

Members – Council Assessment Panel
CITY OF MARION



**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

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

Wednesday 15 March 2023

Commencing at 6.30 p.m.

Council Chamber

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.

A handwritten signature in black ink, appearing to read "Alex Wright", with a long horizontal line extending from the end.

Alex Wright
ASSESSMENT MANAGER

8 March 2023

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023
COMMENCING AT 6.30PM**



1. MEETING PROCEDURES

1.1 OPEN MEETING

1.2 PRESENT

1.3 APOLOGIES

1.4 IN ATTENDANCE

2. GENERAL OPERATIONS

No items listed for discussion.

3. DEVELOPMENT ACT 1993 APPLICATIONS

No items listed for discussion.

4. PDI ACT APPLICATIONS

4.1 DEVELOPMENT NO 22030821

44 Ross Street, Seaview Downs

Seven, two-storey, detached dwellings as well as associated earthworks, retaining walls, fencing, and landscaping.

Report Reference: CAP150323 - 4.1.....3

5. APPEALS UPDATE

Verbal Update Provided

6. POLICY OBSERVATIONS

No items listed for discussion.

7. OTHER BUSINESS

No items listed for discussion.

**8. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING
HELD ON 15 MARCH 2023**

9. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023**



No items listed for discussion.

**3. DEVELOPMENT ACT APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023**



No items listed for discussion.

**REPORT REFERENCE: CAP150323- 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023**



Originating Officer:	Kristen Sheffield Development Officer – Planning
Applicant:	Ms Gjelin Ducaj
Development Description:	Seven, two-storey, detached dwellings as well as associated earthworks, retaining walls, fencing, and landscaping.
Site Location:	44 Ross Street, Seaview Downs
Zone:	Hills Neighbourhood Zone
Lodgement Date:	11/11/2022
Planning and Design Code:	10 November 2022 Version 2022.21
Referrals:	N/A
Application Type:	Performance Assessed
Delegations Policy:	Instrument of Delegation – CAP, Clause 5.1.1.1 <i>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which: Any Performance Assessed application that has undergone 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>
Public Notification	Public Notification required <i>An application which involves an element not identified as a class of development excluded from public notification requires public notification unless the authority considers the application minor.</i>
Application No:	22030821
Recommendation:	That Planning Consent be GRANTED subject to Conditions

Appendices

Appendix 1: Planning and Design Code guidelines

Attachments

Attachment I: Proposal Plan and supporting documentation

Attachment II: Statement of Representations

Attachment III: Applicant's Response to Representations

SUBJECT LAND

The subject land comprises a roughly rectangular shaped allotment with an angled 'curved' frontage and angled northern boundary on the eastern side of Ross Street. It has an area measuring 3702 square metres and a frontage to Ross Street of 106.48 metres in total. The site is currently vacant and devoid of any particular vegetation or trees.

Ross Street falls gently from north to south with the subject land elevated above the road level, rising towards the east by some 5 metres, albeit including differing levels of gradient, across the site. A strip of the site adjacent Ross Street (between 9-12 metres wide) rises towards the east by some 2- 2.5 metres, representing a gradient of approximately 1:5. The central portion of the site (some 20 metres in width) is largely flat, and the eastern-most portion rises sharply towards the eastern (rear) boundary with a gradient of between 1:3 and 1:4.



Figure 1: Subject land

By way of background, the subject land previously formed part of the Seaview Downs Primary School, with a land division approved in 2020 by SCAP (being Crown Development). The site previously accommodated two tennis courts associated with the school (which accounts for the flat central portion of the land) as well as numerous non-regulated trees along the eastern and southern sides of the site, all of which have since been cleared/removed. Further, some earthworks in the form of cut to the area just north and south of the tennis courts occurred when the site was cleared, but to a relatively minor degree.



Figure 2: Subject land in 2020

LOCALITY

The locality includes the streets and dwellings surrounding the east, south and west of the Seaview Downs Primary School, as well as the school itself. The Seaview Downs Primary School incorporates sporting fields to the east of the subject land and a driveway and small car parking area to the north, with the main school buildings and car parking areas located within the north-eastern portion of the school grounds. A Significant Tree is currently located immediately north of the subject land on the Crown land, however, has recently been granted Development Approval for removal.

The dwellings on the eastern side of Ross Street form the most immediate locality and are typically sited below the road, and often comprised of garaging presenting to the streetscape, instead of habitable portions of the dwellings, in order to maintain appropriate driveway gradients. The wider locality is skewed to the east due to the topography generally falling from east to west, with the subject land within the vista of those dwellings on the eastern side of Greenfield Road, despite these dwellings being over 200 metres from the site. Dwellings within the locality are generally single and two-storey detached dwellings on large allotments, some of which gain views towards the ocean in a north-westerly direction. Dwellings generally comprise generous, albeit somewhat inconsistent, setbacks from front boundaries and most are unfenced to the road. Front yards incorporate generous levels of landscaping and vegetation.

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



Figure 3: Locality

PROPOSED DEVELOPMENT

The proposed development seeks to construct seven, two-storey, detached dwellings as well as associated earthworks, retaining walls, fencing, and landscaping.

The lower level of each dwelling includes a double garage, main bedroom (with WIR and ensuite), laundry, WC, and open plan kitchen (with WIP), living and dining as well as an alfresco area and outdoor kitchen under the main roof. The upper levels each incorporate two bedrooms, a bathroom and retreat area.

The proposed dwellings are located within the central portion of the land as described within the 'Subject Land' section above. The FFL's of the dwellings range from 103.2 for Dwellings 1 and 2, to 103.116 for Dwellings 3 and 4, 103.016 for Dwelling 5, and 102.832 for Dwellings 6 and 7, following the slope of the central portion of the land, which is slightly higher at the northern end of the site.

Low level retaining walls are proposed along the side boundaries between each of the proposed dwellings to accommodate the slightly stepped sites. These retaining walls run from the rear boundary to the front of the dwellings, but do not extend to the front boundary given the eastern portion of the land falls away towards the street.

Stepped retaining walls in cut are proposed along the eastern boundary of the subject land, forming the rear boundary of each proposed dwelling. The lower of the two comprises a height of 1.2 metres with the upper retaining wall varying in height between 0.55 metres at the northern end of the site and up to 1.2 metres toward the south. The retaining walls are separated by a distance of 1 metre and incorporate a batter between the two of 1:4.

Retaining along the northern boundary of the subject land is in cut and up to 1 metre in height, while the proposed retaining along the southern boundary is to be in fill towards the west and varies in height between 0.4 metres and 0.6 metres, and in cut towards the east up to 1 metre.

The proposal includes a wide range of landscaping to the front yard of each proposed dwelling, including trees, various shrubs, grasses, and groundcovers. Screening vegetation is also proposed in front of the stepped retaining walls along the rear boundaries.

Each dwelling is provided with a 4000L Rainwater tank to be plumbed to one WC and either the water heater or all laundry cold water outlets.

