

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 16 November 2022

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 blue ink, appearing to read "Alex Wright", is positioned above the printed name and title.

Alex Wright
ASSESSMENT MANAGER

09 November 2022

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022
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

3.1 DEVELOPMENT NO 100/2021/195

3 and 7-9 Franklin Street, Sturt

Previously deferred at CAP070922

Demolition of 22 existing dwellings and construction of 24 dwellings (comprising 2 x two-storey residential flat buildings each with two dwellings, 9 x single storey residential flat buildings each with two dwellings and 2 x single storey dwellings) with associated access, fencing and landscaping and the removal of two (2) significant trees and eight (8) regulated trees.

Report Reference: CAP161122 - 3.1.....2

4. PDI ACT APPLICATIONS

4.1 DEVELOPMENT NO 21021528

61A Woodend Road and 55A Woodend Road, Sheidow Park

Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls

Report Reference: CAP161122 - 4.1.....11

5. APPEALS UPDATE

5.1 APPEALS AGAINST PANEL DECISIONS

Verbal Update Provided

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

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 16 NOVEMBER 2022**

9. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022**



No items listed for discussion.

**REPORT REFERENCE: CAP161122 - 3.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022**



Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Adelaide Benevolent Society
Development Description:	Demolition of 22 existing dwellings and construction of 24 dwellings (comprising 2 x two-storey residential flat buildings each with two dwellings, 9 x single storey residential flat buildings each with two dwellings and 2 x single storey dwellings) with associated access, fencing and landscaping and the removal of two (2) significant trees and eight (8) regulated trees.
Site Location:	3 and 7-9 Franklin Street, Sturt
Zone & Policy Area:	Residential Marion Plains Policy Area 8
Lodgement Date:	2 February 2021
Development Plan:	Consolidated – 14 January 2021
Referrals:	Internal - Development Engineer Internal – Coordinator Arboriculture
Delegations Policy:	CAP – Development Delegations Policy 4.1.6 <i>Any application for three or more dwellings (including detached, semi-detached, row and residential flat) where one or more dwelling sites are more than 5% below the minimum site area recommended by the relevant Policy Area of the Development Plan.</i>
Categorisation	Category 2 <i>Schedule 9 Part 18 (b) of the Development Regulations 2008 which specifies construction of the following as Category 2: (a) 1 or more buildings of 2 storeys comprising dwellings; or (b) 2 or more dwellings on the same site where at least 1 of those dwellings is 2 storeys high, but no residential building is to be more than 2 storeys high.</i>
Application No:	100/2021/195
Recommendation:	That Development Plan Consent be GRANTED

Attachments

*Attachment I: Minutes from Council Assessment Panel Meeting held 7 September 2022
Attachment II: Proposal Plan and supporting documentation*

BACKGROUND

The subject application was considered by the Panel at its meeting on 7 September 2022, whereby a decision upon the application was deferred for the following reason:

1. To allow the applicant to provide further information on the habitat value and landscape quality of the trees and to provide further information on the design and method of stormwater discharge from the site.

The applicant has sought additional tree assessment advice from a consulting arborist who has provided further analysis on the habitat value of the trees and an additional opinion regarding the removal of the trees.

Regarding stormwater, an amended plan has been provided to address the requirements relating to the stormwater discharge. Further detail is provided in the discussion below.

The original report, plans and attachments can be found in the member's agenda from the 7 September 2022 meeting. Administration will provide Members who were not present at the previous meeting with a copy of the previous proposal plans and supporting documentation. This documentation will be uploaded to Members lpad and provided via email (by way of dropbox) the day the Agenda is released.

DISCUSSION

The supporting documentation is considered to provide information to achieve the intent of the Panel's reason for deferral and is considered sufficient for a decision to be made. Below is a discussion on each of the items of deferral concerns raised by the Panel:

Removal of Significant and Regulated Trees

Urbans Arboriculture was engaged by the Adelaide Benevolent Society to conduct an assessment on the group of Significant and Regulated trees.

Their prime objectives of the assessment included:

- 1) locate and record the regulated and significant trees on the site;
- 2) provide an opinion on the habitat value of these trees;
- 3) provide an opinion on the landscape quality of these trees; and
- 4) provide an opinion on the conclusions of the ATS report.

There has been no alteration to the plans to either retain trees or provide amended plans which show alternative design solutions around any trees.

Regulated and Significant Trees

The consulting arborist undertook a review of each of the tree's on the site and re-measured the circumference of the trees, including those that were not deemed to be regulated or significant in the initial report.

The report found that two of the trees that were not regulated had increased in their circumference and have now become Regulated Trees.

The applicant has not sought to retain the trees and whilst it does not change the nature of the development, it does result in a change to the description of the proposal from '*....the removal of two (2) significant trees and six (6) regulated trees*' to '*.... The removal of two (2) significant trees and eight (8) regulated trees*'.

Re-notification of the application is not considered necessary as the Development Regulations classifies tree damaging activity as Category 1 development.

The two trees, identified in the assessment as trees 9 and 10 are located within the centre of the site at 3 Franklin Street. They are the same species of tree as the other significant and regulated trees on the site, that is Eucalyptus Cladocalyx (Sugar Gum) and both have a trunk circumference of 2m when measured 1m above ground level.

The arborist considers that the trees' health presents as good, however, Tree 9's health has been affected by bird damage and some branches appear precarious. In addition, some branches of tree 9 appear to be co-dependant on an adjacent (non-regulated) tree.

Tree 10 has been affected by its location and appears suppressed by other trees with some upper branching clustered and conflicted in close spaces. There is some minor bird damage and evidence of a nest within the branches.

Both trees are recommended for removal by the arborist.

Habitat value of the trees

The report indicated obvious bird activity amongst the trees including the visual and aural observation of perching and sheltering birds and the pecking damage on the trees confirms the level of bird activity.

The report confirms that the removal of the trees will result in a loss of habitat as all trees have some habitat value. It appears that it will be predominantly result in the loss of bird habitat, as whilst utilisation by other fauna is possible, it was not observed.

The arborist identified one useful hollow in tree 3 with no evidence of occupation. The arborist considers that it is too close to the ground to be attractive to birds and although large enough for a possum, appears to be clean and unutilised. A small hollow observed in tree 7 was flooded and did not present much value as habitat.

A nest was observed in tree 10, however, no activity was seen in or around the nest during the two hours that the arborist was present.

It is clear that the trees represent an important habitat for birdlife but there is also indication that the birds are causing damage to the trees and thus increasing the risk of branch failure.

It is acknowledged that the retention of at least one tree will reduce the significance of the loss, however, this requires further consideration in balance with the other regulated tree provisions including amenity value of the trees and the potential risk to occupant's safety.

Landscape value of the trees

The arborist appears to take a similar approach to the initial Arborman report and takes the view that the trees, as a group, have high amenity value, but as individual species, due to poor form, bird damage and some branch failures, do not present as high value species.

In saying that, the arborist does identify tree 8 as a tree with some landscape value and being set aside from the cluster of trees, is not reliant on them for either its growth or landscape amenity value.

As with the original report, the tree indicates that some of the trees are in poor health, have poor structure and at risk of failure and should be removed in conjunction with Principle 2 (regulated trees) and Principle 3 (Significant trees).

The form of the trees as a closely located group means that some of the trees' structure have become reliant on other trees and removing some within the group is likely to affect the structural integrity of the tree in its vicinity.

Within the cluster of trees, given that the arborist does not disagree with the health and risk assessment of those trees identified with a low retention value and does not rate the landscape quality of those identified with moderate retention value highly, it is not considered unreasonable to remove the entire suite of trees. There is a possibility, that without all the trees there, the remaining tree's health could decline and then pose a risk to users of the site.

There is a difference of opinion regarding tree 8 where there is considered to be some landscape value and is not reliant on other trees for its stability. It's retention should be given due consideration and development could be achieved in balance with preserving the tree, however, concern of risk appears to remain an issue.

