

**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

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

Wednesday 5 February 2020

Commencing at 6.30 p.m.

Committee Room 1 & 2

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.



Alex Wright
ASSESSMENT MANAGER

29 January 2020

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 05 FEBRUARY 2020
COMMENCING AT 6.30PM**



1.1 OPEN MEETING

1.2 PRESENT

1.3 APOLOGIES

1.4 IN ATTENDANCE

2. APPLICATIONS

- 2.1 768-772 South Road, Glandore
Change of land use from office to funeral parlour with associated alterations and additions to existing building
Report Reference: CAP050220 - 2.1.....1
- 2.2 4/373 Cross Road, Edwardstown
Demolition of existing advertising hoarding and replacement with a new double sided LED (Light-emitting Diode) advertising hoarding on an existing building
Report Reference: CAP050220- 2.2.....17
- 2.3 24 Forrest Avenue, Marino
Two-storey split-level detached dwelling and associated earthworks, retaining walls and fencing
Report Reference: CAP050220- 2.3.....32
- 2.4 4 Greenock Drive, Sturt – CONFIDENTIAL ITEM
To construct a single storey residential flat building comprising three dwellings with associated landscaping and car parking
Report Reference: CAP050220- 2.4.....48

3. OTHER BUSINESS

3.1 APPEALS UPDATE

3.2 POLICY OBSERVATIONS

**4. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING
HELD ON 5 FEBRUARY 2020**

5. MEETING CLOSURE

**REPORT REFERENCE: CAP050220– 2.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 5 FEBRUARY 2020**



Originating Officer:	Andrew Houlihan Senior Development Officer - Planning
Applicant:	APP Pty Ltd
Development Description:	Change of land use from office to funeral parlour with associated alterations and additions to existing building
Site Location:	768-772 South Road, Glandore
Zone & Policy Area	Commercial Zone and South Road Policy Area 2
Lodgement Date:	18/11/2019
Development Plan:	Consolidated – 15 August 2019 [Gazetted 8 August 2019]
Referrals:	Coordinator Traffic and Parking (Internal)
Delegations Policy:	4.1.2 <i>Any 'merit' application that has undergone Category 2 or Category 3 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>
Categorisation:	Category 3 / Merit <i>Proposed development not listed within Council's Development Plan as a Category 1 or 2 form of development and not assigned as Category 1 or 2 within Schedule 9 of the Development Regulations 2008, and as such defaults to a Category 3 development.</i>
Application No:	100/2019/1915
Recommendation:	That Development Plan Consent be GRANTED subject to conditions.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Proposal Plans and Supporting Documentation</i>
<i>Attachment III:</i>	<i>Statement of Representations</i>
<i>Attachment IV:</i>	<i>Applicant's Response to Representations</i>

SUBJECT LAND

The subject land is commonly identified as 768-772 South Road, Glandore and formally identified as Lot 504 in Certificate of Title Volume 5456 and Folio 731. The allotment is irregular in shape and is located on the western side of South Road and southern side of Margaret Street.

The land comprises a total area of 2095 square metres, provides a 47 metre frontage to South Road and a 31.56 metre frontage to Margaret Street. Vehicle access is obtained to the site from Margaret Street via an existing double crossover.

The site currently contains a commercial premises that utilises an existing single storey building of some 430 square metres as offices for the purposes of carer support services. A number of small additions are evident on site including shade sails and an outbuilding.

The site is level and there are existing vehicle manoeuvring arrangements and car parking with 22 spaces to the rear of the site. The site further contains extensive existing mature vegetation and this provides screening of the premises from South Road and landscaping around the vehicle parking and manoeuvring areas and Margaret Street frontage.

Pedestrian access is provided via a pedestrian path from Margaret Street that is aligned with the building entry.

There is a freestanding sign of approximately 4.5 metres in height located within the north-east corner of the site along with other small-scale signage attached to the front of the building facing Margaret Street.

One easement exists on the Certificate of Title for the Minister of Infrastructure and is located within the existing access way measuring 4 metres by 30.48 metres. The proposed development and the existing land use is not impacted by the easement.



LOCALITY

The subject land is located within the Commercial Zone and South Road Policy Area 2 which comprises the first allotments west of South Road. South Road acts as the boundary between Marion Council and Unley Council and is under the care and control of the Commissioner of Highways.

To the north of the site is the Glandore recreation area comprising of an oval, playground, garden area, cricket, netball and tennis facilities. The recreation area is wholly located within a Community Zone and provides frontage to South Road and Margaret Street.

To the west of the site is a Residential Zone comprising of residential allotments where the established character of the locality depicts large allotments with single storey detached dwellings and associated outbuildings.

To the south of the site lies existing commercial land uses and existing residential properties.

To the east of the site is an existing funeral parlour (Simplicity Funerals), a service trade premises (Maxiplas) and a number of other commercial facilities. The commercial premises to the east are well separated from the subject land via South Road and the associated overpass ramps from the South Road and Cross Road intersection.

Commercial businesses on South Road are representative of a common form of strip development along major arterial roads and contain various advertisements to support their uses.

The locality around the subject land is considered mixed use in nature comprising of commercial residential and recreational land uses. Buildings are predominately single storey in nature with some two storey buildings evident.

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



PROPOSAL

The proposal is best described as follows;

“Change of land use from office to funeral parlour with associated alterations and additions to existing building.”

The proposal comprises of the following;

- Conversion of the existing offices to a funeral parlour;
- Internal reconfiguration of rooms and areas within the existing building;
- Addition of a small external deck, connected to the eastern and southern side of the building;
- Retention of the small shed/outbuilding to the rear (south) of the building to be used for ancillary storage purposes;
- Retention of the existing car parking, manoeuvring arrangements and access points; and
- Retention of existing pylon sign and signage areas to be rebadged.

The funeral parlour is to be operated by ‘Simplicity Funerals’ from 8.30am to 5.00pm seven (7) days a week.

The building will be used for day-to-day office and administration purposes, funeral arrangements, as well as delivery of funeral services which will occur inside the building and be limited to service times of 10.00am and 3.00pm.

A maximum of four (4) staff will be onsite at any one time, with funeral services limited to a maximum of 50 attendees.

Internal alterations to support the proposed land use include the establishment of a reception area; two (2) ‘arrangement’ rooms; one (1) children’s room, a 50-seat chapel; reflection lounge; and cool room.

In general terms, the rear (southern) portion of the building will remain ‘as is’ and retained for storage, kitchen facilities and amenities;

The site will maintain the existing 22 car parking spaces, including one disabled space.

Given the benign nature of the land use the development will utilise Council pickup services. Waste generated onsite and deliveries to/from the site will be infrequent and minimal.

A Planning Report prepared by “Ekistics” and a traffic and parking report prepared by “CIRQA” form attachments to this report.

PROCEDURAL MATTERS

Classification

The application is not listed as a complying or non-complying form of development and has therefore been assessed as a ‘merit’ form of development.

Categorisation

Council administration are of the view that the proposal is not of a minor nature, on the basis that the change in land use that could impact on the locality and the nearby Residential Zone. As such, it is Council administration's view that the proposal could not be deemed to be a Category 1 development, and therefore the proposal is considered to constitute a Category 3 form of development, and was processed as such.

PUBLIC NOTIFICATION



Properties Notified

12 (shown in orange)

Representations

7 received opposing the proposed development and are included within the Report attachments. (shown in red)

Persons wishing to be heard

6

1. Michael Dean & Sharon Satterthwaite
2. Christopher VanderHaak
3. Ms S K Johnson
4. N B Sheridan
5. Leah York
6. Heather Portway & Paul Bennett

Applicant Response

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

REFERRALS

Internal *Coordinator Traffic & Parking, Engineering and Field Services*
Advised there was no concerns to raise.

ASSESSMENT

The proposed use is a commercial land use and, to this end the nature of the proposed use is in line with desired activities contemplated for the Zone. There are a number of pertinent elements required to consider in order to reach a decision. Some elements are discussed in this section and some will be addressed in the other sections below:

1. Zone and Policy Area considerations;
2. Interface considerations;
3. Traffic Impacts;
4. Building Design; and
5. Advertisements

The relevant Objectives, Desired Character and Principles of Development Control of the Commercial Zone and South Road Policy Area 2 are listed in the following table and discussed in further detail below:

Commercial Zone

Objectives

1. *A zone accommodating a range of commercial and business land uses.*
2. *Development that minimises any adverse impacts upon the amenity of the locality within the zone.*

Principles of Development Control

1. *The following forms of development are envisaged in the zone:*
 - *bulky goods outlet*
 - *consulting room*
 - *motor vehicle related business other than wrecking yard*
 - *office*
 - *petrol filling station*
 - *service trade premises*
 - *shop with a gross leasable area of 250 square metres or less*
 - *store*
 - *warehouse.*
2. *Development listed as non-complying is generally inappropriate*
3. *Retail development in the zone should not hinder the development or function of any centre zone.*

South Road Policy Area 2

Objectives

1. *Development having traffic generating characteristics and design so as to not compromise the arterial road function of South Road.*
2. *Development comprising lower impact uses or activities to provide a transition between development fronting South Road and residential use in adjoining residential zones.*

3. *Development that enhances the appearance of the policy area, particularly the streetscape of the South Road corridor.*
4. *Development that contributes to the desired character of the policy area.*

Desired Character

Development along South Road is highly commercialised and provides an important servicing role to local, neighbourhood and significant district and metropolitan wide population. It contains a major concentration of motor vehicle related uses, service trade premises and bulky goods outlets. Due of the importance of South Road as a major arterial road, new development must be consistent with its arterial road function.

The intensity, floor size, scale and height of development needs to provide for an appropriate transition to residential uses, with medium levels away from residential zoning and low levels in near proximity to residential zones.

The architectural style and finishes of building development will be varied and display high aesthetic qualities to enhance the visual character of the locality.

