

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

Alex Wright
ASSESSMENT MANAGER

10 May 2023

Note: The plans contained in this Agenda are subject to copyright and should not be copied without authorisation.

**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 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 22034431

6 BEADNALL TERRACE GLENGOWRIE

Two storey detached dwelling incorporating a wall on the western boundary

Report Reference: CAP170523 - 4.1.....4

4.2 DEVELOPMENT NO 23000395

500 MORPHETT RD WARRADALE SA 5046, UNIT 1-4 156-162 STURT RD WARRADALE SA 5046

Change of Use and Construct New Singler Storey Office Building Including Associated Carpark, Carport, Landscaping, Fences, and Move Existing Light Pole

Report Reference: CAP170523 - 4.2.....21

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 17 MAY 2023**

9. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 2023**



No items listed for discussion.

**3. DEVELOPMENT ACT APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 2023**



No items listed for discussion.

**4. PDI APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 2023**



**REPORT REFERENCE: CAP170523 – 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 2023**



Originating Officer:	Alex Wright Team Leader – Planning
Application No:	22034431
Applicant:	Mr Casey Sprick, Design House SA
Development Description:	Two storey detached dwelling incorporating a wall on the western boundary
Site Location:	6 Beadnall Terrace, Glengowrie
Zone & Policy Area:	General Neighbourhood Zone
Lodgement Date:	5/01/2023
Planning and Design Code:	22 December 2022, Version 2022.24
Referrals:	Internal - Development Engineer
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	Not Excluded from Notification <i>'Dwellings' are excluded from Public Notification within the Zone UNLESS a length of wall exceeds 11.5 metres and/or 3 metres in height on the boundary. The proposed boundary wall is 12.09m in length and up to 3.78m in height (for 900mm width parapet).</i>
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 is located at 6 Beadnall Terrace, Glengowrie. The allotment is irregularly shaped with a dominate rectangular profile incorporating a splayed angled portion to the rear and angled front boundary. The allotment incorporates a frontage width of 16.82 metres, a depth of 45.7 metres and an overall allotment area of 885 square metres.

The subject land comprises a single storey detached dwelling on a large allotment, with ancillary development in the form of an outbuilding located to the south-west of the site, as well as a variety of vegetation, none of which is classed as regulated or significant. Access is provided via a single width crossover located to the western end of the northern frontage.



LOCALITY

The locality is predominately residential in nature, comprising a varied pattern of development and built form outcome.

Allotments to the south of Beadnall Terrace are located within the General Neighbourhood Zone, whilst land to north and west are located within the Established Neighbourhood Zone.