PROCEDURAL MATTERS

Classification

The subject land is in the Hills Neighbourhood Zone of the Planning & Design Code (the Code) as of 10 November 2022.

The proposed development is not prescribed as 'accepted', 'deemed to satisfy' or 'restricted' development in the Zone. The proposal is therefore 'performance assessed' pursuant to Section 107 the Planning, Development and Infrastructure Act 2016 and will be assessed on its merits against the various provisions of the Code.

Internal Referrals

Development Engineer

Council's Development Engineer has reviewed the engineered site works plan and is satisfied with the proposed driveway gradients and stormwater management of the proposal. It was noted that crossovers should be constructed perpendicular to the kerb. It has been included within the recommendation that a Reserved Matter be included seeking an amended site works plan.

Coordinator Transport

A 'School Watch' sign is located within the proposed crossover location of Dwelling 7. Council's Coordinator Transport has confirmed that the sign can be removed (free of cost) and won't need to be reinstated.

A second street sign indicated on the site works plan within the proposed crossover of Dwelling 4 is no longer in this location.

Notification

The proposal incorporates retaining walls which exceed the Hills Neighbourhood Zone DTS/DPF 11.3 and hence the proposal required notification in accordance with the HNZ, Table 5, Clause 7 exception.

The proposal also incorporates combined retaining walls/fencing on the boundary, the height and overall extent of which were not considered minor for the purposes of notification in accordance with HNZ, Table 5, Clause 1.

The proposal also includes earthworks (mainly in cut towards the rear of the proposed dwellings), which given the overall extent of the site, could not be considered minor for the purposes of notification in accordance with HNZ, Table 5, Clause 1.

As such, the development was processed in accordance with the Act.

PUBLIC NOTIFICATION



Figure 4: Public Notification Map

Properties Notified	32
Representations received ●	1 representation received, opposing the proposed development
Representations who wished to be heard	Alison Williams of 6 Kanangra Road, Seaview Downs
Applicant Response	A response by the applicant is included within the report attachments.

Approach to Assessment

Part 1 – Rules of Interpretation of the Planning and Design Code (the Code) provides clarity on how to interpret the policies in the Code. Of particular note ‘Designated Performance Features’ (DPF) assist Councils to interpret Performance Outcomes (PO).

The Rules of Interpretation clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO i.e. the outcome can be met in another way:

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies. (My underlining added)

A DPF provision should not be interpreted as quantitative requirements, instead they simply present one way in achieving the corresponding PO. There can be variation from DPF policies, and not just in a minor way. Emphasis should be placed on satisfying the qualitative Performance Outcome in the circumstances where a specified DPF is not met.

It is with the above approach in mind that I have assessed this development.

ASSESSMENT

Part 1 - Rules of Interpretation of the Code advises that for each Zone Table 3 specifies the policies and rules that apply to classes of development within the zone. I note:

The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable. For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development.

The code policies applicable to this development can be reviewed in Appendix 1.

Zone Considerations

Hills Neighbourhood Zone

DO1

Land Use and Intensity- PO 1.1

Site Dimensions and Land Division- PO 2.1

Site Coverage- PO 3.1

Building Height- PO 4.1

Primary Street Setback- PO 5.1

Side Boundary Setback- PO 8.1

Rear Boundary Setback- PO 9.1

Built Form and Character- PO 10.2

Earthworks and Retaining- PO's 11.1, 11.2, 11.3

Overlay Considerations

Affordable Housing Overlay- PO 1.1

Airport Building Heights (Regulated) Overlay- DO 1, PO 1.1

Stormwater Management Overlay- DO 1, PO 1.1

Urban Tree Canopy Overlay- DO 1, PO 1.1

General Development Policies Considerations

Clearance from Overhead Powerlines- DO 1, PO 1.1

Design in Urban Areas

DO 1

Earthworks and sloping land- PO's 8.1, 8.2, 8.3, 8.4, 8.5

Fences and Walls- PO's 9.1, 9.2

Overlooking/Visual Privacy- PO 10.1

Front elevations and passive surveillance- PO's 17.1, 17.2

Outlook and Amenity- PO 18.1

External Appearance- PO's 20.1, 20.2, 20.3

Private Open Space- PO's 21.1, 21.2

Landscaping- PO 22.1

Car parking, access and manoeuvrability- PO's 23.1, 23.2, 23.3, 23.4, 23.5, 23.6

Waste storage- PO 24.1

Interface between Land Uses

DO 1

Overshadowing- PO's 3.1, 3.2, 3.3

Site Contamination- DO 1, PO 1.1

Transport, Access and Parking

DO 1

Vehicle Parking Rates- PO 5.1

Quantitative Snapshot

Existing	Site area:		Frontage width:				Site gradient:	
		Dwelling 1	Dwelling 2	Dwelling 3	Dwelling 4	Dwelling 5	Dwelling 6	Dwelling 7
Proposed	Gradient	1:7.6	1:7.2	1:7.98	1: 8.6	1: 7.6	1: 74	1:7.3
Site Area	Less than 1:8 700m ²				520.47m ²			
	1:4 – 1: 8 900m ²	609.23m ²	489.45m ²	509.32m ²		530.81m ²	521.91m ²	520.87m ²
Frontage width	Less than 1:8 18m				13.525m			
	1:4 – 1: 8 20m	24.16m	13.754m	13.525m		13.534m	13.559m	14.431m
Site Coverage	Less than 1:8 50%				34.72%			
	More than 1:8 40%	30.67%	37.51%	35.45%		34.25%	35.87%	35.66%
Building Height	Two-storey 9m	Two-storey 7.99m	Two-storey 7.74m	Two-storey 7.99m	Two-storey 7.97m	Two-storey 8.81m	Two-storey 8.21m	Two-storey 8.83m
Front setback	8m	11.35m	10.76m	11.36m	11.14m	11.99m	10.87m	10.61m
Northern side setback	Ground level: 0.9m*	1.914m	0.94m	1.35m	0.95m	1m	1.35m	1.35m 2.33m
	Upper level: 1.74m*	4.22m	3.93m	2.33m	3.93m	3.93m	2.33m	2.33m
Southern side setback	Ground level: 0.9m*	1.14m	1.35m	0.94m	1.35m	1.35m	1m	1.525m
	Upper level: 2.74m*	3m	2.33m	3.93m	2.33m	2.33m	3.93m	4.439m
Rear setback	Ground level: 4m	7.2m	8.1m	11.1m	11.6m	12.1m	11.6m	10.6m
	Upper level: 6m	12.84m	13.99m	16.88m	17.5m	18m	17.6m	16.49m
POS	60m ²	144.55m ²	130.65m ²	144.13m ²	150.88m ²	157.63m ²	157.63m ²	145.58 m ²
Soft Landscaping	25%	49.3%	38.3%	39.5%	40.4%	42.3%	40.2%	39.6%
On-site car parking	2 spaces per dwelling	4 spaces (2 covered)	4 spaces (2 covered)	4 spaces (2 covered)	4 spaces (2 covered)	4 spaces (2 covered)	4 spaces (2 covered)	4 spaces (2 covered)

*side setback criteria is based on less than 1-in-8 site gradient, given the site gradient in a north/south direction is approximately 1-in-15.