Principles of Development Control

1. *The following forms of development are envisaged in the zone:*
 - *bulky goods outlet*
 - *indoor recreation and leisure facilities*
 - *light industry*
 - *motor vehicle related activities*
 - *service industry*
 - *service trade premises*
 - *small-scale office*
 - *storage uses*
 - *transport related activities*
 - *wholesale uses.*
3. *Development should not be undertaken unless it is consistent with the desired character for the policy area.*
5. *Development adjacent residential zones should incorporate all of the following:*
 - (a) *a minimum 6 metre setback for buildings from the zone boundary*
 - (b) *visual and acoustic buffer features*
 - (c) *landscaped areas having a minimum width of 2 metres*
 - (d) *2 metre high fencing*
 - (e) *screened or obscured building openings.*
6. *Development should provide landscaped areas comprising at least 10 per cent of the site area and having a minimum width of 1 metre.*

ZONE AND POLICY AREA CONSIDERATIONS

The Commercial Zone seeks for a range of commercial and business land uses. The proposed development is consistent with the nature of commercially envisaged activities within the Commercial Zone.

The development is consistent with the nature of South Road as a main commercial corridor that plays an important role in servicing the neighbourhood and significant district and metropolitan wide population as expressed in the Desired Character Statement.

The development is further consistent with maintaining the function of the South Road corridor as no access or exacerbated traffic movements is proposed onto South Road.

Funeral Parlours are not listed as an envisaged or discouraged land use within the Zone. It should be noted that a Funeral parlour is listed as a non-complying development within a Residential Zone and therefore the Commercial Zone is considered an appropriate Zone provided any interface issues with sensitive land uses can be appropriately managed. The development's impacts upon the amenity of the locality is discussed below.

INTERFACE CONSIDERATIONS

The Development Plan has a number of provisions to assess if the development will detrimentally affect the amenity of the locality or cause unreasonable impacts. The Development Plan further seeks development to be designed and sited to minimise negative impacts on existing and potential future land uses considered appropriate in the locality and that development is designed, constructed and sited to minimise negative impacts of noise and to avoid unreasonable interference including;

- the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants;
- noise;
- vibration;
- electrical interference;
- light spill;
- glare;
- hours of operation; and
- traffic impacts.

Noise and Operation Hours

Noise is closely linked to operation hours, activities occurring on site and any existing site/building features that will limit the impact of noise on adjoining land uses.

The planning report provided by the Applicant details that the facility proposes to operate between 8.30am and 5.00pm and during this period the facility will require a maximum of four (4) staff. The larger gatherings will only occur at a service between 10.00am and 3.00pm. The low frequency of the land use prior to 10.00am and after 3.00pm assists in providing a greater level of residential amenity than if services were held earlier or later. The hours of operation are considered modest.

As a response to the representations the Applicant has reduced the number of attendees from 60 to a maximum of 50. The reduction in the number of attendees results in less noise when attending and leaving the premises. It is recognised that funerals are often dejected events that do not exhibit disruptive attendee behaviour. The funeral services are not anticipated to generate any significant levels of noise. All services are proposed to occur inside the building and are seen as a relatively conservative, quiet and respectful land use which will occur during daytime hours.

A number of additional site and building features are considered to limit the noise intrusion to adjoining land uses including;

- The setback of the development from adjoining dwellings via the expanse of car parking and vehicle manoeuvring areas;
- The vegetation that surrounds the site to act as an acoustic buffer;
- The height and location of existing fencing to act as an acoustic buffer;
- Restricting the times for rubbish collection and deliveries to the site to normal collection services; and

- The use of existing access, vehicle manoeuvring arrangements and car parking areas are not seen to create detrimental noise issues on the locality.

Accordingly, with the existing measures in place, the operation hours, and types of activities occurring on site, the likely impact on adjoining residential amenity is considered to be acceptable. I am satisfied that the noise impacts will not cause unreasonable interference and conflict between the subject site and the adjacent residential and commercial land uses. A number of conditions have been included in the recommendation to limit noise emanating from the site.

Emissions and Vibration

The nature of the land use is such that activities will not generate the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants to any significant degree. The Applicant has indicated that all new mechanical plant is wholly located in the cool room and therefore will not create any amenity impacts on the locality.

Lighting and Glare

The Applicant has indicated that no changes to external lighting proposes, therefore light spill and glare is considered to be maintained to a satisfactory level. A condition is recommended to ensure that light spill is appropriately managed.

The intensity and scale of the proposed development continues to provide an appropriate transition to adjoining residential land uses. With further regard to the impacts on amenity of the locality, it is considered a reasonable expectation that the locality will experience more activity than that within the heart of a Residential Zone given the commercial and recreational nature of the locality. This largely results in increases in traffic activity and noise. As a result the proposed development is generally absorbed by the function and expectation of the existing locality.

Should the Council Assessment Panel support the proposal a number of conditions are proposed in the recommendation to maintain an appropriate interface to the Residential Zone.

Traffic Impacts are discussed in more detail below.

TRAFFIC IMPACTS

The relevant Transport and Access Objectives in the General Section of the Development Plan require access and car parking to be safe, efficient and convenient without any adverse impact on existing road networks or the amenity of the locality.

The development seeks to utilise the existing access point, vehicle manoeuvring areas and the existing 22 car parking spaces. A Traffic Impact Assessment provided by the Applicant forms an attachment to this report.

Site access and egress is considered to be safe and convenient given that the subject land is connected to an all-weather public road and will contain two way access and egress points to appropriately disperse traffic.

The car park is appropriately sealed and landscaped and all car parking spaces and manoeuvring areas will be consistent with relevant Australian Standards.

Table Mar/2 of the Development Plan requires an off street car parking rate of:

- 4 per 100 square metres plus 1 per 4 seats where a chapel is also involved.

As per the above requirement the development would require 30 car parking spaces. The Applicant proposes to utilise the existing 22 spaces on site to cater for the development. Therefore the development provides a shortfall of approximately 7 car parks. Although the lower rates are well justified by the consultants the development does not achieve the Development Plan car parking rates.

The applicant has engaged a traffic consultant to determine the impacts of the development on the adjacent road network and car parking demand.

In summary the consultant provides the following support for the proposal:

Movement of Vehicles

- All movements into and out of the site will be able to be undertaken in a forward direction.
- The parking areas and associated access points will comply the relevant Australian Standards.
- A turn path assessment supports a hearse and delivery vehicles to enter and exit the site in a forward motion.
- The site's primary access roadway (connecting Margaret Street to the site's rear 18-space parking area) is of a one-way width (i.e. less than 5.5 m wide). However, given that vehicle movements associated with the site are forecast to be extremely 'tidal' in nature, the existing one-way width roadway is considered to be appropriate with regard to a funeral parlour. In the rare event that a driver entered the site at the same time as a driver was exiting, the entering driver would be able to store their vehicle on-site without obstructing vehicle movements on Margaret Street. Specifically, the first 7.5 m (approx.) of the site's access roadway is of a two-way width (approximately 6.1 m wide), providing adequate room for an entering vehicle to store on-site while the exiting vehicle leaves the site. On the basis of the above, it is considered that the existing one-way width of the site's access roadway will not be detrimental to the site's operation as a 'funeral parlour'.
- With regard to traffic, the proposed change-of-use is forecast to generate an additional 12 am and 13 pm peak hour movements. It should be noted that such movements are anticipated to be extremely 'tidal' in nature and would be readily accommodated within the site's existing circulation roadways and at the site's existing access. Such volumes would also be readily accommodated on the adjacent road network and at the adjacent South Road service road/Margaret Street intersection.

Traffic Network

- Such additional movements are low and would remain accommodated within the surrounding road network's existing capacity (and in particular, the left-in/left-out intersection of Margaret Street with the South Road service road).

Car parking

- In comparison, Aurecon's "*Parking Spaces for Urban Places: Car Parking Study – Guideline for Greater Adelaide*" identifies a parking rate of 0.3 parking spaces per patron catered for land uses classified as 'funeral parlour'. Such a rate has been derived from the more contemporary "*Victorian Planning Provisions*" (VPP) and also included consideration of the "*Planning SA Planning Bulletin*" (albeit the Planning SA rate is now considered to be "... mostly out of date" given "... the changes in urban form, land use and transport policy and transport characteristics..."). Based upon this Aurecon rate, the proposed 'funeral parlour'

would have a theoretical requirement for 18 parking spaces. Such a requirement would be readily accommodated on-site within the existing parking area.

- Assessment of the parking demands of a funeral parlour using the rate identified in Council's Development Plan is considered to be onerous and result in an overprovision of spaces as it does not take into account the likelihood of other areas within the funeral parlour being used as part of the same funeral service. For example, the proposed reflection lounge is likely to be used to host a wake and will be used by the same attendees. As such, Council's parking rate applicable to funeral parlours is considered to 'double count' demands associated with the site's operation.

Additional considerations

- Refuse collection will remain on-street via the use of Council's three-bin system.
- Bicycle parking can be accommodated albeit not required by the Development Plan.
- The Emerson Railway Station is located within 250 m walking distance of the subject site. The station is serviced by services operating on both the Seaford and Tonsley lines.
- The proposal is forecast to generate approximately 80 additional peak hour movements on the adjacent roads which is considered to be within the capacity of adjacent road networks and associated access and intersections without significant impact on existing traffic conditions.
- The subject site is well serviced by public transport, with frequent bus services operating along South Road. Specifically, a 'Go Zone' bus stop is located within 60m walking distance of the site.

In regards to car parking, the proposed shortfall is not considered detrimental to the proposal or to significantly impact on the existing residential amenity of the locality to any significant degree. This is largely due to the level of shortfall, parking opportunities within the locality and the public transport options available. It is noted that there is parking opposite the reserve where a number of indented car parks are available, and in addition the southern side of Margaret Street can also accommodate vehicle parking. It is further noted that the bus zone on Margaret Street that supports the current land use can be removed and provide a number of parks along the frontage of the site. Given the above, the shortfall is not considered a detrimental or to detrimentally impact on the locality to any significant degree.

