

**CITY OF MARION  
COUNCIL ASSESSMENT PANEL MINUTES  
FOR THE MEETING HELD ON  
WEDNESDAY 21 DECEMBER 2022**

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**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**

Nil

**1.4 IN ATTENDANCE**

Alex Wright - CAP Assessment Manager - Team Leader - Planning  
Tony Lines – General Manager – City Development  
Warwick Deller-Coombs - Manager - Development & Regulatory Services  
Harry Stryker – Development Officer – Planning  
Councillor Matt Taylor – Council Member

**2. DEVELOPMENT ACT 1993 APPLICATIONS**

No items listed for discussion.

### 3. PDI ACT APPLICATIONS

#### 3.1 Report Reference: CAP211222 - 3.1

Application No: 22003132

Site Location: 216-220 Seacombe Road, Seaview Downs

- Scott Handford (Representor) addressed the Panel
- Karin Field (Representor) addressed the Panel
- John Kathiniotis (Representor) addressed the Panel
- Craig Cech (Representor) addressed the Panel
- Mr Tim Beasley, on behalf of PC Infrastructure Pty Ltd and Mr Chris Turnbull (Sonus) (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

(a) The Panel notes this report;

(b) The Panel concurs that the proposed development is not seriously at variance<sup>1</sup> 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 REFUSED, for the following reasons;

1. Does not satisfactorily meet DO 1 Interface Between Land Uses: Development designed to mitigate adverse effect on or from neighbouring and proximate land uses.
2. Does not satisfactorily minimise adverse impacts from the drive through component as sought by PO 1.2 Interface Between Land Uses.
3. Does not satisfactorily meet PO 2.1 Interface Between Land Uses – non residential development does not unreasonably impact the amenity of sensitive receivers through the hours of operation of the drive through component.
4. Does not satisfactorily meet PO 4.2 Interface Between Land Uses, in particular (a) locating openings of buildings and associated services away from the interface with the adjacent sensitive receivers and zones.
5. Does not adequately meet Design in Urban Areas PO 9.1 as the proposed boundary fence is considered to unreasonably impact the adjoining land's amenity and access to sunlight.
6. Does not satisfactorily meet PO 4.2 of the Suburban Activity Centre Zone as the proposed freestanding advertisement does not adequately avoid visual clutter or positively respond to the site's context.

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<sup>1</sup> 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.

**3.2 Report Reference: CAP211222 - 3.2****Application No: 21021528****Site Location: 61A Woodend Road and 55A Woodend Road, Sheidow Park**

- No persons addressed the Panel in relation to this matter.

The Council Assessment Panel resolved that;

- 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 variance<sup>2</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- 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**

- 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).**
- 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, [https://www.epa.sa.gov.au/environmental\\_info/water\\_quality/programs/stormwater/pollution\\_prevention\\_for\\_building\\_and\\_construction\\_activities](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.**

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<sup>2</sup> 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.

## CAP211222

3. 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.
4. 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.
5. 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](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](http://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](http://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

##### 4.1 Report Reference: CAP211222 - 4.1

Application No: 22025572

Site Location: 25 Camille Street, Hallett Cove

- The delegate acting on behalf of the Marion Assessment Manager answered questions of the Panel.
- Zaina Stacey Development Consultants (Applicant) answered questions of the Panel.

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;

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.**

**5. GENERAL OPERATIONS**

Verbal update provided.

**6. APPEALS UPDATE**

Verbal updated provided.

**7. POLICY OBSERVATIONS**

Verbal update provided.

**8. OTHER BUSINESS**

No items listed for discussion.

**9. CONFIRMATION OF MINUTES**

The minutes of this meeting held Wednesday 21 December 2022 taken as read and confirmed this twenty first day of December 2022.

**10. MEETING CLOSURE**

- |  |                     |
|--|---------------------|
| • Length of meeting:                                 | 2 Hours, 15 Minutes |
| • Number of Representors appearing before the Panel: | 4                   |
| • Number of Applicants appearing before the Panel:   | 1                   |

**MEETING DECLARED CLOSED AT 8.45PM**



***Michael Davis***  
***Presiding Member***