Assessment against the provisions of the Development Plan

The report concludes that the second arborist would, in general, concur with the conclusions of the Arborman report with the exception that tree 8 could potentially remain.

It also acknowledges that retention of the trees would limit the development potential on the allotment as shown in the diagram identifying tree protection zones, where approximately 1/3 of the site would only be able to be utilised.

As mentioned in the previous assessment, five out of the six regulated trees and one out of two significant trees display a decline in health and poor structure and satisfies the criteria outlined in *Significant Tree: PDC 3 (a) (i) and Regulated Trees: PDC 2 (a), the tree is diseased and its life expectancy is short.*

In relation to tree 9, the arborist advises that the structure is 'very affected' by bird damage with some branches showing as precarious and as such, I also consider this to meet Regulated tree PDC 2 and warrants removal.

Tree 10 is in somewhat healthier condition, but due to its location appears dependent on the other trees and may be impacted by their removal. In addition, its individual landscape quality is not high and whilst there is evidence that it is a habitat for fauna, overall, the question over its structural integrity and insignificant landscape amenity do not warrant its retention.

It is acknowledged that there are questions arising regarding whether there has been sufficient demonstration to retain trees in balance with development.

The applicant provides the following statement within the supporting letter:

Adelaide Benevolent Society have examined the following range of development options prior to the submission of the development application:

- *retention of the trees within a group and as part of community open space*
- *retention of trees 1, 5 and 8*
- *alternate building siting and design*

It is not normal practice for all development options to be provided to the planning authority. Rather, the applicant has considered the trees as one element of the overall design. Retention of the trees would substantially constrain the development potential of the site.

On further questioning the applicant on the retention of tree 8, as was suggested by the second consulting arborist, the following was supplied:

ABS have considered the retention of Tree 8 stand alone. However, given the propensity for Sugar Gums to drop branches, a decision was made that all of these variant of trees are inappropriate for retention.

I am inclined to agree with the applicant and both arborists regarding the cluster of trees. Given that health and risk of a number of trees warrant removal, the remaining trees as stand alone trees do not have the landscape amenity or certainty in their structural integrity to warrant their retention.

In relation to tree 8, due to its location, it is arguable that a design could not be achieved in balance with the tree, nor in my opinion, would it be a significant redesign.

Whether this tree should be removed comes down whether it is demonstrated that the tree represents a material risk to public or private safety.

Whilst both arborists consider tree 8 to be in good health and not structurally unsound, the Arborman report states "*Sugar Gum does have a reputation for dropping branches, this phenomenon appears to be more common in stressed or declining trees and particularly in trees that have been previously*

lopped. The Arborman report also specifies that there is a moderate level of decay within the primary structure of the tree.

It is possible that development, even within only 10% encroachment within the TPZ could impact on the overall health of the tree. A tree that is prone to limb drop may have the risk exacerbated by development in close proximity to the tree.

To this end, my original recommendation remains and the proposed landscape plan to replace the trees will, over time, form a tree canopy that will compensate for the loss of the trees.

Stormwater Management

An amended Stormwater Management Plan has been provided, revising the discharge outlets from 225mm to 100mm PVC via galvanised box drain.

The applicant has requested that the calculations to confirm the size of the retention tanks are sufficient to address pre-development flows be a reserved matter. It is considered that, should it be required, changes can be made without altering the nature and design of the development and as such, it is considered acceptable.

The provision of this information is generally considered to address the Panel's query.

CONCLUSION

The applicant has sought to address the Panel's reasons for deferral.

The provision of an additional arborist report provides supplementary advice on the habitat and landscape value of the trees as well as an updated assessment on the status of the trees.

The report does not deny the trees value in regards to habitat or value the overall cluster of trees provides to the landscape amenity of the locality.

However, given that some trees are worthy of removal, this would impact the overall landscape value and the structural integrity of the remaining trees. There appears to be agreement from both arborists in this regard.

Some variance in opinion exists regarding the retention of tree 8 and a finely balanced argument arises as to whether the design could have been made more amenable to ensure the tree's retention. Ultimately, the intensification of use within the vicinity of the tree presents as a potential risk to public and private safety insofar as the species of tree has a high propensity for limb failure.

The stormwater management has been addressed with pipe sizes and disposal methods consistent with Council's regulations.

On balance, the proposal achieves the majority of applicable Principles of Development Control contained within the Marion Council Development Plan.

As a result of the above considerations, it is my view 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. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent, Land Division Consent and Development Approval (where relevant) 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: 100/2021/195 for the demolition of 22 existing dwellings and construction of 24 dwellings (comprising 2 x two-storey residential flat buildings each with two dwellings, 9 x single storey residential flat buildings each with two dwellings and 2 x single storey dwellings) with associated access, fencing and landscaping and the removal of two (2) significant trees and eight (8) regulated trees at 3 and 7-9 Franklin Street, Sturt be GRANTED subject to the following conditions:

RESERVED MATTER

Pursuant to Section 33 (3) of the Development Act, 1993 the matter(s) listed as Reserved Matters are reserved for further assessment to the satisfaction of the relevant authority prior to the granting of Development Approval.

- 1. That calculations are provided to demonstrate that post development flows do not exceed pre-development peak flows to support the size of the retention tanks and any necessary amendments made to the stormwater management plan for assessment and approval.

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. Prior to the occupation of the premises, signage or markings shall be provided to prevent the parking of vehicles within the common driveways. The control measures shall remain in good condition at all times and maintained for the life of the development.
- 3. 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.
- 4. All areas nominated as landscaping or garden areas on the approved plans shall be planted, with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises and maintained for the life of the development to the reasonable satisfaction of the Council.
- 5. 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.

6. 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. Street tree removal requires further action from you (the applicant). Council's Open Space team will send you a letter explaining the process associated with payment, street tree removal and street tree replacement. Following Development Approval, please contact Council's Open Space team to arrange for payment to be made. Please note that removal/replacement may only be undertaken by Council, and removal/replacement will not occur until after payment has been received. Please see Council's 'Development and Street Trees' Factsheet for further information.
2. Before commencing any site works, a temporary vehicular access to the property for machinery, delivery of building materials and general vehicles should be provided. In the case where no driveway invert exists, the kerb can be saw cut and removed at the intended location for the new driveway invert to provide the necessary temporary access. In addition, if a paved Council footpath exists, this should also be removed in alignment with the removed section of kerb. The applicant should also take note of other information provided regarding use of, damage to and construction on Council owned land.
3. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.

All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).

Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).

4. Any 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. 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.

REPORT REFERENCE: CAP161122 – 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022



Originating Officer:	Joanne Reid Development Officer – Planning
Applicant:	Mr Simon Voss
Development Description:	Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls
Elements:	Land division Fences and walls (retaining wall) Other residential (earthworks)
Site Location:	61A Woodend Road and 55A Woodend Road, Sheidow Park
Zone:	Hills Neighbourhood
Lodgement Date:	08/06/2022
Planning and Design Code:	26 May 2022 Version 2022.9
Referrals (Internal):	Development Engineer Coordinator Traffic and Parking Open space operations Senior Environmental Planner
Referrals (External)	SPC Planning Services
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:</i> <i>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 that involves a retaining wall that does not satisfy Hills Neighbourhood Zone DTS/DPF 11.3, and earthworks requires public notification as the exceptions to the exclusion from notification is triggered per Column B in Table 5 of the Zone.</i> <i>(Excavating and filling are listed within Part 5 of the P & D Code as additions to the definition of Development under Clause 1, Schedule 3 of the PDI Regulations, 2017)</i>
Application No:	21021528
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 two allotments at 61A and 55A Woodend Road, Sheidow Park.

The land at 61A is a vacant site in the form of a battle-axe to the rear of 61 Woodend Road. The 'handle' of the allotment is 17m wide at the road boundary then narrows to a width of 14m. The depth of the allotment is 185.34m and the width of the allotment at the rear boundary is 43.68m. The total area of the allotment is 6581m².

The land has a fall towards the south-west corner of the allotment with an approximate grade of 1 in 33. There is an existing stormwater and sewer easement located at the rear of the allotment. There are no trees located within the site.