In review of the Traffic Consultants report and the above considerations the proposed development is considered to provide appropriate vehicle movements, limited impact on the existing traffic network and provide an appropriate level of car parking.

Council's Coordinator Traffic & Parking, Engineering and Field Services has reviewed the proposed development and is satisfied that traffic and access/egress, traffic movement, function and level of car parking is considered appropriate.

On the basis of the above the development achieves the relevant Council Wide Transportation and Access and relevant Interface Between Land Use provisions.

BUILDING DESIGN

The relevant Council Wide Design and Appearance provisions seek that development is of a high design standard and appearance that responds to and reinforces the positive aspects of the local environment and built form. Buildings should reflect the Desired Character of the locality while incorporating contemporary designs that have regard to a number of elements including, building

height, mass and proportion, external materials, patterns, colours and decorative elements, roof form and pitch along with façade articulation.

Although much of the building is remaining unchanged the retention of the existing features and new elements are considered to contribute to the achievement of high quality urban design outcomes.

The building maintains direct frontage and a primary orientation to Margaret Street that maintains emphasis on the existing pedestrian and vehicle entry points to provide perceptible and direct access.

The development further achieves a number of design provisions indicated within the Zone and Policy Area by creating a frontage that provides activity and interest to passing pedestrians by orientating the active parts of the building to the street, providing legible entrances and by providing views into and out of the building through the use of transparent glass.

The proposal expands on a well-designed building on a large site which provides a high standard of design using a range of materials and finishes the complement the built form in the immediate and wider locality. The proposed building continues to incorporate a range of architectural elements to add visual interest to the streetscape. The proposal will complement the existing Margaret Street environment and sit comfortably within the existing streetscape with appropriate siting and landscaping in keeping with the intent of the Commercial Zone.

The proposed alterations and additions to the building are considered to comply with the relevant Council Wide Design and Appearance provisions.

ADVERTISEMENTS

The relevant advertisement provisions focus on determining if the location, along with siting, design, materials, size and shape of the advertising hoarding is appropriate. In addition, the advertising should not create a safety hazard for vehicles and pedestrians. Advertising signage should also relate to the use of the land and be located within the site and not create clutter or disfigure the urban environment.

No new signage is proposed with existing signage simply to be re-badged with Simplicity Funerals corporate signage.

Given that existing signage will be rebadged no approval is required for any changes to the content of the advertisements pursuant to the *Development Regulations 2008*.

A note has been added to the approval detailing that any change to the signage location, size or type (not the content) will require a separate development authorisation.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to traffic and residential amenity impacts have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The representors have also raised concerns over a number of interrelated issues that are noted as outside of the planning assessment process under the *Development Act 1993* and therefore have not been included in matters of assessment. This includes;

- Provision of on-street 'parking permits' for residents;
 - Obstruction of driveways by visitors attending the area to use facilities within Glandore Oval;
 - Provision of additional on-street parking spaces for users of Glandore Oval; and
 - Removal of the existing Bus Zone located directly in front of the development site.
-

CONCLUSION

A funeral parlour is considered an appropriate commercial land use within a Commercial Zone. It is important to recognise the existing site is a well-established commercial site and involves retention and minor adaptation of an existing commercial building.

The support for this development lies heavily on the interface between the commercial site and the adjoining residential land uses. Moreover, on whether it is considered to be reasonable and acceptable relies heavily on whether the impacts on the amenity of the nearby residential properties are minimal and can be appropriately managed.

The applicant has provided supporting documentation to suggest that the impacts will, as far as possible be minimised such that they will not be unreasonable to neighbouring properties. It is determined that any additional traffic and car parking demands from the proposed land use on the site and through the local road network will be appropriately catered for.

The intended land use, operation hours, frequency of vehicle movements, intensity of use, and configuration of the site is not considered to result in a detrimental impact on residential amenity within the locality or provide a development that is out of character with the existing scale of development in the locality or the existing streetscape.

The traffic, car parking and access has been reviewed by several experts and all have considered that the access and car parking has been designed appropriately and considers user demand, concluding the impact on the locality to be negligible.

The proposed change of land use will be an appropriate form of development within the Commercial Zone that continues to act as an appropriate buffer to existing residential development.

It is considered that the application is not 'seriously at variance' with the Marion Council Development Plan and that the development exhibits sufficient merit when assessed on balance against the relevant Objectives and Principles to warrant Development Plan Consent subject to conditions and notes listed below;

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2019/1915 for a Change of land use from office to funeral parlour with associated alterations and additions to existing building at 768-772 South Road, Glandore be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2019/1915, being the following site plans drawn by rfa architects with Project No. IF19011
- 2. The hours of operation of the premises shall be restricted to the following times:

8.30am to 5.00pm seven (7) days a week with funeral services to only occur inside the building and be limited to service times between 10.00am and 3.00pm.
- 3. The funeral parlour herein approved shall be restricted in capacity to a maximum of 50 persons within the Chapel (excluding staff) at any given time.
- 4. All deliveries to and from the site (including waste collection) shall be restricted to the following times:
Monday to Friday (excluding public holidays) – 7am to 7pm
Weekends and Public Holidays – 9am to 7pm
- 5. Noise generated from the site shall not exceed the maximum noise levels stipulated within the Environment Protection (Noise) Policy 2007, or subsequent legislation.

Vehicle Movements and Car parking

- 6. All industrial and commercial vehicles visiting the site shall enter and exit the land in a forward direction. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.
- 7. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
- 8. The driveways, parking areas and vehicle manoeuvring areas must be maintained in a good condition at all times.

Lighting

9. All external lighting of the site, including car parking areas and buildings, shall be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not to cause nuisance or loss of amenity to any person beyond the site to the reasonable satisfaction of the Council.
10. Lighting associated with the signs shall be of an intensity that will not cause an unreasonable light overspill nuisance to adjacent occupiers, or be an undue distraction to motorists, to the reasonable satisfaction of the Council.

Landscaping

11. Existing landscaping along the western boundary of the site shall be maintained at a minimum and maximum height a height of approximately 2 metres to the reasonable satisfaction of Council.

Notes

1. Any change in the size and/or location of the signs will require a separate development authorisation.

**REPORT REFERENCE: CAP050220 – 2.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 5 FEBRUARY 2020**



Originating Officer:	Andrew Houlihan Senior Development Officer - Planning
Applicant:	Emerson Icon
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Lodgement Date:	21/11/2019
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<i>Attachment V:</i>	<i>Applicant's Response to Representations</i>

SUBJECT LAND

The subject land is commonly identified as 4/373 Cross Road, Edwardstown, and formally identified as Unit Four (4) in Certificate of Title Volume 5100 and Folio 302. The allotment is irregular in shape and is located on the south western corner of South Road and Cross Road.

The land comprises a total area of approximately 1700 square metres and provides a 55 metre frontage to Cross Road. The rear of the site to the south is bounded by a railway corridor and local road Railway Terrace to the west. Vehicle access is obtained to the site from Railway Terrace via existing crossovers.

The site currently contains a number of commercial premises that utilises two existing single storey buildings on the site. The businesses include “Rapid Clean Floormaster”, “Goliath Solar and Electrical”.

The site is level and there are existing vehicle manoeuvring and car parking arrangements with approximately 12 spaces on site. There is an advertising hoarding located above the roof of the building that orientates to the South Road and Cross Road intersection. The site further contains numerous advertisement signs on the walls and fascia of the buildings.

The site is bound by low scale chain fencing at the Cross Road frontage and higher forms of chain mesh fencing on the railway corridor and Railway Terrace. Some low level existing vegetation is evident on the site.

No easement or notations are registered on the Certificate of Title.



LOCALITY

The subject land is located within the Commercial Zone and South Road Policy Area 2 which comprises strip commercial zoning along the South Road corridor. South Road is designated as a primary arterial road and is under the care and control of the Commissioner of Highways.

South Road further acts as the boundary between Marion Council and Unley Council to the north and Mitcham Council to the south of Cross Road.

To the north of the site are a number of commercial premises located along South Road and there are a number of residential premises on Cross Road. The residential premises comprise single storey detached dwellings on large allotments.

To the east of the site are a number of commercial premises and a number of residential allotments orientating to Cross Road. These sites are well separated from the subject land via South Road and the associated Cross Road overpass. The overpass comprises seven (7) traffic lanes with rail corridor diagonally intersecting South Road and Cross Road intersection.

To the south of the site lies an existing rail corridor followed by a caravan sales yards "Jayco Adelaide". To the northern end of the "Jayco" site lies an existing telecommunications tower of approximately 20 metres in height.

The locality around the subject land is considered mixed use in nature, comprising of commercial and residential land uses. Buildings are predominately single storey in nature with some two storey buildings evident. The combination of infrastructure including the overpass and intersection, railway corridor/crossing and telecommunications tower portray the locality as primary transport corridors with relatively low level amenity.

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



PROPOSAL

The proposal is best described as follows;

“Demolition of existing advertising hoarding and replacement with a new double sided LED (Light-emitting Diode) advertising hoarding on an existing building”.

The proposed advertising hoarding is;

- A double sided advertising hoarding;
- Approximately 16.6 square metres in area on each side;
- Attached to the roof of the commercial building and approximately 10.5 metres above ground; level to the uppermost point of the billboard;
- Internally illuminated;
- Operated 24 hours a day seven (7) days a week unless for maintenance purposes;
- One self-contained message will be displayed every 45 seconds;
- The time taken for consecutive displays to change will be no more than 0.1 seconds; and
- The advertisements will not flash, scroll or move;

The existing signboard is;

- A double sided advertising hoarding;
- Approximately 21.8 square metres in area on each side;
- Attached to the roof of the commercial building and approximately 10 metres above ground; level to the uppermost point of the billboard; and
- Externally illuminated during the evening hours.