Assessment Discussion

In my view, the most pertinent planning considerations for this assessment relate to:

- Site dimensions
 - *Natural topography*
 - *Compatibility with the housing pattern in the locality*
- Amenity impacts
 - *View loss*
 - *Overshadowing*
 - *Overlooking*
- External Appearance

Site dimensions

Performance Outcome 2.1 seeks for allotments/sites created for residential purposes to be of suitable size and dimension to accommodate residential development that is sensitive to the natural topography and compatible with the housing pattern in the locality.

The corresponding DPF provides a numeric site area figure of 700 square metres and frontage width of 18 metres where the site gradient is less than 1-in-8, and 900 square metres and 20 metres for site area and frontage width respectively where the site gradient is between 1-in-8 and 1-in-4.

The proposed dwelling sites fall from east to west with gradients varying between 1-in-7.2 and 1-in-8.6 and comprise site areas varying from 489.45 and 609.23 square metres with frontage widths between 13.525 and 24.16 metres. It is plainly apparent that the proposed site dimensions fall significantly short of the numeric guide provided by the DPF.

However, as outlined within the 'approach to assessment' section of this report, the Rules of Interpretation of the Code clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO. This was recently reinforced in the matter of *Parkins v Adelaide Hills Council Assessment Manager [2022] SAERDC 12*, with the findings (71) reiterating that "*if a DPF was the only way a PO was to be satisfied, the PO has no work to do*".

Turning back then to the PO, this seeks for two outcomes. For sites of a suitable size and dimensions to accommodate residential development that is (1) sensitive to the natural topography and (2) compatible with the housing pattern in the locality.

Natural topography

The natural topography of the subject land was significantly altered in the 1980's due to the installation of the tennis courts in association with the school, with a flat area cut into the site below the playing fields. Some further cutting into the site occurred when the tennis courts were cleared in 2020, to the north and south of the courts/flat area, but to a relatively minor degree. The western portion of the site generally maintains its natural topography, sloping down towards Ross Street.

While the natural topography of the site is largely lost, the proposal responds to the existing levels across the site. The dwellings are to be sited within the central (mostly) flat portion of the site and slightly stepped towards the south in accordance with the slope of the land in that direction. The natural slope at the front of each site is maintained. While cut is proposed adjacent the eastern boundary, this is in order to maximise the area of usable private open space to each dwelling, with the associated retaining walls for the most part being only visible from the subject land and proposed dwellings themselves.

It is noted that PO 11.1 of the HNZ also seeks for buildings to be sited and designed to integrate with the natural topography of the land using measures such as split-level building construction and other approaches that minimise the extent of cut and fill. Whilst split-level dwellings are not proposed, the proposed dwellings are instead sited and designed to integrate with the existing levels of the site in order to minimise the extent of cut and fill.

It is acknowledged that this results in the proposed dwellings will be sited considerably above the street, and as such may appear to dominate the streetscape and topography of the immediate locality, particularly when compared to that of the dwellings on the western side of the street, which sit below the street level. However, the site dimensions are able to accommodate dwellings which incorporate generous setbacks from the front boundary with considerable landscaping proposed within the front yards which will serve to soften the streetscape appearance of the proposal.

The proposal takes advantage of the pre-existing levels across the site, maintains generous setbacks from boundaries and incorporates considerable landscaping presenting to the street. Hence I am of the opinion that the proposed site dimensions are adequate to accommodate dwellings which are sensitive to the topography, satisfying part 1 of the PO.

Compatibility with the housing pattern in the locality

The second outcome sought by PO 2.1 is for sites of a suitable size and dimensions to accommodate residential development that is compatible with the housing pattern in the locality. The locality is characterised by low density, generally regular shaped allotments, some with angled boundaries due to irregular road layouts.

An analysis of site areas within the immediate locality has been undertaken, as outlined within Table 2 and illustrated within Figure 5 below. Sites along Ross Street vary in size and depth due to the curvature of Ross Street, with site areas measuring between 586 and 862 square metres. Smaller site areas are generally observed along Kanangra Road, consistently between 586 and 605 square metres, but varying up to 571 and 688 for the smallest and largest sites respectively.

Site areas		Existing locality			
Proposed development		Ross Street		Kanangra Road	
Dwelling 1	609.23sqm	7 Bangalla Road	680sqm	46 Ross Street	688sqm
Dwelling 2	489.45sqm	27 Ross Street	862sqm	48 Ross Street	659sqm
Dwelling 3	509.32sqm	29 Ross Street	760sqm	1 Kanangra Road	603sqm
Dwelling 4	520.47sqm	31 Ross Street	680sqm	2 Kanangra Road	605sqm
Dwelling 5	530.81sqm	33 Ross Street	625sqm	3 Kanangra Road	586sqm
Dwelling 6	521.91sqm	35 Ross Street	596sqm	4 Kanangra Road	605sqm
Dwelling 7	520.87sqm	37 Ross Street	586sqm	5 Kanangra Road	586sqm
		39 Ross Street	602sqm	6 Kanangra Road	605sqm
		41 Ross Street	634sqm	7 Kanangra Road	586sqm
		43 Ross Street	694sqm	8 Kanangra Road	605sqm
		45 Ross Street	773sqm	9 Kanangra Road	586sqm
				10 Kanangra Road	605sqm
				11 Kanangra Road	586sqm
				12 Kanangra Road	605sqm
				13 Kanangra Road	586sqm
				14 Kanangra Road	605sqm
				15 Kanangra Road	586sqm
				16 Kanangra Road	605sqm
				17 Kanangra Road	571sqm
				21 Greenfield Road	679sqm
Average: 528.87sqm		Average: 633.4sqm			



Figure 5: Varying site areas in the locality.

It is clear that site areas in the locality vary considerably, with even greater variance noted within the wider locality. It is also clear that the sites of the proposed dwellings are, on average, somewhat smaller than the average of the locality. However, individually, the proposed site areas are not significantly less than that of numerous others nearby, with the majority of those identified above comprising site areas which fall short of the minimum criteria within outlined within DPF 2.1 of the Zone. The proposed density is nonetheless reflective of the 'low density housing' envisaged for the Zone.

Perhaps of greater impact in considering whether the proposal remains compatible with the pattern of development within the locality, is that of the frontage widths of the proposed dwelling sites. It is acknowledged that the frontage widths, apart from that of Dwelling 1, are considerably less than that of that observed within the immediate locality. Lesser frontage widths present to the street as a more compact form of development, and in this regard the proposal is not exactly consistent with existing development.

