

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 15 FEBRUARY 2023**



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 Nathan Prior – Council Member

1.3 APOLOGIES

Alex Wright – CAP Assessment Manager – Team Leader - Planning

1.4 IN ATTENDANCE

Thuyen Vi-Alternetti – Acting General Manager City Development
Kai Wardle – Acting Team Leader - Planning
Joanne Reid – Acting Senior Urban Planner
Michael Hughes – 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: CAP150223 - 4.1

Application No: 22037372

Site Location: Lot 156 Kurnabinna Terrace, Hallett Cove

- Richard Zados (Representor) addressed the Panel
- Richard Zados on behalf of Vivienne Giannis (Representor) addressed the Panel
- Robert Dittmar (Representor) addressed the Panel
- Alex Cortes on behalf of the City of Marion (Applicant) addressed the Panel
- Ryan Sullivan of BluBuilt Construction on behalf of the City of Marion (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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: 22037372 for a Laydown and construction worker area with associated transportable buildings (Office/Lunchroom and WC), shipping containers and storage for a temporary period of 12 months at Lot 156 Kurnabinna Terrace, Hallett Cove 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, including the Hallett Cove Walkway Bridges Project Management Plan and Traffic Management Plan by BluBuilt except where varied by conditions below (if any).**
2. **On cessation of the temporary development as specified in the application documentation**
 - **the previous use of the land will be revived and the use of the land subject to this development authorisation will cease; and**
 - **any person who has the benefit of the development will restore the land to the state in which it existed immediately before the development.**

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.

CAP150223

3. The operating hours shall be limited to the following times:
Monday to Friday (inclusive) 6:30am to 6:30pm (excluding public holidays) and
Saturday 6.30am to 5.30pm (excluding public holidays)
4. Any moving, loading and unloading of materials and equipment from within the site shall not be undertaken before 7am.
5. The hours for delivery to and from the site and waste collection are limited to the following times:
Monday to Friday 7am to 6.30pm (excluding public holidays) and
Saturday 7am to 5.30pm (excluding public holidays)
6. All waste and other rubbish shall be stored in a manner so that it does not, in the reasonable opinion of the Council, create:
 - insanitary conditions on or off the site;
 - an unreasonable nuisance off the site; or
 - pollution to the environment (including by pollution caused by substances, materials or things entering the stormwater system either by wind or water).
7. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.
8. 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.

NOTES

1. The Local Nuisance and Litter Control Act 2016 has restrictions relating to the control of noise, dust, smoke, odours and unsightly conditions in the urban environment. Please note that conditions of this nature which unreasonably affect the amenity of neighbours may contravene the Act.
2. Before commencing any site works, a temporary vehicular access to the property for machinery, delivery of building materials and general vehicles should be provided. In the case where no driveway invert exists, the kerb can be saw cut and removed at the intended location for the new driveway invert to provide the necessary temporary access. In addition, if a paved Council footpath exists, this should also be removed in alignment with the removed section of kerb. The applicant should also take note of other information provided regarding use of, damage to and construction on Council owned land.
3. 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).
4. Any driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

5. 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.

CAP150223**4.2 Report Reference: CAP150223 - 4.2****Application No: 22036083****Site Location: 1 Syme Avenue, Seacombe Gardens**

- Simon Channon of URPS on behalf of Stella Maris Parish School (Applicant) addressed the Panel
- Melissa Mellen of MFY on behalf of Stella Maris Parish School (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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

- The Panel notes this report and concur with the findings and reasons for the recommendation;**
- The Panel concurs that the proposed development is not seriously at variance² to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- That Planning Consent for Development Application ID: 22036083 for alterations and additions and alterations to an educational establishment at 1 Syme Avenue, Seacombe Gardens be GRANTED, subject to the following Reserved Matter and Conditions.**

RESERVED MATTERS

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, 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 as matters and granted its consent thereof.

- A landscaping plan, including the location and species of vegetation shall be provided, to the reasonable satisfaction of the Team Leader – Planning.**

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016 the Council reserves its decision on the form and substance of any further conditions of planning consent that it considers appropriate to impose in respect of the reserved matter outlined above.

CONDITIONS

- 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 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.

- 2. The proposed alterations to the road reserve – including the extension and installation of indented parking bays, installation of road base, kerb and water table, bitumen, line marking, signage, and modifications to angled parking spaces, as detailed within Section 2.1 of the Traffic and Parking report (SV/21-0022) by MFY Pty Ltd, dated 18 October 2022 – are to be designed, constructed and completed to Council’s satisfaction no later than 12 months after the proposed building commences operation and subject to the application, issue and conditions contained with a Section 221 permit under the Local Government Act 1999. All costs associated with the relevant works are the sole responsibility of the applicant.**
- 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. The landscaping area shall be planted and maintained as per an approved landscaping plan and all dead or dying plants will be replaced to the satisfaction of Council.**
- 5. Hours of waste collection and associated waste service vehicles (operated by private contractor/s) are limited to outside of the following times:**

 - 8:00am - 9:00am and**
 - 2:00pm - 3:30pm on school days.**

5. APPEALS UPDATE**APPEALS AGAINST PANEL DECISIONS**

Verbal updated provided.

6. POLICY OBSERVATIONS

No items listed for discussion.

7. OTHER BUSINESS

No items listed for discussion.

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 15 February 2023 taken as read and confirmed this fifteenth day of February 2023.

9. MEETING CLOSURE

- Length of meeting: 1 hour and 22 minutes
- Number of Representors appearing before the Panel: 3
- Number of Applicants appearing before the Panel: 2

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MEETING DECLARED CLOSED AT 7.52PM



Michael Davis
Presiding Member