A Planning Report prepared by “Future Urban” and associated documentation form attachments to this report.

PROCEDURAL MATTERS

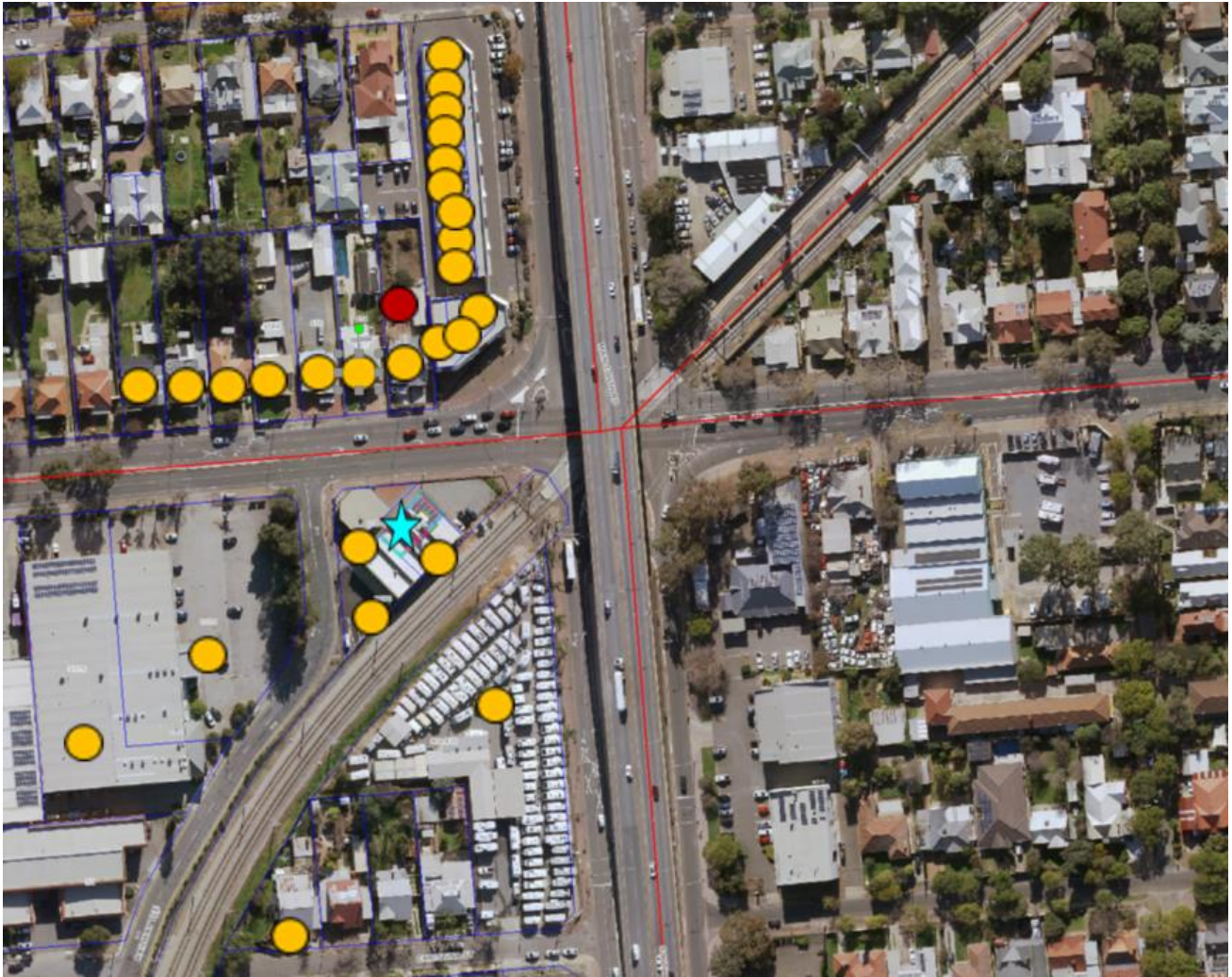
Classification

The application is not listed as a complying or non-complying form of development and has therefore been assessed as a ‘merit’ form of development.

Categorisation

Council administration are of the view that the proposal was not of a minor nature on the basis the advertising hoarding could impact on the locality and the nearby land uses. As such, it is Council administration’s view that the proposal could not be deemed to be a Category 1 development, and therefore the proposal is considered to constitute a Category 3 form of development, and was processed as such.

PUBLIC NOTIFICATION



Properties Notified	27 (shown in orange)
Representations	1 Received opposing the proposed development and this is included within the Report attachments.
Persons wishing to be heard	1 Angela Wang and Francis Zhang (shown in red)
Applicant Response	A response by the applicant is included within the Report attachments.

REFERRALS

Statutory Department of Planning, Transport and Infrastructure – Transport

The referral response was provided prior to lodgement of the Development Application in accordance with 37AA of the *Development Act 1993*.

A copy of the referral response forms an attachment to this report.

ASSESSMENT

The proposed advertising hoarding has commercial connotations and to this end the nature of the proposed use can be contemplated within a Commercial Zone. In saying this, there are a number of elements pertinent in reaching a recommendation for the proposal including;

1. Zone and Policy Area considerations;
2. Assessment of the General Section Advertisement provisions.
3. Interface considerations;
4. Traffic Impacts;

The relevant Objectives, Desired Character and Principles of Development Control of the Commercial Zone and South Road Policy Area 2 are listed in the following table and discussed in further detail below:

Commercial Zone

Objectives

1. *A zone accommodating a range of commercial and business land uses.*
2. *Development that minimises any adverse impacts upon the amenity of the locality within the zone.*

Principles of Development Control

1. *The following forms of development are envisaged in the zone:*
 - *bulky goods outlet*
 - *consulting room*
 - *motor vehicle related business other than wrecking yard*
 - *office*
 - *petrol filling station*
 - *service trade premises*
 - *shop with a gross leasable area of 250 square metres or less*
 - *store*
 - *warehouse.*
2. *Development listed as non-complying is generally inappropriate*
3. *Retail development in the zone should not hinder the development or function of any centre zone.*

South Road Policy Area 2

Objectives

1. *Development having traffic generating characteristics and design so as to not compromise the arterial road function of South Road.*
2. *Development comprising lower impact uses or activities to provide a transition between development fronting South Road and residential use in adjoining residential zones.*
3. *Development that enhances the appearance of the policy area, particularly the streetscape of the South Road corridor.*
4. *Development that contributes to the desired character of the policy area.*

Desired Character

Development along South Road is highly commercialised and provides an important servicing role to local, neighbourhood and significant district and metropolitan wide population. It contains a major concentration of motor vehicle related uses, service trade premises and bulky goods outlets. Due of the importance of South Road as a major

arterial road, new development must be consistent with its arterial road function.

The intensity, floor size, scale and height of development needs to provide for an appropriate transition to residential uses, with medium levels away from residential zoning and low levels in near proximity to residential zones.

The architectural style and finishes of building development will be varied and display high aesthetic qualities to enhance the visual character of the locality.

Principles of Development Control

1. *The following forms of development are envisaged in the zone:*

- *bulky goods outlet*
- *indoor recreation and leisure facilities*
- *light industry*
- *motor vehicle related activities*
- *service industry*
- *service trade premises*
- *small-scale office*
- *storage uses*
- *transport related activities*
- *wholesale uses.*

3. *Development should not be undertaken unless it is consistent with the desired character for the policy area.*

5. *Development adjacent residential zones should incorporate all of the following:*

- (a) a minimum 6 metre setback for buildings from the zone boundary*
- (b) visual and acoustic buffer features*
- (c) landscaped areas having a minimum width of 2 metres*
- (d) 2 metre high fencing*
- (e) screened or obscured building openings.*

ZONE AND POLICY AREA CONSIDERATIONS

The Commercial Zone seeks for a range of commercial and business land uses. The proposed development is consistent with the nature of commercial and envisaged activities within a Commercial Zone.

The development is consistent with the nature of South Road as a highly commercialised corridor that plays an important role in servicing the neighbourhood and significant district and metropolitan wide population as expressed in the Desired Character Statement.

The development is further consistent with maintaining the function of the South Road corridor as no access or exacerbated traffic movements are proposed.

Advertising Hoardings are not listed as an envisaged or discouraged land use within the Zone. It should be noted that Advertising Hoarding not meeting exemptions are listed as a non-complying development within a Residential Zone and therefore the Commercial Zone is considered a more appropriate Zone provided any interface issues with sensitive land uses can be appropriately managed.

Given that existing signage will be replaced with a contemporary form of advertising the character and amenity of the locality is somewhat enhanced.