However, it is noted that frontage widths of adjacent dwellings, particularly within Ross Street, are not overly apparent. The topography of the locality, in addition to well vegetated front yards, somewhat obscure the boundaries between dwellings. The proposal incorporates generous landscaping within the sloping front yards of each dwelling, which may also somewhat obscure the apparent width of each allotment, albeit acknowledging that the proposed dwellings themselves will remain apparent within the streetscape, being elevated above the street level.

Other traits of the housing pattern in the locality include built form attributes. Dwellings in the locality are largely detached and vary from single-storey to two-storey and split level, and even limited examples of three-stories in height. Dwellings generally maintain generous setbacks from front and rear boundaries with large areas of private open space. Lesser side setbacks, and even walls on the boundary occur frequently. There are varied levels of formal landscaping provided to front yards and despite the topography, retaining walls are not overly apparent within the streetscape presentation of dwellings.

The proposed dwellings are two-storey in nature, maintain generous front and rear setbacks and provide ample private open space. Despite the shortfall in frontage width, the proposed frontage widths, the proposal generally maintains adequate side setbacks, particularly from the upper levels of each dwelling. Extensive landscaping is proposed forward of the dwellings and the retaining walls associated with the proposal are for the most part only visible from the subject land itself.

The proposal comprises building footprints which are consistent with the character and pattern of a low-density suburban neighbourhood as sought by PO 3.1 of the Hills Neighbourhood Zone, and subsequently satisfies PO's 5.1, 8.1, 9.1 and 10.2 relating to front, side and rear setbacks and built form and character.

I am of the view that the proposed dwellings themselves remain highly compatible with both the housing pattern existing within the locality, as well as that sought by the Hills Neighbourhood Zone. Whilst the proposed site areas are, on average, somewhat smaller than the average of the locality, similar site areas exist within proximity of the subject land. In particular, the frontage widths are not consistent with that observed of the locality. However, it is important to note that PO 2.1 seeks for compatibility with the existing housing pattern, not consistency. I am of the view that the built form informs the appropriateness of the frontage widths (and site areas), and that these remain compatible with the pattern of housing in the locality.

Amenity Impacts

View loss

During notification of the application, a representation against the proposal was received. Opposition to the proposed development was based largely on issues relating to a loss of view. The Planning and Design Code does not explicitly allow for consideration of view loss, nonetheless, a site inspection was undertaken to assess impacts upon the representor at 6 Kanangra Road.

In assessing 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 residential dwellings, in general accordance with the Planning and Design Code. Given the fact that adjacent dwellings to the south to south-east of the subject land are designed to take advantage of views over the subject land, and that two storey dwellings are envisaged in the Zone, it is inevitable that any two-storey dwellings on this land will have an impact upon the views currently available to adjacent properties.

Views currently available from the representor's property are in a north to north-westerly direction over the both the Seaview Downs Primary School oval, in addition to the subject land. The dwelling comprises distant ocean views of Gulf St Vincent as well as partial views of the Seacliff-Brighton coastline. The coastline views are somewhat obstructed by existing structures on the representors land as well as fencing to the school's boundary and other dwellings in the distance.

Views are gained from within an outdoor living/alfresco area and from the dining room and kitchen through sliding doors to the alfresco area. Views are also available from the upper level of the representors dwelling, from a bedroom window and small balcony. These views are the most attractive, however gained from a space which is private and limited in size.

Whilst the views available are distant, these views will be disrupted to a considerable degree. The representors land is at a similar level to that of the upper levels of the proposed dwellings, and it is likely that the upper level of each dwelling shall protrude into the horizon and views of the ocean.

It must be considered whether the proposed density is relative to view loss. In this regard, it is noted that the subject land could accommodate 5 dwellings whilst satisfying DPF criteria in relation to site dimensions. However, this would result in wider allotments, and likely wider dwellings (in order to take advantage of available views themselves), with potentially little to no difference in view loss impacts.

Certainly, the height of the proposed dwellings is impactful in relation to view loss, however the dwellings remain reflective of the low-rise development (two-storey, less than 9 metres in height) envisaged within the Zone.

The representors land is some 50 metres from the nearest proposed dwelling (Dwelling 7) and up to 100 metres from Dwelling 1. Being some distance away, it cannot be said that the proposed dwellings result in a significant visual impact upon the representors land, with that dwelling maintaining an open vista over the school oval. However, it is nonetheless acknowledged that the impacts of the proposal do unfortunately interrupt the most attractive part of that vista.

The applicant, in their response to the representor, has opted to amend the upper level of Dwelling 1, which was more elongated than that of the other dwellings. This may reduce the extent of upper level built form as seen from the representors dwelling, albeit marginally in comparison to the extent of the proposal.

It is of further worth to note that until 2020, numerous medium-large, unregulated trees, existed on the subject land, which would have partially obstructed views from the representors dwelling, as well as other dwellings within the locality. The removal of these trees has only relatively recently improved the views available to nearby land.

It is acknowledged that the proposal will have a considerable impact upon the most valued aspect from the representors land. Ultimately, this has little weight in an assessment against the Planning and Design Code, which does not allow for consideration of view loss. The representors land is distanced from the subject land and will maintain an attractive outlook as sought by PO 3.1 of the Zone, albeit not without some visibility of the proposed dwellings interrupting the ocean views.



Figure 6: View from rear boundary of 6 Kanangra Road.

Visual Impacts

As previously outlined, PO 3.1 of the HNZ seeks for building footprints which provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

It is considered that one of the more significant impacts of the proposed development is that of the visual impact upon the nearest dwellings at 46 Ross Street and 2 Kanangra Road. The outlook from within the Dwelling at 46 Ross Street may not be impacted to any great degree, given the generally east/west orientation of this dwelling. Certainly, the proposed dwellings will be visible from the POS of the dwelling, with the subject land also elevated above that at 46 Ross Street.

Most impacted however, is the dwelling at 2 Kanangra Road, with the outlook from the living area and outdoor patio area to be comprised of the side and rear upper-level elevations of Dwelling 7, continuing to the upper level rear elevations of the remaining dwellings.

It is acknowledged that the change in outlook for this dwelling is significant in part due to the current and historical outlook being open and unencumbered by solid structures, compared to the prospect of viewing the side and rears of seven two-storey dwellings. However, the site's history does not preclude it from development, and the proposal has taken account of its height and bulk relative to adjoining dwellings by setting back the upper level a greater distance from front and side boundaries than the lower level, as sought by PO 10.2 of the Hills Neighbourhood Zone.

Nonetheless, this impact of the proposal is to be noted and considered in balance with the merits of the proposal.

Overshadowing

PO 3.2 (Interface between Land Uses) seeks for overshadowing of the primary area of private open space of adjacent residential land uses to be minimised to maintain access to direct winter sunlight. The two properties which are likely to experience overshadowing impacts from the proposed development are those at 46 Ross Street and 2 Kanangra Road.

