

4.1 CONFIDENTIAL ITEM**Report Reference: CAP020823 – 4.1****Application No: 22003132****Site Location: 216-220 Seacombe Road, Seaview Downs**

- Mr Tim Beasley, on behalf of PC Infrastructure Pty Ltd and Chris Turnbull (Sonus) (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) The Panel advises the Environment, Resources and Development Court 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 through, 2.4-metre-high acoustic fence, dog wash and vacuum facilities at 216-220 Seacombe Road, Seaview Downs should 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 drive-through and associated drive-through order-box and gantry lighting shall be restricted to the following times;**
 - a. 6 am to 10 pm, each day of the week.**
- 3. Operation of the dog wash and vacuum facilities shall be restricted to the following times;**
 - a. 7 am to 9 pm, each day of the week.**
- 4. 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.**

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. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.
6. 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.
7. All waste and other rubbish shall be stored in the designated areas and screened from public view in accordance with the approved plans.
8. 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).
9. The advertisement(s) and supporting structure(s) shall be maintained in good repair at all times.
10. The 2.4 metre high western boundary fence shall be constructed from a material such as 6mm thick fibre cement sheet or a material with the same or greater surface density (kg/m²).

Conditions of Commissioner of Highways

11. Vehicular access to the site shall be in accordance with Site and Floor Plan by ADS Architects, dated 12/09/2022.
12. 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.
13. 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).
14. 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.
15. 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.
16. 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:

- | 17. Ambient Conditions (Cd/m2) | Sign Illuminance Vertical Component (Lux) | Sign | Luminance |
|--------------------------------|---|------|-----------|
| Sunny Day | 40000 | | 6300 |
| Cloudy Day | 4000 | | 1100 |
| Twilight | 400 | | 300 |
| Dusk | 40 | | 200 |
| Night | <4 | | 150 |
18. 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.
19. 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.