The land at 55A Woodend Road is a vacant "L" shaped allotment located to the rear of 57A to 61A Woodend Road with a total site area of approximately 4 hectares. The land's only access is a 3m strip of land starting at Woodend Road and extending along the west of 57A Woodend to meet up with the larger parcel.

The land straddles two different zones. A residential area comprising approximately 11,500m² is located from the north-eastern corner and extending 74m to the west and 140m to the south with a further 'dog legged' portion to the east of approximately 97m long to the south of 53 Young Street. The remaining land south and west is zoned Open Space and includes a steep cliff edge and gully with vegetation along the southern boundary.

The residential section of the site is relatively void of trees. A line of eucalypts are located on the adjoining land at 53 Woodend Road, however, none are considered to be regulated or significant.

The residential portion of land has a fall in a north-east to south-west direction with a grade of approximately 1 in 14.

The open space portion maintains a relatively gradual slope along the western boundary before descending steeply into the Field River Gully.

Figure 1: Subject land 

Zone boundary



LOCALITY

The locality includes the entire portion of Woodend Road up to Charles Tank Drive to the east and Quartz Place to the west. To the south, allotments within Cabin Street, Signal Court and Locomotive Drive also form part of the locality.

Sanctuary Avenue and Liberty Street contain allotments forming part of a recently developed subdivision and the land at 63 Woodend Road has gained approval for 8 new allotments and public roads continuing access from 65 to 67 Woodend Road. Allotments at 59 and 69 Woodend road remain undeveloped whilst 57A has Development Approval for 3 community title allotments.

Allotments on the north side of Woodend Road and within Cabin Street, Signal Court and Locomotive Drive comprise established single and two storey dwellings on a range of allotment sizes varying from (on average) 320m² to approximately 800m². One exception is 37 Locomotive Drive which incorporates open space zoned land and is approximately 40000m².

Established dwellings are detached and due to the uneven topography of this locality, retaining walls form part of its character.

Land to the south of the of the site is part of the Field River catchment and is under the care and control of the State Government.

The land is in the Hills Neighbourhood Zone (the Zone) and the Open Space Zone of the Planning and Design Code (the Code), and the Suburban Neighbourhood Zone is located on the northern side of Woodend Road.

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

Figure 2: The Locality



PROPOSED DEVELOPMENT

The application seeks to divide the subject land to create 19 Torrens Title residential allotments. The allotments range in size from 427m² to 3646m². Specifically, it comprises the following:

- Creation of 18 allotments within Hills Neighbourhood Zone and one 'future reserve' allotment within the Open Space Zone.
- Creation of a public road, with access from Woodend Road and connector roads into existing approved land divisions on adjoining land to the east.
- Earthworks – Eastern side allotments (Lots 321 to 327 and 337 to 334) will predominantly comprise excavation and benching at various levels to facilitate future dwellings that accommodate split levels.
- Earthworks – Western side allotments (Lots 328 to 333) will comprise a combination of excavation and fill and benching at various levels to facilitate future dwellings that accommodate split levels.
- Drainage and stormwater management infrastructure.

To facilitate future development an Infrastructure Agreement between Council and applicant/developer has been entered into (subject to approval) in addition to a Land Management Agreement required to ensure the provision of 10KL rainwater tanks to satisfy Council stormwater disposal requirements.

PROCEDURAL MATTERS

Classification

The subject land is in the Hills Neighbourhood Zone of the Planning & Design Code (the Code) as of 26 May 2022.

The proposed development is not prescribed as “accepted”, “deemed to satisfy” or “restricted” development in the Zone.

The proposal is therefore “performance assessed development” pursuant to Section 107(1) the Planning, Development and Infrastructure Act, 2016 and will be assessed on its merits against the various provisions of the Code.

Additions to definition of development - Excavating and Filling of Land

Schedule 3, Part 1 of the Development Regulations (*additions to the definition of development*) identifies any excavating and/or filling of land in a zone or area identified under the Planning and Design Code for the purposes of this clause which exceeds 9m³ in total. Part 5 of the Planning and Design Code lists Hills Neighbourhood Zone as a zone in which excavation or filling is defined as Development, and as such, earthworks is included as an assessment element of development.

Public Notification

Clause 3 (f) and (h) of Table 5 – Procedural Matters in the Hills Neighbourhood Zone excludes notification for development comprising a dwelling and fence. Part 7 excludes retaining walls from notification.

Exemptions to the above exclusions relate to:

- Retaining walls that are higher than 1.5 metres.

Notification is required in this instance because:

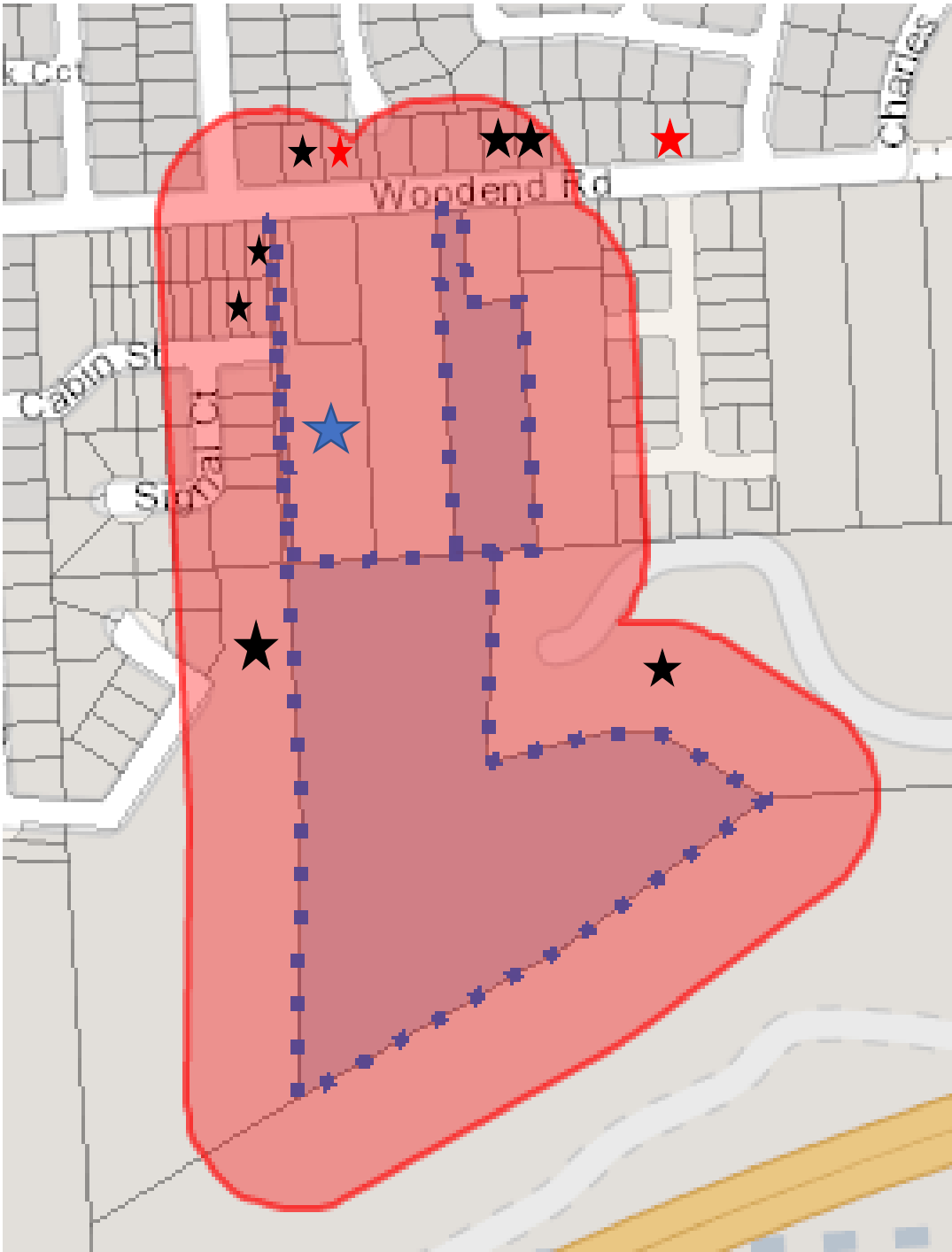
- Proposed retaining walls are over 1.5m high.
- Earthworks are not excluded from notification.