Several ancillary structures exist along the north boundary and within the rear POS of 46 Ross Street. Shadow diagrams have been provided by the applicant which illustrate that up until midday, overshadowing of this property is largely limited to being over some of these structures. By 3pm, a larger extent of this dwelling's POS is overshadowed. Similarly, the POS of the dwelling at 2 Kanangra Road is not overshadowed until later in the day, and this is limited to the western half (an area covered by shade cloth).

The upper level of Dwelling 7 maintains a generous southern side setback of some 4.4 metres, significantly exceeding the criteria within DTS/DPF 8.1 which seeks for 3.1 metres. As such, I am of the view that overshadowing impacts have been appropriately minimised as sought by PO 3.2 above.

Overlooking

Upper-level side and rear facing windows incorporate 1.5 metre sill heights, and adequately mitigate direct overlooking from upper level windows to habitable rooms and private open spaces of adjacent dwellings as sought by PO10.1 (Design in Urban Areas).

External Appearance

The proposed dwellings comprise a modern appearance which remains complimentary to the housing character in the locality, including pitched roof forms, upper levels set back further from boundaries than the lower levels, an appropriate mix of colours and materials, and habitable room windows and entry doors facing the street. The streetscape presentation of each dwelling is slightly varied but remains coordinated and makes a positive contribution to the streetscape as sought by Design in Urban Areas PO 20.2 (Design in Urban Areas).

The FFL of the garage of each dwelling is set down in order to accommodate appropriate driveway gradients, this results in the garage and surrounding parapet comprising a considerable height. However, the greater extent of habitable portions of the dwelling, which present attractively and with appropriate visual interest and fenestration, prevent the garaging from dominating the streetscape appearance of the dwellings as sought by Design in Urban Areas PO 20.1.

Landscaping proposed forward of the dwellings complements the external appearance of the dwellings and enhances the appearance of the land within the streetscape satisfying Design in Urban Areas PO 22.2.

Summary

The proposed development seeks to construct seven, two-storey, detached dwellings as well as associated earthworks, retaining walls, fencing, and landscaping.

The most significant numeric shortfall of the proposal relates to site dimensions. The Hills Neighbourhood Zone DTS/DPF 2.1 provides a numeric site area figure of 700 square metres and frontage width of 18 metres where the site gradient is less than 1-in-8, and 900 square metres and 20 metres for site area and frontage width respectively where the site gradient is between 1-in-8 and 1-in-4. Whereas the proposed dwelling sites (with gradients varying between 1-in-7.2 and 1-in-8.6) comprise site areas varying from 489.45 and 609.23 square metres with frontage widths between 13.525 and 24.16 metres.

The Code's Rules of Interpretation clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO. PO 2.1 seeks two outcomes; for sites of a suitable size and dimensions to accommodate residential development that is (1) sensitive to the natural topography and (2) compatible with the housing pattern in the locality.

The natural topography of the site has been altered over time, and the proposal takes advantage of these pre-existing levels across the site and comprises site dimensions which allow for a built form which comprises generous front setbacks, which along with landscaping proposed, softens the appearance of the dwellings within the topography.

The built form of the proposed dwellings remain highly compatible with both the housing pattern existing within the locality, as well as that sought by the Hills Neighbourhood Zone. Whilst the proposed site areas are, on average, somewhat smaller than the average of the locality, similar site areas nonetheless exist within proximity of the subject land. In particular, the frontage widths are not consistent with that observed of the locality, however it is important to note that PO 2.1 seeks for compatibility with the existing housing pattern, not consistency. I am of the view that the built form informs the appropriateness of the frontage widths (and site areas), and that these ultimately remain compatible with the pattern of housing in the locality.

Issues relating to view loss hold little weight in an assessment against the Planning and Design Code, which does not allow for consideration of views. The representors land is distanced from the subject land and will maintain an attractive outlook as sought by PO 3.1 of the Zone, albeit not without some visibility of the proposed dwellings interrupting the ocean views.

The visual impacts upon the adjacent dwellings at 46 Ross Street, and particularly 2 Kanangra Road, are considerable. The change in outlook for these dwellings is significant in part due to the current and historical outlook being open and unencumbered by solid structures, compared to the prospect of viewing the side and rears of seven two-storey dwellings. However, the site's history does not preclude it from development, and the proposal has taken account of its height and bulk relative to adjoining dwellings by setting back the upper level a greater distance from front and side boundaries than the lower level, as sought by PO 10.2 of the Hills Neighbourhood Zone. Nonetheless, this impact of the proposal is to be noted and considered in balance with the merits of the proposal.

Overshadowing impacts have been appropriately minimised as sought by PO 3.2, and overlooking impacts are mitigated through 1.5-metre-high sill heights.

The streetscape presentation of each dwelling is slightly varied but remains coordinated and makes a positive contribution to the streetscape as sought by PO 20.2 (Design in Urban Areas).

Conclusion

The proposed development satisfies the Desired Outcome of the Hills Neighbourhood Zone, which seeks for low density housing which minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, earthworks and retaining walls. Following consideration of matters pertinent to the application, I am ultimately of the view that the proposals merits outweigh the discrepancies, and that Planning Consent is warranted.

RECOMMENDATION

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

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concurs that the proposed development is not seriously at variance¹ to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and
- (c) That Planning Consent for Development Application ID: 22030821 for seven, two-storey, detached dwellings as well as associated earthworks, retaining walls, fencing, and landscaping at 44 Ross Street, Seaview Downs be GRANTED subject to the following Reserved Matter and Conditions.

RESERVED MATTER

1. An amended fully engineered site works and drainage plan, reflective of amendments to the upper level of Dwelling 1, which details top of kerb levels, existing ground levels throughout the site and on adjacent land, proposed bench levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, extent of cut/fill required, location and height of any proposed retaining walls, driveway gradients, proposed and existing crossovers, and the location of all existing street infrastructure and street trees.

CONDITIONS

1. The development granted Development Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below
2. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).
3. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details, with on-site water retention systems connected to collect roof stormwater from each dwelling, prior to the occupation of the premises to the reasonable satisfaction of the Council.
4. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.

