel Review of Decision of Assessment Manager*' procedure. A link to this document is provided for Members convenience - [link](#).

Following consideration of the Review of Decision of the Assessment Manager's Decision, the Panel, may;

- Affirm the Assessment Manager's decision on the Prescribed Matter;
- Vary the Assessment Manager's decision on the Prescribed Matter; or
- Aet aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision

It is noted that any decision of the assessment Panel is final and cannot be reviewed or appealed.

Matter For Review

The applicant seeks the Council Assessment Panel review the Marion Assessment Manager's decision to refuse planning consent for the subject development application.

The applicant has confirmed they did not wish to provide any further submission to their planning report dated 14 September.

Application Characteristics

Hills Neighbourhood Zone

The locality is an established residential neighbourhood. Dwellings were mostly built about 1980. The prevailing context of the locality is wide (18m) single storey detached dwellings with generous front glazing on allotments 640sqm in area, with 20m frontages; modest single width carport and garages inline or setback from the front walls; buildings visually separated from side boundaries; and generous front landscaping.

The proposed development consists of a conventional 1 into 2 land division, and associated alterations and additions to existing dwelling. The dwelling modifications would include creation of a single garage under the main roof. The garage front wall would include a parapet feature and project forward of the building line, albeit not forwards of the forward most part of the subject building located on the other side of the dwelling front elevation. The altered northern dwelling wall would be located on the proposed new boundary alignment.



Background

The proposal was originally submitted to Council 22 April 2022 (development application number 22013563). Due to an oversight regarding changes to the Code to exclude internal allotment boundaries for public notification purposes, the application was incorrectly notified. Following receiving representations, the applicant advised Council of the error. The application was subsequently withdrawn, and the subject application resubmitted for the same proposal 27 July 2022 (development application number 22025572).

Application Timeline

During administration and assessment of the two applications the applicant was made aware on numerous occasions there were concerns with the merits of the proposal, including on the following occasions:

- 29 April as additional information in a letter requesting mandatory documentation;
- 26 July as additional information in email correspondence administering re-lodgement;
- 1 September as part of informal email correspondence advising the application will be refused planning consent;
- 7 September in response to planning advice provided by applicant 5 September.

The applicant provided additional documents on the following occasions:

- 7 June comprising indicative plans for a compact single fronted dwelling on the proposed new site;
- 5 September comprising planning advice;
- 14 September comprising a planning report.

Decision

The application was refused by a delegate of the Assessment Manager for the following reasons;

- 1) The proposed allotments would be significantly at odds with and detract from the prevailing housing pattern in the locality, contrary to Hills Neighbourhood Zone Performance Outcome 2.1, and General Development Policies - Land Division Desired Outcome 1, and Performance Outcome 1.2;
- 2) The proposed dwelling and any future proposed dwellings appearance and setbacks would be significantly at odds with and detract from the streetscape character of the locality, contrary to Hills Neighbourhood Zone Performance Outcomes 5.1, and 8.1, and Design in Urban Areas Desired Outcome 1, and Performance Outcome 20.2;
- 3) The proposed garage form and setbacks would be inconsistent with and detract from the streetscape and dwelling appearance, contrary to Hills Neighbourhood Zone Performance Outcomes 5.1, and 8.1, and Design in Urban Areas Desired Outcome 1, and Performances Outcomes 20.1, and 20.2.

Further to the reasons for refusal the following were noted and included in the decision notice:

- There are some elevations drawing inaccuracies around the garage parapet/roof integration and dwelling forward component roof/gutter line; and
- The existing crossover location may not be safe nor convenient and conflicts with indicative plans.

Resolution

(delete non-applicable resolution)

Pursuant to Section 203(4) of the *Planning, Development and Infrastructure Act 2016*, and the *Marion Council Assessment Panel Review of Decision of Assessment Manager* procedure, the Marion Council Assessment Panel, RESOLVES;

Affirm Decision

To **affirm the decision** of the Assessment Manager that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No. 22025572 **DOES NOT** warrant planning consent for the following reasons:

1. **The proposed allotments would be significantly at odds with and detract from the prevailing housing pattern in the locality, contrary to Hills Neighbourhood Zone Performance Outcome 2.1, and General Development Policies - Land Division Desired Outcome 1, and Performance Outcome 1.2;**
2. **The proposed dwelling and any future proposed dwellings appearance and setbacks would be significantly at odds with and detract from the streetscape character of the locality, contrary to Hills Neighbourhood Zone Performance Outcomes 5.1, and 8.1, and Design in Urban Areas Desired Outcome 1, and Performance Outcome 20.2;**
3. **The proposed garage form and setbacks would be inconsistent with and detract from the streetscape and dwelling appearance, contrary to Hills Neighbourhood Zone Performance Outcomes 5.1, and 8.1, and Design in Urban Areas Desired Outcome 1, and Performances Outcomes 20.1, and 20.2.**

Vary Decision

To vary the decision of the Assessment Manager in relation to DA No 22025572 by deleting Reason for Refusal [insert number] replacing it with the following reason: [insert new or varied reason]

Set Aside Decision

To set aside the decision of the Assessment Manager to refuse planning consent to DA No [insert] and substitute the following decision:

- DA No 22025572 is not seriously at variance with the Planning and Design Code (disregarding minor variations); and
- that **PLANNING CONSENT** is **GRANTED** to the application, subject to the following conditions: [insert conditions]

Defer Decision*

To defer its decision in relation to its review of the decision of the Assessment Manager to [insert description of the decision] in relation to DA No [insert] until:

- the next ordinary meeting of the Panel;
OR
- the next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided;
OR
- until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)] (etc).

**Pursuant to Section 204 of the Planning, Development and Infrastructure Act 2016 an application to the Environmental Resources and Development Court must be made within 2 months of the decision. As two months since the decision date has past, the applicant would need to apply to the court to allow an extension of time. A deferral may further delay and potentially prejudice the applicant's ability to apply for an extension.*

**5. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



5.1 MEETING PROCEDURES UPDATE

Verbal update provided.

5.2 DELEGATIONS REVIEW

Verbal update provided.

**6. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



6.1 APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2020/659	1 Wattle Terrace, Plympton Park	4/11/2022	Refused	Refused	Conference set for 18/01/2023

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

**7. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



No items listed for discussion.

**8. OTHER BUSINESS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 21 DECEMBER 2022**



No items listed for discussion.