The application was publicly notified between 7 July 2022 and 27 July 2022. During this time twelve representations were received:

- two in support;
- eight in support of the development with some concerns; and
- two opposed.

One representor opposed to the application indicated a desire to be heard by the Council Assessment Panel. As such, Pursuant to the Marion CAP Instrument of Delegations, the Panel is the Relevant Authority

The Applicant response to the representation is included in Attachment 3 in this report.



-  Representation opposed
-  Representations in support with concerns
-  Representation in support

**Properties Notified
Representations**

- 68
12 received
- 2 oppose the development
 - 8 support with concerns
 - 2 support the development

**Representations
received**

1. Denise de Zwart of 53 Young Street, Sheidow Park
2. Nigel and Amy Ambagtsheer of 56 Woodend Road, Sheidow Park
3. Ann Dennis of 46 Woodend Road, Sheidow Park
4. Jesse Trento of 58 Woodend Road, Sheidow Park
5. EP EP of 57A Woodend Road, Sheidow Park

- Wish to be heard
- ✓
 - ✓
 - ✓
 - ✓

6. Wendy Hargraeves of 35 Locomotive Drive, Sheidow Park
7. Andrew Davoren of 44 Woodend Road, Sheidow Park
8. Adriano Mancini of 66 Woodend Road, Sheidow Park
9. Alexander Grochowski of 55 Woodend Road, Sheidow Park
10. Robert Luppino of 15 Cabin Street, Sheidow Park
11. Christine Matulick of 37 Locomotive Drive, Sheidow Park
12. Alan Dickson of 10 Tischendorf Street, Trott Park

Applicant Response A response by the applicant is included within the Report attachments (attachment 3).

External Referrals

SPC Planning Services

No objection, with comments (standard conditions included)

DPTI Mark Maintenance

No objection, with comments (advisory note included)

Department of Education

No comment

SA Water

SA Water did not provide a response within the specified timeframe, however, background discussions have been taking place between the applicant's engineers and SA Water.

Internal Referrals

Development Engineer

Ongoing discussions in relation to the Stormwater Management and the Infrastructure agreement have occurred throughout the assessment process.

Coordinator Traffic and Parking

It was recommended that an independent traffic consultant prepare a traffic assessment for this division to identify potential risks and also future growth anticipated from the additional dwellings.

Representations raise concerns with vehicle speeds in Woodend Road whereas recent traffic data indicated an average speed of 45 km/h which is reasonable and consistent with other traffic data captured along the street.

Comments were raised regarding cars parking on both sides of the street, road width of Woodend Road (approx 7.7m) allows cars to park on both sides legally, yes it reduces carriageway to one lane although this is common throughout the city and only an issue if the space between the cars is < 3.0m. This only occurs on streets with widths < 7.2m. Cars parking on-street act as a traffic calming device and if removed can introduce anti-social behaviour i.e speeding from the perception of the road being wider etc.

Open space operations

Considers that the area marked as 'future reserve' is best dealt with by advising the developer to enter into negotiations with State Government.

Senior Environmental Planner

This is an opportunity to raise with the State Government for inclusion in the Glenthorne National Park. The former "Sheidow Land" to the west and south has recently been handed over to State Government.

Discussions with a member of Green Adelaide indicated that this is a key parcel that DEW is interested in including in the new Field River public open space area.

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.

(underline my emphasis)

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.

Development that does not fall within a specified class in Table 3 will be considered "All Other Code Assessed Development", to which all relevant policies apply for the purposes of assessment.

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

- Native Vegetation and Water Resources Overlay
- Site areas and frontage widths/density
- Earthworks and retaining walls
- Infrastructure and Stormwater Management
- Traffic and access
- Open Space

Policies relating to the above planning considerations are found in the Zone, Overlays and General sections of the Code.

RELEVANT OVERLAY CONSIDERATIONS

Hazards (Flooding – Evidence Required): DO 1

Major Urban Transport Routes Overlay: DO 1, DO 2, PO 1.1, PO 2.1, PO 3.1, PO 4.1, PO 5.1, 7.1, 8.1, 9.1

Native Vegetation Overlay: DO 1, PO 1.1, PO 1.2, PO 2.1

Non-stop Corridors Overlay: DO 1, PO 1.1

Traffic Generating Development Overlay: DO 1, DO 2, PO 1.1, PO 1.2, PO 1.3

Water Resources Overlay: DO 1, DO 2, PO 1.1, PO 1.2, PO 1.3, PO 1.4, PO 1.5, PO 1.6, PO 1.7, PO 1.8

Native Vegetation Overlay

Native Vegetation Performance Outcome 1.1

Development avoids, or where it cannot be practically avoided, minimises the clearance of native vegetation taking into account the siting of buildings, access points, bushfire protection measures and building maintenance.

Native Vegetation Performance Outcome 2.1

Land division does not result in the fragmentation of land containing native vegetation, or necessitate the clearance of native vegetation, unless such clearance is considered minor, taking into account the location of allotment boundaries, access ways, fire breaks, boundary fencing and potential building siting or the like.

Native Vegetation Overlay is situated over the land zoned 'Open Space' and not the land zoned 'Hills Neighbourhood Zone' where division is proposed to occur.

Therefore, any clearance of native vegetation within the residential zone would not be protected as it is not within the Overlay.

The proposal does incorporate some additional fill benched into the 'future reserve' where the overlay is present. An environmental audit undertaken by an environmental consultant indicated that there was a regenerated patch of *Allocasuarina verticillata*, however this would not be impacted by the proposed development and it is not proposed to be cleared.

Water Resources Overlay

Water Resources Overlay Desired Outcome 1

Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.

Water Resources Overlay Desired Outcome 2

Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff

The Stormwater Management Plan incorporates measures to minimise flood risk, treat water quality and minimise stormwater pollution and erosion.

Strategies such as retention tanks, defined overflow routes and discharge systems, gross pollutant traps, diversion swales during construction and soil erosion management plans will assist in protecting the quality of surface water and managing impacts associated with the surrounding water catchment area.

ZONE CONSIDERATIONS

Hills Neighbourhood Zone: DO1, PO 1.1, PO 2.1, PO 11.1, PO 11.2, 11.3

Open Space Zone: DO1, PO 1.1, PO 1.2, PO 2.1, PO 2.2, PO 2.3, PO 3.1

GENERAL DEVELOPMENT POLICIES CONSIDERATIONS

Land Division: DO 1, PO 1.1, PO 1.2, PO 2.1, PO 2.2, PO 2.3, PO 2.4, PO 2.5, PO 2.6, PO 2.7, PO 3.1, PO 3.2, PO 3.3, PO 3.4, PO 3.5, PO 3.6, PO 3.7, PO 3.8, PO 3.9, PO 3.10, PO 4.1, PO 4.2, PO 4.3, PO 4.4, PO 4.5, PO 4.6, PO 5.1, PO 6.1, PO 7.1, PO 7.2