¹ Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act). What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

5. **Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.**
6. **Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.**
7. **All devices/treatments proposed and nominated on the approved plans, and forming part of the Development Application, to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.**

NOTES

1. **Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the matter(s) listed as Reserved Matters are reserves for further assessment to the satisfaction of the relevant authority prior to the granting of Development Approval.**
2. **Before commencing any site works, a temporary vehicular access to the property for machinery, delivery of building materials and general vehicles should be provided. In the case where no driveway invert exists, the kerb can be saw cut and removed at the intended location for the new driveway invert to provide the necessary temporary access. In addition, if a paved Council footpath exists, this should also be removed in alignment with the removed section of kerb. The applicant should also take note of other information provided regarding use of, damage to and construction on Council owned land.**
3. **Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.**
4. **All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).**
5. **Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).**
6. **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.**
7. **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.**

APPENDIX 1- Applicable Planning & Design Code Policies

Part 2- Zones and Sub Zones

Hills Neighbourhood Zone			
Desired Outcomes			
DO 1	Development provides a complementary transition to adjacent natural and rural landscapes. Low density housing minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, Earthworks and retaining walls.		
Performance Outcomes		Designated Performance Features	
Land Use and Intensity			
PO 1.1	Predominantly low density residential development with complementary non-residential uses compatible with natural landforms and a low density residential character.	DPF 1.1	DTS/DPF 1.1 Development comprises one or more of the following: (a) Ancillary accommodation (b) Consulting room (c) Dwelling (d) Office (e) Open space (f) Shop (g) Recreation area
Site Dimensions and Land Division			
PO 2.1	Allotments/sites created for residential purposes are of suitable size and dimension to accommodate residential development that is sensitive to the natural topography and compatible with the housing pattern in the locality.	DPF 2.1	Development will not result in more than 1 dwelling on an existing allotment Or Allotments/sites for residential purposes accord with the following: 1. site areas (or allotment areas in the case of land division) are not less than the following (average site area per dwelling, including common areas, applies for group dwellings or dwellings within a residential flat building): <div>Gradient minimum site area Minimum site area for detached dwellings where the site gradient is less than 1-in-8 is 700sqm; 1-in-8 to 1-in-4 is 900sqm; greater than 1-in-4 is 1100sqm</div> and 2. site frontages (or allotment frontages in the case of land division) are not less than: <div>Gradient minimum frontage (detached) Minimum frontage for detached dwellings where the site gradient is less than 1-in-8 is 18m; 1-in-8 to 1-in-4 is 20m; greater than 1-in-4 is 20m</div>

Site Coverage							
PO 3.1	Building footprints consistent with the character and pattern of a low-density suburban neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.	DPF 3.1	The development does not result in site coverage exceeding: (a) on sites with a gradient more than 1-in-8, 40% (b) On sites with a gradient less than 1-in-8, 50%				
Building Height							
PO 4.1	Buildings contribute to a low-rise suburban character and complement the height of nearby buildings.	DPF 4.1	Building height (excluding garages, carports and outbuildings) is no greater than the following: <table><tr><td>Maximum Building Height (metres)</td></tr><tr><td>Maximum building height is 9m</td></tr><tr><td>Maximum Building Height (levels)</td></tr><tr><td>Maximum building height is 2 levels</td></tr></table>	Maximum Building Height (metres)	Maximum building height is 9m	Maximum Building Height (levels)	Maximum building height is 2 levels
Maximum Building Height (metres)							
Maximum building height is 9m							
Maximum Building Height (levels)							
Maximum building height is 2 levels							
Primary Street Setback							
PO 5.1	Buildings are set back from primary street boundaries consistent with the existing streetscape.	DPF 5.1	DTS/DPF 5.1 The building line of a building set back from the primary street boundary: (b) Where there is only one existing building on adjoining sites which face the same primary street (including those buildings that would adjoin the site if not separated by a public road or a vacant allotment), not less than the setback of the building line of that building or (c) not less than 8m where no building exists on an adjoining site with the same primary street frontage.				
Side Boundary Setback							
PO 8.1	Buildings are set back from side boundaries to provide: (a) separation between dwellings in a way that complements the established character of the locality (b) access to natural light and ventilation for neighbours.	DPF 8.1	Building walls not sited on side boundaries set back from the side boundary: (c) on sites with a site gradient of less than 1-in-8 (i) at least 900mm where the wall height is up to 3m measured from the top of the footings (ii) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m measured from the top of the footings and (iii) for walls facing a southern side boundary, at least 1900mm plus 1/3 of the wall height above 3m measured from the top of the footings				

<i>Rear Boundary Setback</i>			
PO 9.1	Buildings are set back from rear boundaries to provide: (a) separation between dwellings in a way that complements the established character of the locality (b) access to natural light and ventilation for neighbours (c) private open space (d) space for landscaping and vegetation	DPF 9.1	Buildings are set back from the rear boundary at least: (a) 4m for the first building level (b) 6m for any second building level
<i>Built Form and Character</i>			
PO 10.2	Development of more than 1 building level in height takes account of its height and bulk relative to adjoining dwellings by: (a) Incorporating stepping in the design in accordance with the slope of the land (b) Where appropriate, setting back the upper level a greater distance from front and side boundaries than the lower level.	DPF 10.2	None are applicable.
<i>Earthworks and Retaining</i>			
PO 11.1	Buildings sited and designed to integrate with the natural topography of the land using measures such a split-level building construction and other approaches that minimise the extent of cut and fill.	DPF 11.1	None are applicable.
PO 11.2	Vegetation is used to screen buildings and excavation or filling from view.	DPF 11.2	None are applicable.
PO 11.3	Retaining walls are stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping.	DPF 11.3	Retaining walls: (a) Do not retain more than 1.5 metres in height, or (b) Where more than 1.5m is to be retained in total, are stepped in a series of low walls each not exceeding 1m in height and separated by at least 700mm.

Part 3- Overlays

Affordable Housing Overlay	
PO 1.1	Development comprising 20 or more dwellings / allotments incorporates affordable housing.
Airport Building Heights (Regulated) Overlay	
DO 1	Management of potential impacts of buildings and generated emissions to maintain operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.
PO 1.1	Building height does not pose a hazard to the operation of a certified or registered aerodrome.

