

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 7 MAY 2025**



1.1 OPEN MEETING

The Meeting commenced at 6.30pm

1.2 PRESENT

Michael Davis - Presiding Member
Yvonne Svensson- Independent Member
Ben Russ - Independent Member
Bryn Adams - Independent Member
Councillor Matt Taylor – Council Member

1.3 APOLOGIES

Alex Wright – CAP Assessment Manager – Unit Manager Planning & Development

1.4 IN ATTENDANCE

Gary Brinkworth – Manager - Development & Regulatory Services
Katherine Thrussell - Team Leader - Planning
Matthew Falconer - Development Officer – Planning Consultant
Kuki Kinyanjui - Development Officer – Planning

2. GENERAL OPERATIONS

No items listed for discussion

3. DEVELOPMENT ACT 1993 APPLICATIONS

No items listed for discussion

4. PDI ACT APPLICATIONS

4.1 Report Reference: CAP070525 - 4.1

Application No: 24037997

Site Location: 72 Spinnaker Circuit, Sheidow Park

- Damien Nicholls (Representor) addressed the Panel
- Graham Grose (Representor) addressed the Panel
- James Rhodes of Ekistics and Jeremy Bayly CIRQA on behalf of (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

In accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016 the Council Assessment Panel;

- (a) Notes the assessment made by the report author;**
- (b) Resolves that the proposed development, pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, IS NOT seriously at variance¹ with the Planning and Design Code; and**
- (c) Resolves that, pursuant to Section 102 (1) *Planning, Development and Infrastructure Act 2016*, Development Application 24037997 seeking to construct a Child care facility with associated carpark, signage, retaining walls, fencing, swale and landscaping at 72 Spinnaker Circuit, Sheidow Park be REFUSED for the following reasons:**

REASONS

- 1. The siting, design and access point of the proposed development will not contribute to making the neighbourhood a convenient place to live without compromising the amenity and character of the Suburban Neighbourhood Zone and is thereby inconsistent with Performance Outcomes 1.1, 1.4 & 1.5.**
- 2. The access point has not been designed to minimise adverse impacts to neighbouring properties in accordance with General Development Policies**

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.

Design in Urban Areas Performance Outcome 7.2 and Transport, Access and Parking Performance Outcomes 3.4 & 6.2.

- 3. The proposal does not satisfy General Development Policies Design in Urban Areas Performance Outcomes 8.1 and 9.1 in that the development does not adequately minimise earthworks (cut and fill) resulting in excessive combined retaining and fencing heights impacting the visual amenity for neighbouring properties.**

5. APPEALS UPDATE

APPEALS AGAINST PANEL DECISIONS

Verbal updated provided/No items listed.

6. POLICY OBSERVATIONS

No items listed for discussion/Verbal update provided.

7. OTHER BUSINESS

No items listed for discussion.

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 7 May 2025 taken as read and confirmed this seventh day of May 2025.

9. MEETING CLOSURE

- **Length of meeting: 1 hour 39 minutes**
- **Number of Representors appearing before the Panel: 2**
- **Number of Applicants appearing before the Panel: 2**

MEETING DECLARED CLOSED AT 8:09PM

A handwritten signature in blue ink, appearing to read 'Michael Davis', with a long horizontal stroke extending to the right.

Michael Davis
Presiding Member