Design: DO 1, 9.1, 9.2

Design in Urban Areas: DO 1, PO 9.1, PO 9.2

Quantitative Snapshot Table

Provisions	DPF/TNV Guideline <i>(note as the application is Performance Assessed, the suggested DTS/DPF PROVISION/DPF is 'one way' of achieving the corresponding Performance Outcome)</i>	Proposed Development		
Site area (detached dwellings)	Where the site gradient is less than 1-in-8 – 450m ² Where the site gradient is 1-in-8 to 1-in-4 – 540m ² Where the site gradient is greater than 1-in-4 – 540m ²	Lot	Grade	Area (m²)
		321	1-in-25	432
		322	1-in-14	427
		323	1-in-17	427
		324	1-in-13	427
		325	1-in-10	427
		326	1-in-10	519
		327	1-in-10	524
		328	1-in-20	594
		329	1-in-7	594
		330	1-in-6	594
		331	1-in-6	594
		332	1-in-5	539
		333	1-in-8	843
		334	1-in-9	461
		335	1-in-9	461
		336	1-in-9	461
		337	1-in-9	461
		101	1-in-8	3646
Site frontage (detached dwellings)	Where the site gradient is less than 1-in-8 – 15m Where the site gradient is 1-in-8 to 1-in-4 – 18m Where the site gradient is greater than 1-in-4 – 18m	Lot	Grade	Frontage (m)
		321	1-in-25	13.86
		322	1-in-14	9.48m
		323	1-in-17	14.39
		324	1-in-13	14.39
		325	1-in-10	11.74
		326	1-in-10	14.64
		327	1-in-10	17.69
		328	1-in-20	22
		329	1-in-7	22
		330	1-in-6	22
		331	1-in-6	21.32
		332	1-in-5	23
		333	1-in-8	5.18
		334	1-in-9	17.9
		335	1-in-9	16.82
		336	1-in-9	15.9
		337	1-in-9	10.96
		101	1-in-8	28.5
Retaining walls	Retaining walls: Do not retain more than 1.5m in height Where more than 1.5m is to be retained in total, are stepped in a series of low walls not exceeding 1m in height and separated by at least 700mm	Wall north of allotment 328 – 1.7m (fill) Wall north of allotment 337 – 2.3m (cut) Wall south of allotment 334 – 3.3m (cut) and 1.3m (cut) Lots 334 to 337 – Stepped retaining of 1.5m and up to 1.3m (cut)		

Site areas and frontage widths

Hills Neighbourhood Zone, Performance Outcome 1.1 :

Predominantly low density residential development with complementary non-residential uses compatible with natural landforms and a low density residential character.

Hills Neighbourhood Zone, Performance Outcome 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.

The general character and pattern of building footprints in the locality are formed by dwellings in both the Hills neighbourhood zone to the south, east and west and Suburban neighbourhood zone, north of Woodend Road.

Allotment sizes to the south of Woodend Road vary considerably. There are six, large, original residential allotments, with a single dwelling occupying respective sites areas of between 5,000 – 8,000 square metres (approximately).

Most allotments within this locality are, however, in the order of 500 – 650 square metres, with some as low as 320 square metres along Cabin Street and Woodend Road.

The location of the proposed land division follows a similar line to that of the sites along Platform Avenue, Locomotive Drive and Ghan Lane to the west. Their boundaries also sit adjacent the Open Space Zone on the edge of the Field River gully.

Twelve of the proposed allotments satisfy the DPF/TNV for site area relative to their grade. Allotment 332 presents in a 1m² (2%) shortfall in site area, allotment 321 presents an 18m² (4%) departure and allotments 322 to 325 present a 23m² (5%) difference in site area.

Frontages for allotments 321 to 326 and 333 and 337 are also at variance to the DPF/TNV. Allotments 321, 322, 325, 326 and 337 incorporate a corner cut-off and an additional 3m provides an available width of 16.86m for allotment 321, 12.48m for allotment 322, 14.74m for allotment 325 and 17.64m for allotment 326. Allotment 337 has 15.8m available when the area for the corner cut-of is added. Allotment 333 has a 5.18m road frontage, however, retains an overall developable width and depth of 34m and 26m.

The shortfall of 1m² for allotment 332 is considered to be a minor variance with the allotment having a consistent frontage and depth as the allotments to the north, with a reduced area due to the shape of the roadway. The allotment's width is considered to compensate for the lack of depth of the allotment.

The sites which display the most disparity in the desired DPF of the Planning and Design Code are the sites that are the least steep. When considering that a 450m² site area is permissible on a site which displays a grade of 1-in-8, it is considered that a 5% shortfall in site area where the grade does not maintain a fall of the steepest of grades (that being no less than 1-10) is not unreasonable.

The allotment sizes and frontages are characterised as low density and display compatibility with the surrounding residential areas. The widths of the allotments are sufficient to incorporate a double garage and there is, in my opinion, sufficient depth to accommodate a three-bedroom single storey dwelling. This is demonstrated by the indicative dwelling shown in Attachment 1, whereby a two-storey split level has been designed on an allotment 334 which proposes a minimal depth.

The sites are proposed to be benched to a level that achieves a suitable grade between each site where the variance is no more than 550mm between each allotment. A total difference in levels of 1.25m between allotments 332 and 325 is proposed.

It is important to note that the proposed land division will provide the opportunity to access residential zoned land within the site of 55A which has limited access opportunities due to its surrounding open space zoning. The amalgamation of two larger parcels of land results in efficiencies and economies of scale with regards to infrastructure and a coordinated approach to deal with the landform whereby earthworks are necessary to ensure that the road is designed with a suitable grade and each site is able to access that road.

The proposed land division is considered to satisfy Land Division Desired Outcome 1 (b) and allows efficient provision of new infrastructure and enhances the accessibility of what could be an underutilised parcel of land within a residential zone.

The allotments are considered to have frontage and depth which are capable of containing a single or two storey dwelling (with nominal split). The proposed allotments that are undersized (allotments 321 to 325) when compared to the desired Technical and Numerical variation of the Zone, do not have a topography which requires significant alteration, other than that required to be compatible with the adjacent road network.

Accordingly, it is considered that Hills Neighbourhood Performance Outcome 2.1 has been achieved in that the sites are capable of accommodating dwellings which are proposed to be relatively sensitive to the natural topography and compatible with housing in the locality. The sites will facilitate dwellings that can achieve Hills Neighbourhood Performance Outcome 11.1, using techniques such as pre-benched levels to reduce the extent of earthworks for the development of each allotment.

Earthworks and Retaining Walls

Hills Neighbourhood, Performance Outcome 11.1

Buildings 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.

Hills Neighbourhood Zone, Performance Outcome 11.3

Retaining walls are stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping.

Land Division Performance Outcome 1.2:

Land division considers the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality.

Land Division Performance Outcome 2.1

Land division results in a pattern of development that minimises the likelihood of future earthworks and retaining walls.

Design in Urban Areas Performance Outcome 9.1:

Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.

Open Space Zone Performance Outcome 2.1

Development is designed and sited to be unobtrusive and not spoil the open space character or interrupt views of natural or landscape features.

Open space Zone performance outcome 2.3

Development is sited and designed to be compatible with the conservation and enhancement of the natural environment.

As has occurred to the surrounding redevelopments along Woodend Road, earthworks are required to ensure that the roadway can be constructed for safe and convenient entry and exit of vehicles and in accordance with Council's standards.

The Bulk Earthworks Plan (in attachment 1) shows the proposed earthworks and benching for the road and the allotments.

Allotments 321 to 327

The proposed development incorporates earthworks predominantly comprising the cutting of the eastern side of the land with allotments 321 to 327 in the vicinity of approximately 800mm for allotment 321 to approximately 1.2m for the slightly steeper sites of allotments 324 and 325. Each of these sites will be graded up to natural ground level where the maximum difference between the sites and the adjoining land is 1.4m (the adjoining land being higher ground).

The allotments incorporate split benches of no more than 1m to provide better integration with the natural ground level of the sites and support dwellings to include split levels relative to the natural lay of the land. Allotments 322 to 325 incorporate two splits whilst allotments 326 and 327 will provide three splits to accommodate a slightly steeper land fall.

Allotments 328 to 333

The allotments on the western side of the site on 55A, that being allotments 328 to 333, incorporate a mixture of cut and fill.

Allotment 328 comprises approximately a maximum 1.5m of fill. The retaining wall to the north, will vary in height to a maximum of 1.7m at the front of the site. However, for the majority, the retaining wall will be between 50mm and 1.5m, the highest point being where the front benched area section ends for a length of approximately 5.5m. This is considered to be reasonable within a Hills Neighbourhood context and is not considered to be at odds in the locality.