Stormwater Management Overlay															
DO 1	Development incorporates water sensitive urban design techniques to capture and re-use stormwater.														
PO 1.1	<p>Residential development is designed to capture and re-use stormwater to:</p> <ul style="list-style-type: none">(a) maximise conservation of water resources(b) manage peak stormwater runoff flows and volume to ensure the carrying capacities of downstream systems are not overloaded(c) manage stormwater runoff quality.	DPF 1.1	<p>Residential development comprising detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building:</p> <ul style="list-style-type: none">(a) includes rainwater tank storage:<ul style="list-style-type: none">i. connected to at least:<ul style="list-style-type: none">A. in relation to a detached dwelling (not in a battle-axe arrangement), semi-detached dwelling or row dwelling, 60% of the roof areaB. in all other cases, 80% of the roof areaii. connected to either a toilet, laundry cold water outlets or hot water service for sites less than 200m²iii. connected to one toilet and either the laundry cold water outlets or hot water service for sites of 200m² or greateriv. with a minimum total capacity in accordance with Table 1v. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank(b) incorporates dwelling roof area comprising at least 80% of the site's impervious area <p>Table 1: Rainwater Tank</p> <table><tr><th>Site size (m²)</th><th>Minimum retention volume (Litres)</th><th>Minimum detention volume (Litres)</th></tr><tr><td><200</td><td>1000</td><td>1000</td></tr><tr><td>200-400</td><td>2000</td><td>Site perviousness <30%: 1000 Site perviousness ≥30%: N/A</td></tr><tr><td>>401</td><td>4000</td><td>Site perviousness <35%: 1000 Site perviousness ≥35%: N/A</td></tr></table>	Site size (m ²)	Minimum retention volume (Litres)	Minimum detention volume (Litres)	<200	1000	1000	200-400	2000	Site perviousness <30%: 1000 Site perviousness ≥30%: N/A	>401	4000	Site perviousness <35%: 1000 Site perviousness ≥35%: N/A
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Urban Tree Canopy Overlay																																								
DO 1	Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.																																							
PO 1.1	Trees are planted or retained to contribute to an urban tree canopy.	DPF 1.1	<div>Tree planting is provided in accordance with the following:</div> <table><tr><td>Site size per dwelling (m²)</td><td colspan="3">Tree size* and number required per dwelling</td></tr><tr><td><450</td><td colspan="3">1 small tree</td></tr><tr><td>450-800</td><td colspan="3">1 medium tree or 2 small trees</td></tr><tr><td>>800</td><td colspan="3">1 large tree or 2 medium trees or 4 small trees</td></tr></table> <div>*refer Table 1 Tree Size</div> <table><tr><th colspan="4">Table 1 Tree Size</th></tr><tr><th>Tree size</th><th>Mature height (minimum)</th><th>Mature spread (minimum)</th><th>Soil area around tree within development site (minimum)</th></tr><tr><td>Small</td><td>4 m</td><td>2m</td><td>10m² and min. dimension of 1.5m</td></tr><tr><td>Medium</td><td>6 m</td><td>4 m</td><td>30m² and min. dimension of 2m</td></tr><tr><td>Large</td><td>12 m</td><td>8m</td><td>60m² and min. dimension of 4m</td></tr></table>		Site size per dwelling (m ²)	Tree size* and number required per dwelling			<450	1 small tree			450-800	1 medium tree or 2 small trees			>800	1 large tree or 2 medium trees or 4 small trees			Table 1 Tree Size				Tree size	Mature height (minimum)	Mature spread (minimum)	Soil area around tree within development site (minimum)	Small	4 m	2m	10m ² and min. dimension of 1.5m	Medium	6 m	4 m	30m ² and min. dimension of 2m	Large	12 m	8m	60m ² and min. dimension of 4m
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Part 4- General Development Policies

Clearance from Overhead Powerlines			
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.		
PO 1.1	Buildings are adequately separated from aboveground powerlines to minimise potential hazard to people and property.	DPF 1.1	<p>One of the following is satisfied:</p> <p>(a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996 there are no aboveground powerlines adjoining the site that are the subject of the proposed development.</p>

Design in Urban Areas			
Desired Outcomes			
D0 1	<p>Development is:</p> <ul style="list-style-type: none">(a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area(b) durable - fit for purpose, adaptable and long lasting(c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors(d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.		
Performance Outcomes		Designated Performance Features	
Earthworks and sloping land			
PO 8.1	Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.	DPF 8.1	Development does not involve any of the following: <ul style="list-style-type: none">(a) Excavation exceeding a vertical height of 1m(b) filling exceeding a vertical height of 1m(c) a total excavation and filling vertical height of 2m or more
PO 8.2	Driveways and access tracks designed and constructed to allow safe and convenient access on sloping land.	DPF 8.2	Driveways and access tracks on sloping land (with a gradient exceeding 1-in-8 satisfy: <ul style="list-style-type: none">(a) do not have a gradient exceeding 25% (1-in-4) at any point along the driveway(b) are constructed with an all weather trafficable surface
PO 8.3	Driveways and access tracks on sloping land (with a gradient exceeding 1 in 8): <ul style="list-style-type: none">(a) do not contribute to the instability of embankments and cuttings(b) provide level transition areas for the safe movement of people and goods to and from the development(c) are designed to integrate with the natural topography of the land.	DPF 8.3	None are applicable.
PO 8.4	Development on sloping land (with a gradient exceeding 1 in 8) avoids the alteration of natural drainage lines and includes on site drainage systems to minimise erosion.	DPF 8.4	None are applicable.
PO 8.5	Development does not occur on land at risk of landslip nor increases the potential for landslip or land surface instability.	DPF 8.5	None are applicable.
Fences and Walls			
PO 9.1	Fences, walls and retaining walls are of sufficient height to maintain privacy and security without unreasonably impacting the visual amenity and adjoining land's access to sunlight or the amenity of public places.	DPF 9.1	None are applicable.

PO 9.2	Landscaping incorporated on the low side of retaining walls is visible from public roads and public open space to minimise visual impacts	DPF 9.2	A vegetated landscaped strip 1m wide or more is provided against the low side of a retaining wall.
<i>Overlooking/Visual Privacy</i>			
PO 10.1	Development mitigates direct overlooking from upper-level windows to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.	DPF 10.1	<p>DTS/DPF 10.1 Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:</p> <ul style="list-style-type: none"> (a) are permanently obscured to a height of 1.5 metres above finished flood level and are fixed or not capable of being opened more than 125mm (b) have sill heights greater than or equal to 1.5m above finished floor level (c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5m above the finished floor level.
<i>Front elevations and passive surveillance</i>			
PO 17.1	Dwellings incorporate windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.	DPF 17.1	<p>Each dwelling with a frontage to a public street:</p> <ul style="list-style-type: none"> (a) includes at least one window facing the primary street from a habitable room that has a minimum internal room dimension of 2.4m (b) has an aggregate window area of at least 2m² facing the primary street.
PO 17.2	Dwellings incorporate entry doors within street frontages to address the street and provide a legible entry point for visitors.	DPF 17.2	Dwellings with a frontage to a public street have an entry door visible from the primary street boundary.
<i>Outlook and Amenity</i>			
PO 18.1	Living rooms have an external outlook to provide a high standard of amenity for occupants.	DPF 18.1	A living room of a dwelling incorporates a window with an external outlook of the street frontage, private open space, public open space, or waterfront areas.
<i>External Appearance</i>			
PO 20.1	Garaging is designed to not detract from the streetscape or appearance of a dwelling.	DPF 20.1	<p>Garages and carports facing a street:</p> <ul style="list-style-type: none"> (a) are situated so that no part of the garage or carport will be in front of any part of the building line of the dwelling (b) are set back at least 5.5m from the boundary of the primary street (c) have a garage door / opening width not exceeding 7m (d) have a garage door / opening width not exceeding 50% of the site frontage unless the dwelling has two or more building levels at the building line fronting the same public street.