ADVERTISEMENTS

The relevant advertisement provisions focus on determining if the location, siting, design, materials, size and shape of the advertising hoarding is appropriate, along with hazard considerations for vehicles and pedestrians. The Marion Council Development Plan Advertisements General Section provisions are discussed below;

<p>Objectives</p> <p><i>1 Urban and rural landscapes that are not disfigured by advertisements and/or advertising hoardings.</i></p> <p><i>2 Advertisements and/or advertising hoardings that do not create a hazard.</i></p> <p><i>3 Advertisements and/or advertising hoardings designed to enhance the appearance of the building and locality.</i></p>	<p>The proposed development is not considered to disfigure the urban landscape due to the sign replacing the existing sign in a smaller form and contemporary design. The new advertising hoarding is in context with similar advertisements on primary arterial roads and key gateways within metropolitan Adelaide with the new design considered to enhance the appearance of the land and locality.</p> <p>Hazards are discussed in the Traffic and Safety section below.</p>
<p>Principles of Development Control</p> <p><i>1 The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <ul style="list-style-type: none"> <i>(a) consistent with the predominant character of the urban or rural landscape</i> <i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i> <i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i> 	<p>The location, siting, design, materials, size, and shape of hoardings is relatively consistent with the advertisements in the locality given the function of South Road and Cross Road as major transit corridors where commercial properties seek maximum exposure.</p> <p>Given that the sign is replacing an existing sign with a smaller surface area albeit internally illuminated it is consistent and in context with the existing locality.</p>
<p><i>2 The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:</i></p> <ul style="list-style-type: none"> <i>(a) clutter</i> <i>(b) disorder</i> <i>(c) untidiness of buildings and their surrounds</i> <i>(d) driver distraction.</i> 	<p>The current site only reflects advertising on the walls and facia of the building with no advertisements located around the periphery of the site. The level of existing signage is consistent with other businesses within the locality and moreover the South Road corridor.</p>
<p><i>3 Buildings occupied by a number of tenants should exhibit co-ordinated and complementary advertisements and/or advertising hoardings to identify the tenants and their type of business.</i></p>	<p>The current businesses do not have a co-ordinated signage approach. The proposed advertisement hoarding will provide opportunity for all businesses on the site to advertise in a co-ordinated manner and reduce the need for additional advertising on the site.</p>
<p><i>4 The content of advertisements should be limited to information relating to the legitimate use of the associated land.</i></p>	<p>The existing sign is currently supports third party advertising and this has been evident for many years. It is therefore considered that the sign holds existing use rights for third party signage.</p> <p>The suitability of third party advertising has been considered in several matters by the Environment, Resources and Development Court, particularly where the relevant Development Plan does not clearly distinguish between third party and first party advertising.</p>

	<p>In the matter of <i>Adspace Group Pty Ltd v City of Marion</i>, the Court held the view that <i>“third party advertisements clearly have a place in the urban environment and I can see no objection to the location of such signs adjacent to a District Centre, a high-level shopping centre”</i>.</p> <p>The proposed advertising hoardings is located within a Commercial Zone on a primary arterial road with a strong product and service-related focus and is therefore considered appropriate in this instance.</p>
<p>5 Advertisements and/or advertising hoardings should:</p> <p>(a) be completely contained within the boundaries of the subject allotment</p> <p>(b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees</p> <p>(c) not obscure views to vistas or objects of high amenity value.</p>	<p>The proposed advertising hoarding is wholly located within the boundaries of the site and is not located in proximity to any trees. The advertising hoarding does not obscure views to vistas of objects of high amenity due to the level nature of the locality and existing built form features.</p>
<p>6 Advertisements and/or advertising hoardings should not be erected on:</p> <p>(a) a public footpath or veranda post</p> <p>(b) a road, median strip or traffic island</p> <p>(c) a vehicle adapted and exhibited primarily as an advertisement</p> <p>(d) residential land.</p>	<p>The proposed advertising hoarding is not proposed to be erected at a location as identified in PDC 6.</p>
<p>7 Advertisements and/or advertising hoardings attached to buildings should not be sited on the roof or higher than the walls of a building, unless the advertisement or advertising hoarding is appropriately designed to form an integrated and complementary extension of the existing building.</p>	<p>The proposed advertising hoarding exceeds the current roof height.</p> <p>The proposed development, whilst attached to buildings and sited on the roof or higher than the walls of a building, is appropriately designed as a complimentary extension to the existing building with the slim line monopole supporting structure designed to form an integrated and complementary extension of the existing building.</p> <p>The sign is below the level of the Cross Road overpass and well under the height of the adjoining indoor recreation centre and telecommunications tower therefore, is not out of context in the locality.</p>
<p>9 Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.</p>	<p>The existing and proposed advertising is silhouetted against the sky and project beyond the architectural outline of the building. Given that the application seeks replacement of an existing larger sign the impact on the skyline is proposed to be reduced.</p>
<p>10 Advertisements should be designed to conceal their supporting advertising hoarding from view.</p>	<p>The advertising hoarding utilises the contemporary monopole support stand to conceal the internal supports/infrastructure appropriately.</p> <p>The new sign will result in a reduction of support infrastructure when comparing to the existing advertising hoarding.</p>
<p>11 Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.</p>	<p>All advertisements are static and do not move, flash or scroll. The proposed display will generally utilise simplistic and clear images every 45 seconds with no more than 0.1 second during change of advertisements.</p>

<i>13 Advertisements which perform a secondary role in identifying the business, goods or services should only be readable in the immediate vicinity of the site.</i>	The proposed advertising hoarding is only viewed within the locality.
<i>18 Freestanding advertisements and/or advertising hoardings should be: (a) limited to only one primary advertisement per site or complex (b) of a scale and size in keeping with the desired character of the locality and compatible with the development on the site.</i>	The advertising hoarding seeks to replace the sole hoarding on the site in a reduced size from that of the existing hoarding. As per above comments, the scale and size is in keeping with the commercial and primary transit corridor nature of the locality.

INTERFACE CONSIDERATIONS

The Development Plan has a number of provisions to assess if the development will detrimentally affect the amenity of the locality or cause unreasonable impacts. The Development Plan further seeks development to be designed and sited to minimise negative impacts on existing and potential future land uses considered appropriate in the locality and that development is designed, constructed and sited to minimise negative impacts of noise and to avoid unreasonable interference including;

- the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants;
- noise;
- vibration;
- electrical interference;
- light spill;
- glare;
- hours of operation; and
- traffic impacts.

Noise and Operation Hours

The advertising hoarding will operate 24 hours a day seven (7) days a week. The operation of a 24 hour LED sign is considered appropriate given the commercial nature of the locality and the impact on adjoining uses as disused below. The operation of the advertising hoarding is not considered to make any substantial noise that would impact on the locality.

Emissions and Vibration

The nature of the structure is such that activities will not generate the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants to any degree.

Lighting and Glare

Lighting and glare is a significant consideration in this application, in particular on the impact on the amenity of the locality and potential hazard.

A key focus of the Applicant is to ensure that the potential for light and glare does not impact on the adjoining land uses. The Applicant has provided a Technical Brief prepared by the supplier of the LED screen "Big Screen Video" and this can be summarised as follows;

- Comprise ambient brightness sensor and automatic brightness control to meet the ambient light conditions ensuring compliance with the appropriate brightness requirements;
- Two ambient light sensors so that in the event of one malfunctioning, the other will take over;

- Should any malfunction occur with the ambient sensors an email is automatically sent to technicians to actions;
- In the event of total brightness control failure, the screen will automatically adjust brightness to the minimum level irrespective of ambient light conditions;
- Be monitored daily by Big Screen Video to manually check brightness readings after sunset every night;
- Automatically regulate light output to the surrounding climatic conditions to adjust to ambient light conditions, i.e. they are less bright at night and brighter during the day;

In addition to the provision of the technical information above, Big Screen Video have undertaken an empirical assessment of various LED screens in the Adelaide metropolitan area contained within the “Future Urban” Report. Although this provides some context of how the sign will be illuminated the examples shown may have not had a development authorisation or required to meet more stringent requirements that are now required at an assessment level. However, the report does suggest that the level of light and glare as a result of the new signage is appropriate in the context of signage in Metropolitan Adelaide.

I am satisfied that the development will not cause unreasonable interference and conflict between the adjacent residential and commercial land uses given the brightness levels proposed, the separation achieved by the arterial road, and that the screen will not display flashing, scrolling or moving content.

Traffic Impacts are discussed in more detail below.

TRAFFIC SAFETY

Principle of Development Control 15 and 17 of the General Section (Advertisements) seek to ensure that advertisements are designed and located so as not create a hazard to drivers on adjacent roads. In particular, illuminated advertisements should be located away from traffic signals and operated with appropriate lighting levels.

The Department of Planning, Transport and Infrastructure (DPTI) – Traffic Department has reviewed the proposal in regard to traffic safety and have raised no objection to the development subject to the following:

- Only one self-contained message shall be displayed every 45 seconds;
- The time taken for consecutive displays to change shall be no more than 0.1 seconds;
- Advertisements shall not flash, scroll or move;
- Advertisements shall not display or imitate a traffic control device;
- The illuminance levels of the LED components shall be limited to within specified requirements; and
- An automatic error detection system shall be provided in the event of screen or system malfunction.

The location, static form, low frequency cycling of advertisements and illumination of the advertising is not considered to impede or compromise safety or create a hazard to traffic or pedestrians. Therefore the development achieves the relevant advertising safety provisions.

The proposal is considered to conform with the ‘*Advertising Signs: Assessment Guidelines for Road Safety (August 2014)*’ and is unlikely to cause significant distraction to motorists or endanger public safety subject to the conditions recommended by DPTI. The conditions recommended by DPTI have been included within the recommendation.

REPRESENTOR'S CONCERNS

The concerns raised by the representor in relation to lighting and glare have been addressed in the body of the report and I have concluded that the proposal is satisfactory in relation to these matters.

CONCLUSION

Advertisement and advertisement hoardings are considered an appropriate ancillary development to existing commercial uses within a Commercial Zone. It is important to recognise the existing site is a well-established commercial site and that this application involves replacement of an existing third party advertising sign with a reduced surface area in a contemporary form.

The relevant advertisement provisions focus on determining if the location, along with siting, design, materials, size and shape of the advertising hoarding is appropriate. In addition, the advertising should not create a safety hazard for vehicles and pedestrians.

The support for this development lies heavily on how the sign relates to the character of the locality and the interface between the existing commercial residential land uses. Moreover, on whether the advertising hoarding is safe and does not create a hazard. The applicant has provided supporting documentation to suggest that the impacts will, as far as possible, be minimised such that they will not be unreasonable to neighbouring properties. This is largely due to the management and limiting requirements proposed by the Applicant and reinforced by Department of Planning Transport and Infrastructure – Transport Department.