Despite the fill, the change in land fall between Lot 328 to 329 is considered to be reasonable at 1.2m.

Allotments 329 to 331 comprises a mixture of cut and fill, resulting in approximately 1m of cut at the front of the site and up to approximately 1.6m of fill towards the rear of the allotments.

Allotments 332 and 333 do incur the most fill of the allotments, resulting in a maximum of approximately 2m of fill towards the rear of the allotments. This notwithstanding, the additional fill will not give rise to overlooking or excessive retaining walls due to the proposed allotments location adjoining a 'future reserve' and as such, there are no significant amenity issues likely to occur as a result of the allotments proposed levels.

The transitions between each allotment are orderly with variances of no more than 1.2m between allotments 329 and 333.

To create smaller splits of no more than 1m between the allotments, and to eliminate the need for retaining walls, the fill is graded down beyond the allotments into the 'future reserve'. The fill will integrate into the future reserve and will not interfere with trees or any vegetation that has been identified as native, rare or significant.

In my opinion, it will result in an appearance that does not detract from the landscape as substantially as single retaining walls would. It is considered that the graded fill will not impact on the way any future reserve could be used, is somewhat unobtrusive and will not spoil views or the open space character. The proposed earthworks are considered to satisfy the relevant Performance Outcomes for the Open Space Zone in that the earthworks will blend in and transition into the open character of the reserve to display some compatibility with the natural surroundings.

Allotments 334 to 337 and Lot 101

The allotments comprising 334 to 337 do propose some extensive cut to provide a suitable integration to the proposed road way which has been graded to accommodate the levels on the lower side. To minimise the height of the retaining walls, a split of 3m between the front and the rear of the site has been provided to facilitate a dwelling design which will comprise two storey at the front and single storey to the rear.

An indicative dwelling on allotment 334 has been supplied to demonstrate that the sites are capable of incorporating a dwelling which relates to the lay of the land and results in retaining walls that are limited to 1.5m in height, concealed in cut and not result in visual impacts to the rear neighbouring property.

Retaining walls up to 3.3m are noted on the proposed southern boundary of allotment 334 and will be visible from within the allotment. However, it is considered that the location at the front of the allotment is such that a dwelling can be designed to minimise impacts of the structure. It is to the south of the allotment and will not result in overshadowing and as demonstrated in the indicative dwelling design, it is not located where the POS would be situated and can be landscaped to soften views of the wall.

It is also pertinent to note that this is the maximum height and its heights will be varied from 400mm when the graded adjoining land is taken into consideration.

Allotment 101 will accommodate the grading of the earthworks from the roadway. The allotment is 3646m² and despite its steepness along the southern boundary, it's size is sufficient to accommodate at least one dwelling on the land with sufficient space to take into account the undulating site features of the allotment.

It is acknowledged that the proposal requires significant earthworks in order to gain orderly access to the rear allotment, which is effectively landlocked, however has been zoned for residential use.

The additional earthworks to provide pre-determined site levels seek to provide a balance between a regulated grade for the access road, integrating with the natural topography of the land, providing each site with suitable access to the associated road, minimising the height of retaining walls (particularly in areas of fill) and encouraging split level homes to minimise the future retaining walls on each site.

The majority of earthworks proposed will be in cut, meaning that a large proportion of the land height will be reduced and subsequently result in a reduced building height of future dwellings on the land and associated retaining walls will not unreasonably impact existing residential allotments.

Where there is fill, it is not considered to be excessive within the context of the locality. Retaining walls are limited to 1.7m, a variance of 200mm when considering the 1.5m desired height limit outlined in the Planning and Design Code. Furthermore, the location of the retaining wall adjoining the land at 59 Woodend Road will not produce unreasonable visual impacts to that property or limit access to sunlight.

To this end, whilst the earthworks proposed are substantial, they are proposed to be undertaken in an orderly fashion and considered acceptable for the following reasons:

- The transitions between each allotment are reasonable and follow the fall in the land without requiring large retaining walls between each site.
- The proposed pre-determined site levels support the pattern of development and reduces the likelihood of future earthworks and retaining walls.
- The benching of fill over the 'future reserve' assists in alleviating the need for retaining walls without impacting on the intent of the open space zone or significantly affecting the natural character of the space or any existing vegetation.

- The height of retaining walls, where exposed to existing properties, are not of a height that is out of character with the locality and the larger retaining walls are in cut, not exposed to existing land, and sites could be adapted to minimise their visual impact in future through landscaping or building design.
- The 'future reserve' to the south will assist in preserving the environmental and open landscape character of the locality and provides a buffer to the built form, protecting the Field River landscape.

The earthworks associated with the land division are therefore considered to satisfy the relevant Performance Outcomes whereby it takes into consideration the physical characteristics of the land and maintains consistency with the prevailing context of the locality.

Infrastructure and Stormwater

Land division Performance Outcome 2.5

Development and infrastructure is provided and staged in a manner that supports an orderly and economic provision of land, infrastructure and services

Land division Performance Outcome 3.1

Land division provides allotments with access to an all-weather public road.

Land division Performance Outcome 4.1

Land division incorporates public utility services within road reserves or dedicated easements.

Land division Performance Outcome 4.2

Waste water, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment

The developer of the land has agreed to enter into an Infrastructure Agreement for the provision and construction of roads, footpaths, services, stormwater infrastructure and sewer.

The land division will connect to existing stormwater and sewer infrastructure where capable and new easements will be created along the western side of proposed allotments 329 to 333 and into the 'future reserve' as well as to the north of allotment 333, to the west of allotment 101 for the purposes of stormwater and sewer disposal. The required easements will be vested to Council and SA Water.

The applicant has provided a Stormwater Management Plan (Refer Attachment 1) which addresses the following:

- Stormwater drainage
- Stormwater retention
- Flood management
- Soil erosion management; and
- Stormwater quality treatment

Council's engineer is satisfied with the report and the provision of infrastructure which includes the entering into of an LMA for the provision of 10KL rainwater tanks for each allotment.

It is acknowledged that retention requirement exceeds the specified limit outlined in the Stormwater Management Overlay in the Planning and Design code. The increased tank size is required to limit discharge into the underground drainage pipes and maximise capture capacity of the runoff to mitigate against the risk of flooding locally and at downstream catchments.

SA Water advice has not been provided within the Regulation 76 referral timeframes. SA Water officers have however been in dialogue with the applicant and their engineers who have advised that they do not have any concerns with the proposed stormwater solution.

Whilst the provision of infrastructure is subject to detailed design, the detail sufficiently demonstrates that the proposed allotments are capable of being appropriately serviced and satisfy the relevant Performance Outcomes in this regard.

Traffic and Access

Land division Performance Outcome 3.2

Street patterns and intersections are designed to enable the safe and efficient movement of pedestrian, cycle and vehicular traffic.

Land division Performance Outcome 3.4

Road reserves provide for safe and convenient movement and parking of projected volumes of vehicles and allow for the efficient movement of service and emergency vehicles.

Land division Performance Outcome 3.9

Roads, open space and thoroughfares provide safe and convenient linkages to the surrounding open space and transport network.

The width of the roadway has been designed in accordance with the relevant engineering standards and provides a 7.2m wide roadway, with 3.4m verge widths on each side of the roadway. The southern end of the road-reserve will have a width of 25m, which, in the opinion of the independent traffic consultant, would readily accommodate a typical cul-de-sac.

Woodend Road access

The proposed development provides an access point off Woodend Road and was sought by the applicant to mitigate the risk should the adjoining land division and associated road infrastructure not be developed. It was also considered acceptable by Council's development engineer and was seen to provide better connectivity and emergency access.

A traffic engineer was engaged to consider the positioning of the access and the impact of traffic movements to and from Woodend Road from this access.

The sight distance from the proposed Woodend Road intersection was reviewed and measurements undertaken on site identified sight distances of 123m to both the east and west along Woodend Road. This reflects the Safe Intersection Sight Distance of a 60km/h roadway and it is therefore considered that sufficient sight distance will be available from the proposed roadway which has a speed limit of 50km/h.