PO 20.2	Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.	DPF 20.2	<p>Each dwelling includes at least 3 of the following design features within the building elevation facing a primary street, and at least 2 of the following design features within the building elevation facing any other public road (other than a laneway) or a common driveway:</p> <ul style="list-style-type: none"> (a) a minimum of 30% of the building wall is set back an additional 300mm from the building line (b) a porch or portico projects at least 1m from the building wall (c) a balcony projects from the building wall (d) a verandah projects at least 1m from the building wall (e) eaves of a minimum 400mm width extend along the width of the front elevation (f) a minimum 30% of the width of the upper level projects forward from the lower level primary building line by at least 300mm (g) a minimum of two different materials or finishes are incorporated on the walls of the front building elevation, with a maximum of 80% of the building elevation in a single material or finish.
PO 20.3	The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.	DPF 20.3	None are applicable.
<i>Private Open Space</i>			
PO 21.1	Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.	DPF 21.1	Private open space is provided in accordance with Design in Urban Areas Table 1 - Private Open Space.
PO 21.2	Private open space is positioned to provide convenient access from internal living areas.	DPF 21.2	Private open space is directly accessible from a habitable room.
<i>Landscaping</i>			
PO 22.1	<p>Soft landscaping is incorporated into development to:</p> <ul style="list-style-type: none"> (a) minimise heat absorption and reflection (b) contribute shade and shelter (c) provide for stormwater infiltration and biodiversity (d) enhance the appearance of land and streetscapes. 	DPF 22.1	<p>Residential development incorporates soft landscaping with a minimum dimension of 700mm provided in accordance with (a) and (b):</p> <ul style="list-style-type: none"> (a) a total area as determined by the following table: table:

			<table><tr><th>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</th><th>Minimum percentage of site</th></tr><tr><td><150</td><td>10%</td></tr><tr><td>150-200</td><td>15%</td></tr><tr><td>>200-450</td><td>20%</td></tr><tr><td>>450</td><td>25%</td></tr></table> <p>(b) at least 30% of any land between the primary street boundary and the primary building line</p>	Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site	<150	10%	150-200	15%	>200-450	20%	>450	25%
Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site												
<150	10%												
150-200	15%												
>200-450	20%												
>450	25%												
Car parking, access and manoeuvrability													
PO 23.1	Enclosed car parking spaces are of dimensions to be functional, accessible and convenient.	DPF 23.1	Residential car parking spaces enclosed by fencing, walls or other structures have the following internal dimensions (separate from any waste storage area): (a) single width car parking spaces: i. a minimum length of 5.4m per space ii. a minimum width of 3.0m iii. a minimum garage door width of 2.4m (b) double width car parking spaces (side by side): i. a minimum length of 5.4m ii. a minimum width of 5.4m iii. minimum garage door width of 2.4m per space.										
PO 23.2	Uncovered car parking space are of dimensions to be functional, accessible and convenient.	DPF 23.2	Uncovered car parking spaces have: (a) a minimum length of 5.4m (b) a minimum width of 2.4m (c) a minimum width between the centre line of the space and any fence, wall or other obstruction of 1.5m.										
PO 23.3	Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, domestic waste collection, landscaped street frontages and on-street parking.	DPF 23.3	Driveways and access points satisfy (a) or (b): (a) sites with a frontage to a public road of 10m or less, have a width between 3.0 and 3.2 metres measured at the property boundary and are the only access point provided on the site (b) sites with a frontage to a public road greater than 10m: i. have a maximum width of 5m measured at the property boundary and are the only access point provided on the site; ii. have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.										

PO 23.4	Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.	DPF 23.4	Vehicle access to designated car parking spaces satisfy (a) or (b): (a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land (b) where newly proposed, is set back: i. 0.5m or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner ii. 2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance iii. 6m or more from the tangent point of an intersection of 2 or more roads iv. outside of the marked lines or infrastructure dedicating a pedestrian crossing.
PO 23.5	Driveways are designed to enable safe and convenient vehicle movements from the public road to on-site parking spaces.	DPF 23.5	Driveways are designed and sited so that: (a) the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport is not steeper than 1-in-4 on average (b) they are aligned relative to the street so that there is no more than a 20 degree deviation from 90 degrees between the centreline of any dedicated car parking space to which it provides access (measured from the front of that space) and the road boundary. (c) if located so as to provide access from an alley, lane or right of way - the alley, lane or right of way is at least 6.2m wide along the boundary of the allotment / site
PO 23.6	Driveways and access points are designed and distributed to optimise the provision of on-street visitor parking.	DPF 23.6	Where on-street parking is available abutting the site's street frontage, on-street parking is retained in accordance with the following requirements: (a) minimum 0.33 on-street spaces per dwelling on the site (rounded up to the nearest whole number) (b) minimum car park length of 5.4m where a vehicle can enter or exit a space directly (c) minimum carpark length of 6m for an intermediate space located between two other parking spaces or to an end obstruction where the parking is indented.
<i>Waste storage</i>			
PO 24.1	Provision is made for the convenient storage of waste bins in a location screened from public view.	DPF 24.1	Where dwellings abut both side boundaries... <i>(not applicable)</i>

Interface between Land Uses			
Desired Outcomes			
D0 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.		
Performance Outcomes		Designated Performance Features	
PO 3.1	Overshadowing of habitable room windows of adjacent residential land uses in: a. a neighbourhood-type zone is minimised to maintain access to direct winter sunlight b. other zones is managed to enable access to direct winter sunlight.	DPF 3.1	North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.
PO 3.2	Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in: a. a neighbourhood type zone is minimised to maintain access to direct winter sunlight b. other zones is managed to enable access to direct winter sunlight.	DPF 3.2	Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following: a. for ground level private open space, the smaller of the following: i. half the existing ground level open space or ii. 35m2 of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m) b. for ground level communal open space, at least half of the existing ground level open space.
PO 3.3	Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account: (a) the form of development contemplated in the zone (b) the orientation of the solar energy facilities (c) the extent to which the solar energy facilities are already overshadowed.	DPF 3.3	None are applicable.
Site Contamination			
Desired Outcomes			
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.		
Transport, Access and Parking			
Desired Outcomes			
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.		
Performance Outcomes		Designated Performance Features	
Vehicle Parking Rates			
PO 5.1	Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as: (a) availability of on-street car parking	DPF 5.1	Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant: (a) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements

	<ul style="list-style-type: none">(b) shared use of other parking areas(c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared(d) the adaptive reuse of a State or Local Heritage Place.		<ul style="list-style-type: none">(b) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas(c) if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund.
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**5. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023**



APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
22003132	216-220 Seacombe Road, Seaview Downs	20/02/2023	GRANTED	REFUSE	Conference scheduled.

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
100/2020/0659	1 Wattle Terrace, Plympton Park	04/11/2022	REFUSE	REFUSE	Conference adjourned pending site inspection and next conference, both currently scheduled for 29th March 2023.
100/2021/0195	3, 7 and 9 Franklin Street Sturt	13/01/2023	GRANTED	REFUSE	Conciliation conference adjourned for 11 April 2023.

**6. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023**



No items listed for discussion.

7. OTHER BUSINESS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 15 MARCH 2023



No items listed for discussion.