The proposed location and size of the advertising hoarding is consistent with similar advertising hoardings that are becoming more prevalent across Metropolitan Adelaide. This is largely due to the commercial economic benefits of third party advertising on major transport corridors and the value adding opportunity they provide for many developers and advertisers.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal reasonably accords with the provisions of the Development Plan.

Subject to limitations on illuminance levels and the type and duration of advertisements, the proposal is not considered to detrimentally impact upon the character and amenity of the locality or cause distraction or endanger public safety.

It is considered that the application is not 'seriously at variance' with the Marion Council Development Plan and that the development exhibits sufficient merit when assessed on balance against the relevant Objectives and Principles to warrant Development Plan Consent subject to conditions and notes listed below.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2019/1943 for the demolition of an existing advertising hoarding and replacement with a new double sided LED (Light-emitting Diode) advertising hoarding on an existing building at 4/373 Cross Road, Edwardstown be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2019/1943, being the following site plans drawn by Domenico Allegretto architecture Job reference Number 300.
2. The development shall be operated and maintained in accordance with the “Technical Brief RE: BSV Automatic Brightness Control for Roadside Bilboards” provided by “Big Screen Video” as submitted in the Application.

Department of Planning Transport and Infrastructure Conditions

3. The LED signs shall be permitted to display one static, self-contained message every 45 seconds. The time taken for consecutive displays to change shall be no more than 0.1 seconds. The sign shall not flash, scroll, move or imitate a traffic control device.
4. Illuminated signage 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. Subsequently, the LED components of the sign/s shall be limited to the following stepped luminance levels:

Ambient Conditions	Sign Illuminance Vertical Component (Lux)	Sign Luminance (Cd/m ²) Max
Sunny Day	40,000	6,300
Cloudy Day	4,000	1,100
Twilight	400	300
Dusk	40	200
Night	<4	100

5. The operational system for the sign shall incorporate an automatic error detection system which will turn the display off or to a blank, black screen should the screen or system malfunction.

Department of Planning Transport and Infrastructure Notes

1. The Metropolitan Adelaide Road Widening Plan (MARWP) shows a possible requirement for a strip of land up to 4.5 metres in width from the Cross Road frontage of this site (SP 12187) for future upgrading of the Cross Road/South Road intersection, together with a 4.5 x 4.5 metre cut-off at the Cross Road/Railway Terrace corner. The consent of the Commissioner of Highways under the MARWP Act is required to all building works on or within 6.0 metres of the possible requirement.

This development proposal is situated clear of the possible requirement and consent area. The consent of the Commissioner of Highways under the MARWP Act is not required for this proposal.

2. Both the South Australian and Australian Governments have indicated clear commitments to progress a non-stop North-South Corridor for Adelaide. Construction is currently underway on the Northern Connector and Darlington sections of the corridor, with construction of the Regency Road to Pym Street section of South Road due to commence later this year. Completion of these projects by 2022 will create a 47 kilometre continuous section of the North-South Corridor between Gawler and the River Torrens (in the north), and a 20.5 km kilometre continuous section from Old Noarlunga to Tonsley (in the south).

As part of the 2019-20 budget released on 2 April 2019 the Australian Government announced a further \$1.5 billion funding commitment toward future priorities along the North-South corridor, in addition to the existing \$1.211 billion commitment, including \$126 million over the forward estimates. Coupled with a matching commitment from the State Government, the Australian and South Australian governments have now committed \$5.422 billion towards the North-South Corridor future priorities.

In October 2018 the Minister for Transport, Infrastructure and Local Government, the Hon. Stephan Knoll, announced that a contract had been awarded for the business case development of the River Torrens to Darlington section of the North-South Corridor and the investigation into the viability of tunnels. The preliminary investigations undertaken to date indicate that tunnelling options are viable for this section of the North-South Corridor.

At this stage, further work is still being undertaken prior to a decision on the nature and timing of the upgrade of the River Torrens to Darlington section of the Corridor. Once the next priority section has been identified and concept plans developed, the department will have greater certainty of impacts and will be able to provide reliable advice regarding the potential impacts, future land requirements and timing for further upgrades.

Further information on the North-South Corridor can be obtained at <https://dpti.sa.gov.au/infrastructure/nsc> or if you would like to speak to a member of the North-South Corridor team, please email northsouthcorridor@sa.gov.au or call 1300 951 145.

**REPORT REFERENCE: CAP050220 – 2.3
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 05 FEBRUARY 2020**



Originating Officer:	Kristen Sheffield Development Officer - Planning
Applicant:	I Think Design Studio
Development Description:	Two-storey split-level detached dwelling and associated earthworks, retaining walls and fencing
Site Location:	24 Forrest Avenue, Marino
Zone & Policy Area:	Residential Zone / Hills Policy Area 11
Lodgement Date:	27/09/2019
Development Plan:	Consolidated – 15 August 2019
Referrals:	Development Engineer
Delegations Policy:	Development Delegations Policy 4.1.2 <i>Any 'merit' application that has undergone Category 2 or Category 3 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>
Categorisation:	Category 2 <i>The Procedural Matters section of the Residential Zone within the Marion Council Development Plan assigns retaining walls and/or earthworks, other than where assigned Category 1 (being of a minor nature only which would not unreasonably impact on owners or occupiers of adjacent land) as Category 2 development.</i>
Application No:	100/2019/1578
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Proposal Plans</i>
<i>Attachment III:</i>	<i>Supporting documentation</i>
<i>Attachment IV:</i>	<i>Statement of Representations</i>
<i>Attachment V:</i>	<i>Applicant's Response to Representations</i>
<i>Attachment VI:</i>	<i>Photographs</i>

SUBJECT LAND

The subject land is located at 24 Forrest Avenue, Marino and comprises a frontage width of 16.76 metres, a site depth of 45.72 metres and a total site area of 766.27 square metres. The land is located on the southern (and higher) side of the street, adjacent the Council boundary, with the Holdfast Bay Council area sited to the north.

A split level dwelling in average condition is currently sited on the land which gains access from Forrest Avenue from an existing double width crossover sited adjacent the western side property boundary. A swimming pool and verandah are sited at the rear of the property, within an elevated area. These, along with the associated retaining walls, are proposed to remain in conjunction with the proposed development.

The land incorporates an average grade in the order of 1:7.4 (13.6%), with a series of flat, benched areas stepped in accordance with the slope of the land, two where the existing dwelling is located, with the lower of the two levels along the western portion of the dwelling and stepping up beneath the eastern side of the dwelling, another within the existing lawned private open space area and a fourth at the rear of the site within the area which accommodates the swimming pool and ancillary structure.

Several shrubs and small trees are located on the subject land, none of which are classified as regulated.



LOCALITY

The locality is generally characterised by single and two storey detached dwellings on large, sloping allotments. Land on the 'inner' side of Forrest Avenue, which loops to and from Bandon Terrace to the South, are typically 600 – 900 square metres in area and comprise a mixture of older (1960s – 70s) dwellings and more recently constructed dwellings. More recent development within the locality is typically split level or two storeys in height, due to the topography of the land and opportunity to obtain attractive views to the north/north-west. The locality has a high level of amenity with well-maintained dwellings and landscaped front yards.

Land on the northern side of Forrest Avenue (within the Holdfast Bay Council Area) differs from that which typifies the locality, with the gradient of the land falling away significantly towards the Esplanade and foreshore. Several dwellings within this area gain access from Forrest Avenue, however typically turn their back on the street, instead being oriented toward the attractive views over the coastline and ocean. The remaining allotments generally comprise apartment buildings which gain access from the Esplanade below.

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





PROPOSED DEVELOPMENT

The proposal is best described as follows; 'construction of a two-storey split level dwelling including associated earthworks, retaining walls and fencing'. The proposed dwelling incorporates the following;

Lower level;

- Double garage with access from the existing crossover (to be widened)
- Home theatre
- Bedroom
- Bathroom
- Laundry

Upper level;

- Three bedrooms (main with ensuite and walk-in-robe)
- Bathroom and separate WC and powder room
- Open plan kitchen/family/meals areas
- Balcony to the front of the dwelling
- Alfresco area to the rear

The proposal incorporates both cut and fill beneath the footprint of the dwelling in order to accommodate the split level dwelling within the land. The 'exposed' fill equate to a maximum of 3.3 metres for a small distance perpendicular to the eastern and western sides of the dwelling, whilst the retaining walls along the side boundaries vary in height up to 1.7 metres. 1.8 metre high Colorbond fencing is proposed to be sited atop the side boundary retaining walls.

The proposal also seeks to retain the existing swimming pool, ancillary structure and associated retaining walls located to the rear of the site.

REFERRALS

Development Engineer (Internal):

Council's Development Engineer has confirmed that the proposed driveway grades comply with relevant Australian Standards.

PROCEDURAL MATTERS

Classification

The application is listed neither as a complying nor non-complying form of development and has therefore been assessed as a 'merit' form of development.

Categorisation

Council administration were of the view that the earthworks and retaining walls proposed were not of a minor nature. As such, it was Council administration's view that the proposal could not be deemed as a Category 1 development, and therefore the proposal was considered to constitute a Category 2 form of development, and was processed as such.

PUBLIC NOTIFICATION



Properties Notified	15
Representations	2 received
	2 opposing the development (shown in red)
Representations received	<ol style="list-style-type: none">1. Mr Francis Maizonniaux2. Mr Paul David Glover
Applicant Response	A response by the applicant is included within the Report attachments.

ASSESSMENT

The assessment is split into three main sections:

1. Zone and Policy Area Consideration, which considers relevant qualitative Zone and Policy Area Objectives, Desired Character and Principles of Development Control;
2. Quantitative Snapshot, which details the proposal's performance against relevant quantitative Principles of Development Control;
3. Assessment Discussion, which involves detailed discussion of pertinent matters including earthworks, building bulk/scale, privacy, loss of view and side setbacks.

Zone and Policy Area Considerations

Residential Zone

Relevant Objectives

1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.