Whilst the observations of speeding and parking of vehicles along Woodend Road is noted, it has not been demonstrated that this is common and widespread. Recent traffic data indicated an average speed of 45km/h and vehicles parking on both sides is acceptable provided there is more than 3m between vehicles, which is not the case in this circumstance. Furthermore, the parking of vehicles on both sides of the streets act as a de facto traffic calming device and assists in reducing speeds.

The proposed land division is unlikely to add to the above concerns as the proposed allotments are considered to be located a considerable distance for vehicles to utilise Woodend Road for general on-street parking. The wide frontages would allow for double driveways and on-street parking within the development area and the access points would result in the slowing of vehicles of those who reside within the proposed sites.

It is not considered that the additional traffic movements likely to occur from the proposed road will significantly increase the risk of conflict with the occasional vehicle inappropriately using Woodend Road and as such should not bear a large weighting in determining the outcome of this land division.

Traffic Movements

The existing traffic volumes on Woodend Road are approximately 1600 vehicles per day in the vicinity of the subject site.

An analysis from the traffic consultant identifies that the proposed development would result in approximately 199 weekday trips within the locality, split in the following ways:

- 133 daily and 13 evening weekday peak hour trips to the east
- 66 daily and 6 evening weekday peak hour trips to the west

The consultant considers that there is sufficient capacity on Woodend Road to accommodate the additional traffic anticipated to be generated by the land division when fully developed.

Waste collection

The traffic consultant considers that there is sufficient capacity on the proposed internal road network for waste collection vehicles to pick up household waste and turn within the proposed road network.

Accordingly, the proposed land division is unlikely to result in traffic volumes and vehicle movements that could not be tolerated by Woodend Road. The location of the intersection displays sufficient sight lines to be safe and convenient and the proposed internal road network meets the relevant standards for both standard vehicles and waste collection services. As such, the proposal is considered to satisfy the relevant Performance Outcomes.

Open Space

Open Space Performance Outcome 1.1

Development is associated with or ancillary to the provision of unstructured outdoor passive and active recreation facilities.

Open Space Performance Outcome 3.1

Land division supports the provision of public open space.

Land division Performance Outcome 2.2

Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.

Land division Performance Outcome 2.3

Land division maximises the number of allotments that face public open space and public streets.

Land division Performance Outcome 2.6

Land division results in watercourses being retained within open space and development taking place on land not subject to flooding.

The proposed development seeks to formally separate the land which is within the Open Space Zone. Labelled as 'Future Reserve', it specifies an intent to retain the land as open space.

It is noted that the site is not proposed to be 'free' from development, with the proposed grading down of fill into it and accommodation of an easement and pipework to support the residential land division. However, it is not considered that the proposed works will restrict the site from being used as it is intended, that being, vacant land which can support unstructured outdoor passive and active recreation. Further, the works will not impact any rare or native vegetation and the land can still be regenerated in future.

Council's Open Space department has not sought for this allotment to be vested to Council, however, initial discussions with staff in the Department of Environment and Water have indicated some interest

to acquire the land as part of a Field River public open space area. The parcel, however, will remain in private hands until such time as (and if) an agreement is reached and payment into the Planning and Development Fund is a condition of consent.

This notwithstanding, the delineation of this land as open space acknowledges the interface between the residential land and the environmental characteristics of the Field River and provides a natural buffer to the built form to maintain the open landscape character and predominant view from the Southern Expressway.

CONCLUSION

The majority of proposed allotments comply with the suggested minimum site area and frontage for their respective gradients and where there are variances in the site area, are not large discrepancies. The allotment sizes reflect a low-density pattern of development, and the shortfalls are not considered to inhibit the ability for future dwellings to be constructed that reflects the Planning and Design Code's Performance Outcomes.

The allotments reflect the scale and pattern of development present within the wider Sheidow Park locality. Furthermore, the development will provide additional housing choice, makes optimum use of underutilised land and infrastructure and given that residential development is reasonable and expected in the zone, will not detrimentally impact the surrounding area. The amalgamation of land and the number of allotments proposed will provide efficiencies in the provision of the necessary road and stormwater infrastructure.

The proposed earthworks seek to create roadway access that achieves regulation grade, accommodate allotments that gain access to the road and provide pre-determined bench levels that will assist in minimising future earthworks when the allotments are developed. The earthworks are predominantly in cut for the eastern side with some filling proposed for the western side allotments including some grading of the fill into the 'future reserve'.

The earthworks, whilst substantial, will not result in excessively high retaining walls that are exposed to existing properties. Some larger retaining is identified along the proposed allotments, however, these are not exposed to existing properties and dwellings can be designed around them to minimise its impact.

The variances between each allotment are reasonable and benched and graded in a manner that is reflects the topography of the land, although acknowledging that the alteration to the front portion of the sites at 334 to 337 are significant to align with the proposed roadway, however, effectively transition to a grade more closely aligned with the natural ground level.

The proposed development will provide connectivity to the recent land divisions of the sites from 63 to 67 Woodend Road and provide access to a 'land-locked' parcel of residential zoned land and the proposal is co-ordinated and complementary in this regard. The proposal will also delineate the boundaries between the residential area and the open space area and retain the open landscape interface to the west and the south.

All other matters relating to stormwater management, traffic management, environmental and geotechnical aspects have been reviewed and are considered to be satisfactory in this regard.

To this end, the proposed development is considered to satisfy the relevant provisions of the Planning and Design Code and warrants Planning and Land Division Consent to be granted.

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 and Land Division Consent for Development Application ID: 21021528 for a Conventional land division creating 19 allotments from 2, with public road and associated infrastructure, earthworks and retaining walls at 61A and 55A Woodend Road, Sheidow Park be GRANTED, subject to the following Conditions:

CONDITIONS

Planning Consent

1. The development granted Development Approval shall be undertaken and completed in accordance with the stamped plans and documentation,
 - Plan of Division, Job no. 18330, dated 22/6/22
 - Bulk Earthworks Plan with drawing no. 2109071-C100/PD, dated April 2022
 - Stormwater Management Report 2109071_SMR_B, by TMK Consulting Engineers and dated 19 May 2022)except where varied by conditions below (if any).
2. Prior to the commencement of any civil works being undertaken on the land in association with the approved development, a Soil Erosion and Drainage Management Plan (SEDMP) shall be prepared in accordance with best practice guidelines of the Environment Protection Authority 'Stormwater Management, Building and Construction', last modified 06 January 2021, https://www.epa.sa.gov.au/environmental_info/water_quality/programs/stormwater/pollution_prevention_for_building_and_construction_activities
The SEDMP must be first approved in writing by the relevant authority, prior to the commencement of any civil works being undertaken on the land in association with the approved development. The person(s) having the benefit of this consent shall ensure that the management measures outlined in the approved SEDMP are complied with at all times to the satisfaction of the Council.
3. All drainage infrastructure shall be located within registered easements on the land. A final plan depicting all proposed easements on the land, including the purpose, location and dimensions of any easement, together with the details of the land which is burdened by/in favour of any easement shall be provided to the relevant authority for its assessment and approval prior to a request for clearance being made pursuant to section 138 of the PDI Act 2016.

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.

4. Upon the completion of all works associated with the development, all necessary temporary road access arrangements and temporary barriers are to be installed on the land in accordance with the details submitted and shall conform at all times to Australian Standard AS/NZS 3845.1:2015 and shall be to the Council's satisfaction.
5. A final plan depicting all proposed easements on the land, including the purpose, location and dimensions of any easement, together with the details of the land which is burdened by/in favour of any easement shall be provided to the relevant authority for its assessment and approval prior to a request for clearance being made pursuant to section 138 of the PDI Act 2016.

Land Division Consent

1. Upon the completion of all works, all drainage infrastructure that is necessary to be installed on the land so as to ensure that all roads and allotments that are created within the land division can be adequately drained, shall be constructed to the satisfaction of the Council.
2. All roads and drainage infrastructure associated with the approved development shall be constructed in accordance with the Council's Standard Drawings, City of Marion Standard Drawings Combined 11 April 2022, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf> and shall be to the Council's satisfaction.
3. Stormwater associated with the development shall not be discharged into any watercourse without the prior written approval of the Council. In the event any discharge is proposed to any existing watercourse, the details of erosion prevention measures must first be provided to the Council for its consideration, assessment and approval.
4. Any drain which is necessary for the safe and efficient drainage of the land and the disposal of stormwater and effluent from the land shall be provided and constructed on the land in accordance with recognised engineering practice and shall be to the satisfaction of the Council.
5. All culverts, underground drains and inlets reasonably necessary for any proposed road forming part of the development shall be constructed on the land, in accordance with recognised engineering practice and shall be in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf> and shall be to the Council's satisfaction.
6. All stormwater infrastructure which is necessary for the safe and efficient drainage of the land and the safe and efficient disposal of stormwater from the land shall be designed and installed on the land in accordance with recognised engineering practice, and shall be to the satisfaction of the Council.
7. All side entry pits associated with the approved development shall be double chamber units comprising a concrete lintel frame and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf> and shall be to the Council's satisfaction.

8. All centrally graded road carriageways shall include a centralised spoon drain that shall be engineered so as to withstand heavy vehicle traffic loads, and shall be constructed to the Council's satisfaction.
9. The minimum road carriageway widths, as measured from the inside face of each kerb shall be 7.2m wide and shall be to the Council's satisfaction. Any indented parking bays on roads are to be constructed in accordance with the Council's requirements as set out in [City of Marion Road Hierarchy Plan, dated November 2005, date and hyperlink, i.e. Council's Road Hierarchy Plan, dated 31 June 2017, https://cdn.marion.sa.gov.au/sp/City-of-Marion-Road-Hierarchy-Plan-1_2021-11-30-032632_slsh.pdf].
10. All road verges on both sides of any carriageway shall be no less than 3.0 metres wide, when measured from the inside face of the adjoining kerb, and shall have a crossfall of 2.5%, and shall be to the Council's satisfaction.
11. Adequate road corner cut-offs shall be provided to ensure the provision of adequate sight lines for road users (including cyclists and pedestrians) to the satisfaction of the relevant authority.
12. All roads shall be designed and constructed in a manner which provides for safe and convenient access from adjoining driveways. Batter grades from all roads to adjoining allotments within the approved division shall be no steeper than 1 in 5, unless otherwise approved in writing by the Council.
13. All roads shall be designed in such a way so as to provide for the safe movement of all road users within the approved development, to the satisfaction of the Council.
14. The width of the road at the head of every cul-de-sac must be at least 20 metres for a length of not less than 20 metres, or such other dimensions as may be acceptable to the Council, provided such dimensions are first approved in writing by the relevant authority. Adequate provision shall be made for the turning of vehicles at the head of a cul-de-sac.
15. Sections of roads with direct property access shall have a maximum longitudinal grade of 12.5 percent and the head of any cul-de-sacs shall have a maximum grade of 10 percent unless otherwise approved in writing by the Council. Sections of road without direct property access may have a maximum longitudinal grade of 15 percent. Roads shall have a minimum grade of 0.3 percent.
16. All road pavement shall be designed and constructed to provide for a 20 year design life and shall be designed in accordance with the Austroads Pavement Research Group 21 document entitled; "A guide for the design of new pavements for light traffic" dated 3 March 2006 <https://austroads.com.au/publications/pavement/ap-t36-06> and the ARRB publication entitled "Sealed Local Road Manual" dated 2021 <https://www.arrb.com.au/bestpracticeguides> save and except the additional requirement for collector roads, namely that the minimum pavement thickness shall be 350mm incorporating 50mm asphalt seal, unless, in the Council's opinion, the design of the road requires a greater depth, which depth shall be to the Council's satisfaction.
17. Road reserves must only be filled with materials that are in accordance with Australian Standard 3798, and such filling must be supervised and subsequently certified by a suitably qualified Engineer, to the Council's satisfaction.
18. Before the roadway of any proposed road is sealed, the applicant must satisfy the Council that all connections for water supply and sewerage services to any allotment

delineated on the approved plan, which, in the opinion of the Chief Executive of the South Australian Water Corporation are necessary and need to be laid under the surface of the proposed road, have been made.

19. Road batters shall be constructed in a manner so as to ensure that such batters are stable and that the risk of soil erosion is minimised, and shall be to the satisfaction of the Council.
20. Footpaths shall be constructed on both sides of the street and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
21. Footpaths and driveway crossovers shall be constructed using reinforced concrete paving and shall be at least 1.5 metres wide, and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
22. All kerbing shall be of barrier kerbing type construction and shall be constructed in accordance with the Council's Standard Drawings, *City of Marion Standard Drawings Combined 11 April 2022*, dated 11 April 2022
<https://cdn.marion.sa.gov.au/sp/CoM-Standard-Drawings-Combined-11-April-2022.pdf>
and shall be to the Council's satisfaction.
23. The person(s) having the benefit of this consent shall, at their cost, ensure that any electricity mains are placed underground with all electricity services to be installed in accordance with recognised engineering practice, and shall be to the Council's satisfaction.
24. All necessary electrical services shall be installed on the land in accordance with recognised engineering practice, to the satisfaction of the Council.

Conditions imposed by SPC Planning Services under Section 122 of the Act

25. Payment of \$142,344.00 into the Planning and Development Fund (18 allotment/s @ \$7908.00 /allotment).
This payment will not become payable until the Certificate of Approval application under Section 138 has been lodged. At that time the Land Division Registration fee (currently \$1048.00), will also become payable. The total of the two fees must be paid in a single payment. Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.
26. A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Planning Commission for Land Division Certificate purposes.

NOTES

1. The conditions imposed on this development approval are associated with an Infrastructure Agreement between the developer and City of Marion.
2. A Land Management Agreement has been entered into which stipulates that
 - Development of any allotment created by deposit of the approved plan of division must incorporate a stormwater retention tank that complies at all material times with the following requirements:
 - a) capacity of not less than 10kL
 - b) connected to the roof of any dwelling;
 - c) plumbed into the laundry and toilets within the dwelling;
 - d) overflow discharge connected to the Council's stormwater drainage system;
 - e) installed prior to occupation of the dwelling erected thereon; and
 - f) maintained in good working order (or replaced in the event that maintenance is no longer viable).
3. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
4. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.

All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).

Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).

5. If you are a developer or owner-builder, there are important Commonwealth telecommunications rules you need to comply with. For more information visit www.infrastructure.gov.au/tind
6. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
7. The owner/applicant is advised that consent from any relevant easement or encumbrance owner may be required prior to any construction.

Easements may include, but are not limited to: drainage, Council easements (i.e. stormwater, encroachments, access etc), power transmission (SA Power Networks), telecommunications, or other forms of access (such as vehicle) rights of way.

Easements and encumbrances would be registered on the relevant Certificate of Title. The location of easements on the land would be shown on the Deposited Plan. A copy of the Certificate of Title and Deposited Plan can be obtained from the South Australian Integrated Land Information System (SAILIS) at: <https://sailis.lssa.com.au/home/auth/login>.

DPTI Mark Maintenance Advisory Note:

8. The following development application has been examined for PSM requirements: (see attachment)

DA100/D491/22

App ID 21021528

2 PSM's are required to be placed at the positions marked on the attachment.
The following numbers shall be used: 6627/30015 & 6627/30016

The new PSM's must be witnessed.

The following is to be supplied once the PSM's have been placed:

- Location sketches
- MGA 2020 coordinates

<https://app.plan.sa.gov.au/suite/webapi/file-download?doc=536BEF26-148E-1F19-8EA1-7E626C521B6F>

**5. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022**



5.1 APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

**6. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022**



No items listed for discussion.

**7. OTHER BUSINESS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 16 NOVEMBER 2022**



No items listed for discussion.