Satisfies

The proposed detached dwelling, whilst a typical dwelling type of the locality, nonetheless contributes to maintain an attractive residential zone.

Relevant Principles of Development Control

- 1 The following forms of development are envisaged in the zone:
[...]
▪ dwelling including a residential flat building

Satisfies

The proposed detached dwelling is an envisaged form of development.

Hills Policy Area 11

Objectives

1 A policy area primarily comprising detached dwellings at low densities.

2 Residential development which is sensitive to the particular topography of the locality.

3 Residential development which has minimal visual and environmental impacts.

4 Development that contributes to the desired character of the policy area.

Satisfies

The proposal is comprised of a detached dwelling on an existing allotment, thus not seeking for any increase in density.

The proposed dwelling is stepped in accordance with the slope of the land in order to minimise visual impacts upon the streetscape and adjoining allotments.

The proposed dwelling reflects the desired character of the locality, and incorporates an attractive and contemporary design.

On balance, the proposal is considered to adequately satisfy the intent of applicable provisions.

Desired Character

The policy area encompasses parts of the escarpment which forms an east-west band through the centre of the council area, including elevated land visible from the Adelaide Plains in the suburbs of Seacliff Park, Seaview Downs, Seacombe Heights and Darlington. The policy area also contains undulating to steep land along the coast from Marino to Hallett Cove. Many dwelling sites have good views of the Adelaide Plains or the coast.

The desired character is a high quality residential environment containing site appropriate houses set in attractively landscaped, relatively large gardens. This desired character is derived from the existing prevailing character where it is based on low-density detached dwellings of a variety of architectural styles on relatively large, sloping allotments. The importance of the landscape character, the protection of existing trees and vegetation and the re-vegetation of land are all emphasised, particularly in those parts of the policy area that function as a backdrop to the Adelaide Plains or contribute to scenic coastal landscapes. Other important features are the varied natural topography, natural watercourses and steep gullies, and interfaces with adjoining areas of open space including Hills Face and coastal land. This landscape character warrants protection from inappropriate development and earthworks.

Development should not result in the removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

Buildings and associated earthworks will be designed to minimise alteration of the natural or existing landform. Appropriate designs will continue to include split-level buildings to reduce visual bulk and reduce the need to cut and fill sloping sites.

Buildings, particularly on a site in a highly visible and prominent location or adjoining an area of open space or other natural character, will be finished with colours and materials complementing the surrounding environment. Highly reflective and very bright materials and colours that detract from the prevailing residential or natural character are inappropriate.

It is important when designing new buildings and extensions (and associated finished levels and decks) on sloping sites to pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development.

Buildings and subdivision of land will reflect the existing pattern and scale of nearby development, except in areas where land has been subdivided into smaller allotments than now desired in this policy area, any new land division and development will be at a lower density and intensity than existing. In addition, larger-than-minimum allotments may be preferable due to the natural topography.

Relevant Principles of Development Control	Satisfies
<p>1 The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none">▪ detached dwelling▪ group dwelling	The proposal seeks for the construction of a detached dwelling.
<p>2 Development should not be undertaken unless it is consistent with the desired character for the policy area.</p>	The proposal is deemed to be consistent with the Desired Character of the Policy Area (as discussed further within the assessment below).
<p>4 Development should be designed and sited to relate to the slope of the land, so that:</p> <ul style="list-style-type: none">(a) the bulk and scale of the buildings do not dominate the landscape(b) the amount of cutting and filling of the natural ground profile is minimised.	The split level design and proposed cut and fill is considered appropriate given this assists to reduce the bulk and scale of the dwelling within the landscape.
<p>6 Development that would be prominently visible from the Adelaide Plains should:</p> <ul style="list-style-type: none">(a) achieve a profile that blends with the topography of the land(b) avoid the use of bright and highly reflective external materials and finishes(c) incorporate existing vegetation wherever possible and additional landscaping to assist in reducing the apparent bulk and scale of the building and any site works.	<ul style="list-style-type: none">(a) The profile of the proposed dwelling is stepped in accordance with the slope of the land.(b) The materials and colours selected avoid the use of bright and highly reflective finishes.(c) Little to no substantial vegetation exists on site.
<p>7 Development of more than one storey in height should take account of the height and bulk of the proposed building relative to dwellings on adjoining land by:</p> <ul style="list-style-type: none">(a) incorporating stepping in the design in accordance with the slope of the land(b) where appropriate, setting back upper storeys a greater distance from all boundaries than the lower storey.	<ul style="list-style-type: none">(a) The proposed dwelling incorporates stepping in accordance with the slope of the land.(b) The western side and front upper level are set back a greater distance from their respective boundary than the lower level.

Quantitative Snapshot

Criteria		Proposed dwelling		
Existing site dimensions		Site area: 766.27	Frontage width: 16.76m	Site depth: 45.72m
Setbacks				
Front	8m	8.37m		Satisfies
Garage	0.5m behind or in-line with main face	8.8m		Satisfies
Side (lower)	2m	Eastern: 2m	Western: 0.9m	Does Not Satisfy
Side (upper)	2m	Eastern: 1.2m- 2m	Western: 2.4m	Does Not Satisfy
Rear	8m	15.69m		Satisfies
Building Extent				
Site Coverage	35%	35% (268.4m²)		Satisfies
Floor area ratio	0.4	0.36 (272.25m²)		Satisfies
Pervious area	20%	26.6% (204m²)		Satisfies
Building height	Two storeys < 9m	Finished floor level to maximum point of roof: 7.63m Lowest point of natural ground level below dwelling to FFL: 0.61m Total building height: 8.24m		Satisfies
Private Open Space				
Area	20%	44% (337m²)		Satisfies
Dimensions	5m by 5m (accessible from living area)	12m x 9m minimum		Satisfies
Car parking				
On-site	3 spaces, 1 covered	4 spaces, 2 covered		Satisfies
On-street	1 space (6 metres) per 2 dwellings	1 on-street car parking space remains available forward of the subject land		Satisfies

Assessment Discussion

The following matters are considered pertinent in reaching a recommendation for the proposal;

Hills Policy Area 11

Earthworks

The Policy Area outlines the importance of development to be “sensitive to the...topography of the area”, so that “the amount of cutting and filling of the natural ground profile is minimised”, preferably via split-level dwellings. Further to the Policy Area requirements, the Sloping Land section of Council’s Development Plan outlines that the cutting and/or filling of land should only be undertaken in order to reduce the visual impact of buildings. The site incorporates a relatively steep grade with both cut and fill proposed in order to accommodate the split level dwelling within the site.

The lower level of the dwelling comprises a similar finished floor level to that of the garage of the existing dwelling and is designed so that the majority of the floor area of this level sits within the existing ‘lower’ benched area along the western side of the allotment. The upper level is sited approximately a metre above the upper level of the existing dwelling and as such aligns with the existing levels within the lawned area of private open space.

The fill required to accommodate the dwelling is for the most part kept within the footprint of the dwelling, measured along the southern wall of the proposed home theatre. The maximum height of fill beneath the dwelling equates to 1.25 metres, 0.25 metres greater than a structure that can be erected ‘as of right’. The maximum height of ‘exposed’ fill will equate to some 3.3 metres for a small distance perpendicular to the eastern side of the dwelling, however this will in effect appear to form part of the lower level of the dwelling, while a similar outcome perpendicular to the western side of the dwelling will not be readily apparent from outside of the subject land. The most apparent fill will be that of the retaining walls located along the eastern side boundary which vary in height up to 1.7 metres in order to provide a path along this side of the dwelling at a finished level similar to that of the proposed upper level.

A maximum cut of up to 2.03 metres below ground level, again along the southern wall of the proposed home theatre is noted. As this cut is entirely concealed within the footprint of the dwelling, and will not be visible from adjoining land, I do not consider these works to be excessive, nor unreasonable. The proposed level of cut is considered typical of split-level designed dwellings, and nonetheless, encouraged in the Hills Policy Area 11.

In my view, the design of the dwelling has made a practical attempt at minimising and avoiding inappropriate earthworks resulting in a design that is sensitive to the topography of the land and reduces the visual impact of the dwelling within the landscape.

Building bulk/scale

The Policy Area seeks for dwellings of more than one storey to “take account of the height and bulk of the proposed building” and “incorporate stepping...in accordance with the slope of the land”, and to be split level “to reduce visual bulk”.

The dwelling incorporates a maximum height above natural ground level of 8.24 metres, below the maximum 9 metres permitted in the Policy Area. This height is achieved, in part, by the split level design, stepping in accordance with the fall of the land, and a modest roof pitch of 12 degrees.

Given the fall of the subject land, sloping from south to north-west, the dwelling has been designed with the majority of the two-storey portion of the dwelling in the north-western quadrant of the land. As such, the dwelling presents essentially as single storey to the southern elevation, as partially two-storey to the east, with the two-storey nature of the dwelling only plainly evident from the adjacent properties to the west and from the street, similar to the existing dwelling on the land. Accordingly, the bulk and scale of the proposed dwelling and subsequently, the visual impact upon adjacent properties, is considered to be appropriately minimised.

Privacy

The Desired Character statement of the Hills Policy Area 11 outlines that *'It is important when designing new buildings and extensions (and associated finished levels and decks) on sloping sites to pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development'*.

The dwelling has been designed to take advantage of the attractive views available to the north, and as such, the balcony and extensive upper level windows are oriented in this direction. Given north forms the front (street) boundary of the land, this outcome does not result in overlooking of areas of private open space or habitable room windows of any adjacent allotments.

It is acknowledged that the proposal shall currently gain unimpeded views across the adjacent property to the east (22 Forrest Avenue) from the balcony and eastern elevation living room windows. Being a vacant allotment, it is arguable that there are currently no habitable rooms and private open space area of a dwelling being overlooked on this land. However, in my opinion, it would be inappropriate to have no regard to the likely placement of a dwelling and associated private open space of adjoining properties when considering a dwelling that incorporates elevated floor levels and a balcony.

In this regard, it is noted that any future dwelling proposed on the allotment to the east shall require a minimum front setback of 8 metres, and as such, views from the balcony and eastern elevation living room window are expected to be restricted to the front yard area or 'side path area' by the likely placement of a future dwelling. Views from the low level kitchen window shall be restricted by virtue of the proposed combined retaining/fencing height along this boundary.

As such, it is considered that whilst some overlooking may occur over the currently vacant land to the east, reasonable measures can, and are likely, to be taken for the design of any future dwelling on that land to protect the privacy of the future occupants.

Loss of view

Given that loss of view is an amenity consideration, it is important when assessing such a development to have regard to the potential loss of view(s) experienced by adjacent land, if the proposed development is approved. In my opinion, the property most affected by the proposed development is that located directly to the rear, being 4 Holder Parade, and to a much lesser extent, 2 Holder Parade (with the owner of 2 Holder Parade having submitted a representation against the application due to concerns regarding view loss).

In assessing the potential loss of views it is nonetheless of value to recognise that the subject allotment is a private parcel of land, the owners of which have a right to develop the property for a residential dwelling, in general accordance with the Council's Development Plan. Given the fact that adjacent dwellings to the rear are designed to take advantage of views over the subject land, and that two storey dwellings are envisaged in the Policy Area, it is inevitable that any two storey dwelling on this land will have an impact upon the views currently available to adjacent properties.

In the Supreme Court judgment of *Hutchens v City of Holdfast Bay*, Justice DeBelle stated that, when determining whether to grant consent to a new building which will obstruct views enjoyed by existing developments, regard *“must be had to the nature and extent of the view, the extent to which the view will be obstructed by the proposed development, and the reasonableness of the proposal as determined by reference to planning controls”*.

Justice DeBelle endorsed a four-part test for the assessment of a development which would result in the obstructing of views of existing developments. In short, these are;

- Step 1: Assess the views to be affected (i.e. water, land, coast etc);
- Step 2: Consider from which part of the property the views were being obtained;
- Step 3: Assess the extent of impact of the loss of views; and lastly
- Step 4: Assess the reasonableness of the development proposal.

4 Holder Parade

Step 1: Views currently available from this property are in a north to north-westerly direction over the existing dwelling on the subject land. The dwelling comprises ocean views of Gulf St Vincent as well as partial views of the Glenelg coastline extending further north to Henley beach and Semaphore. The coastline views over Seacliff-Brighton are somewhat obstructed by low level vegetation within the rear yard of the dwelling and other vegetation at 2 Holder Parade and 22 Forrest Avenue. Views to the west are obstructed by dwellings constructed at 26 and 28 Forrest Avenue.

Step 2: Views are gained from within a living area through a small ‘sunroom’ and from one small kitchen window to the rear of the dwelling as well as from an outdoor patio alongside the eastern side of this dwelling. The dwelling and patio are somewhat elevated above the private open space, and as such these areas gain a greater ‘depth’ of view. Views are also available from the private open space associated with this dwelling, however decrease towards the rear of the property as the land falls away/steps down.

Step 3: The views available from this property will be obstructed in a northerly to north-westerly direction by the proposed development in a similar position to that of the existing dwelling. The height of the proposed dwelling is some 2.25 metres higher than the existing dwelling, and as such, a portion of the ocean views above the existing dwelling shall be obstructed. Based on the levels provided, it is anticipated that the proposed dwelling shall not result in loss of the ocean horizon views from within the dwelling/patio area, whilst those views to the east of the proposed dwelling shall remain unimpeded.

Step 4: The impact of the proposed development upon the views available from 4 Holder Parade for the most part relates to the proposed building height. The Marion Council Development plan seeks for building heights to not exceed a height of 9 metres above natural ground level. The proposed dwelling maintains a building height of 8.24 metres as measured from the natural ground level.

Despite the level of compliance of the development, views currently available from this property will be impacted. It is my opinion the extent of view loss from 4 Holder Parade would be considered moderate. It is again noted that the view from this dwelling is gained over the subject land, and as two storey dwellings are envisaged in the Policy Area, it is inevitable that any dwelling on this land will have an impact upon the views currently available.

2 Holder Parade

Step 1: Views currently available from this property are in a north to north-westerly direction over the roofline of the dwelling at 20 Forrest Avenue, over the vacant allotment at 22 Forrest Avenue as well as over the existing dwelling on the subject land. The dwelling comprises ocean views of Gulf St Vincent as well as partial views of the Glenelg coastline extending further north to Henley beach and Semaphore. The ocean views are partially obscured by vegetation on the land as well on the land at 22 Forrest Avenue, such that for the most part, only the horizon of the ocean is visible. The coastline views over Seacliff-Brighton are obstructed by the existing dwelling at 18A Forrest Avenue.

Step 2: Views are gained from within an open plan living area, bathroom and bedroom as well as from an outdoor deck adjacent these areas along the rear of the dwelling. Views from within the dwelling are nonetheless interrupted by the verandah and patio structures sited on the deck while those from the deck are obscured and reduced by vegetation on the land. Views are also available from the private open space associated with this dwelling, however to a considerably lesser degree.

Step 3: The views available from this property are unlikely to be obstructed much further from that which is currently restricted by existing vegetation on the land. The roofline of the dwelling may just be apparent above the current extent of vegetation. Views to the north over the vacant allotment at 22 Forrest remain unimpeded.

Step 4: Considering that little to no view loss is expected to occur, over and above that which is obscured by existing vegetation, consideration of the proposals compliance with Development Plan criteria is not required.

In conclusion, it is my opinion the extent of view loss from this dwelling would be considered minor. Whilst the roofline of the proposed dwelling may slightly impede upon the extent of the ocean views to the north-east, although noting again that this is currently obscured by vegetation in any case, a majority of the attractive elements of the view will remain largely unaffected.

Side setbacks

Dwellings within the Hills Policy Area 11 should comprise minimum side setbacks of 2 metres. The proposed dwelling comprises a shortfall in the lower level western side setback, with a 6.6 metre portion of the dwelling set back 0.9 metres from the respective boundary. Whilst a further shortfall in the upper level eastern side setback is noted, with a 6.4 metre portion towards the rear of the dwelling set back 1.2 metres from the eastern boundary.

The shortfalls in side setbacks are not considered detrimental to the streetscape in term of patterns of space between dwellings, as this outcome is fairly typical within the locality. The existing dwelling on the land is somewhat angled, and thus does not achieve compliance with these requirements either. The proposed dwelling will nonetheless provide greater upper level setbacks to the western side boundary than the minimum requirement, with the shortfall in eastern side setback to the rear portion of the dwelling not being readily apparent from the streetscape.

Representors Concerns

The concerns raised by the representors in relation to overlooking/loss of privacy, and view loss have been addressed in the body of the report, and I have formed the opinion that the proposal is satisfactory in relation to these matters.

Conclusion

Apart from a minor shortfall in side setback, the proposed dwelling demonstrates a high level of compliance with the quantitative and qualitative requirements of Council's Development Plan.

The design of the dwelling has attempted to address the slope of the land with a split-level design which masks the largest extent of cut and fill under the footprint of the building, with the extent and height of exposed fill being considered reasonable having regard to the locality and the applicable Development Plan criteria.

Analysis of potential overlooking impacts has demonstrated that overlooking of the adjacent vacant allotment to the east will be obscured by the likely placement of any future dwelling. As such, I do not consider the privacy impacts of the development to be unreasonable.

In assessing loss of views, minor to moderate impacts were noted upon the adjacent dwellings to the rear. However, views from these dwellings are gained over the subject land, and as two storey dwellings are envisaged in the Policy Area, it is inevitable that any dwelling on this land will have an impact upon the views currently available.

In conclusion, having regard to the nature of the slope of the land and the significant compliance of the proposal with a majority of relevant provisions, I am of the view that the proposed development is not seriously at variance to the Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent subject to conditions.

Recommendation

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/1578/2019 for a two-storey split-level detached dwelling and associated earthworks, retaining walls and fencing at 24 Forrest Avenue, Marino, be GRANTED subject to the following conditions:

Conditions

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/1578/2019, except when varied by the following conditions of consent.
- 2. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 3. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
- 4. Stormwater must be disposed of in such a manner that does not flow or discharge onto land of adjoining owners, lie against any building or create insanitary conditions.
- 5. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
- 6. Any form of development on the property boundary (such as mortar joints on any face brickwork, blueboard material or similar, render etc) shall be finished in a professional manner and to the same standard as the remainder of the subject dwelling, to the reasonable satisfaction of the Council.
- 7. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.

Notes

- 1. Demolition of the existing dwelling and/or other structures on the land cannot occur until a separate application has been lodged, assessed by and approved by the Council.

- 2. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time. The Environment Protection Authority has restrictions relating to the control of noise in the urban environment. Further information is available by phoning the Environment Protection Authority on 8204 2004.**
- 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. Any existing 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. Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).**

**REPORT REFERENCE: CAP050220 – 2.4
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 05 FEBRUARY 2020**



CONFIDENTIAL REPORTS OF MANAGER DEVELOPMENT SERVICES

Reason for confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, which permits the meeting to be closed to the public for business relating to the following:

- (viii) provision of legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place

Recommendation

1. The Council Assessment Panel orders pursuant to Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, that the public, with the exception of the Manager of Development and Regulatory Services, Team Leader - Planning, Development Officer – Planning, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Assessment Manager of the Council Assessment Panel.
2. Under Clause 14 of the Planning, Development and Infrastructure Regulations, an order be made that Item 2.4 including the report, attachments and discussions having been dealt with in confidence under Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, shall be kept in confidence until a decision of the Environment, Resources and Development Court relevant to the item is made.
3. Further, that at completion of the confidential session, the meeting be re-opened to the public.