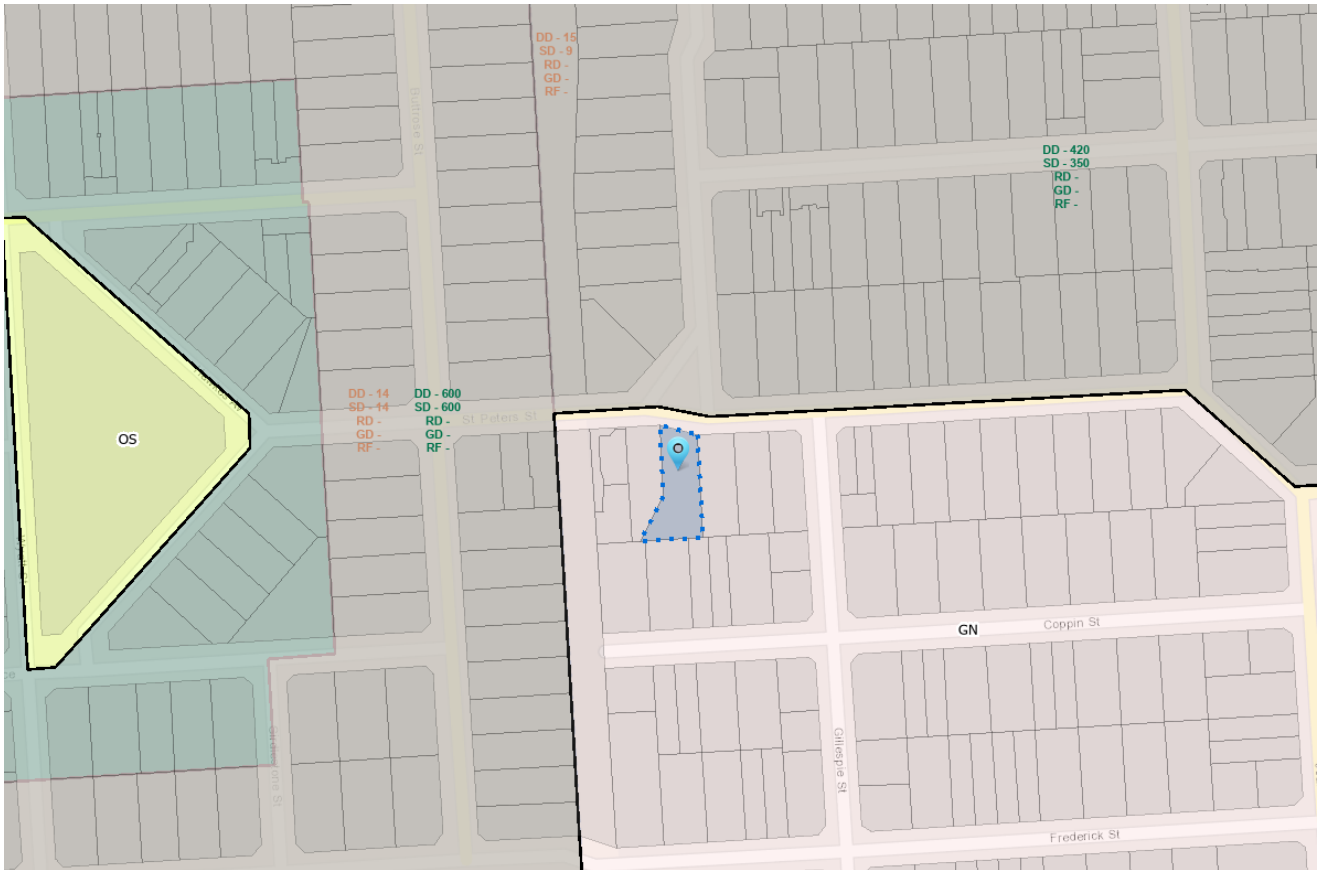
Unsurprisingly, dwellings and allotments within the General Neighbourhood zone vary in regard to their allotment size, dwelling composition and design/character, whilst the predominate character and density of dwellings within the Established Neighbourhood Zone has remained.

A place of worship is located the immediate north of Beadnall Terrace, in addition to the Butler Crescent- Beadnall Terrace intersection.

The Adelaide-Glenelg tramline is located approximately 450 metres to the north of the site, whilst several large areas of open space in the form of structured parks, Glenelg Oval and the Sturt Linear parkway are also located within 450-500 metres of the site.

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





Light grey: Establish Neighbourhood Zone (ENZ)
Light pink: General Neighbourhood Zone (GNZ)

PROPOSED DEVELOPMENT

The proposal seeks the construction of a two-storey detached dwelling incorporating a wall 12.09 metres in length and up to 3.78 metres in height (for a length of 950mm, before reducing to 3 metres) on the western boundary.

The proposal incorporates two bedrooms, living area, amenities and an open plan kitchen, living and dining area on the ground floor and two bedrooms, study, sunroom and amenities on the upper floor. A lift and staircase will provide access between levels.

Further incorporated under the main structure is a double width garage located to the front of the building; an open deck and ancillary structure (akin to rumpus room or habitable outbuilding) comprising two rooms and additional amenities is located to the rear. Given all these components are located under the dwelling's main roof, (in accordance with well-established planning practice and legal precedence), they are considered to form part of the main dwelling.

Access to the dwelling will be through the existing crossover.

PROCEDURAL MATTERS

Classification

The subject application is Performance Assessed by virtue of the proposed development not being listed within an Accepted, Deemed to Satisfy or Restricted classification under the Planning and Design Code.

Categorisation

'Dwellings' are excluded from Public Notification within the Zone unless a length of wall exceeds 11.5 metres and/or 3 metres in height on the boundary. The proposed boundary wall is 12.09m in length and up to 3.78m in height (for 900mm width parapet).

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

PUBLIC NOTIFICATION



Properties Notified	23
Representations	1 against the proposal received.
Wish to be heard	Mr Dickinson of 3 Coppin Terrace.
Applicant Response	A response by the applicant is included within the Report attachments.

Referrals

Development Engineer

Council's Development Engineer has reviewed the application as the allotment is located within the Hazards (Flooding – General) Overlay and advised the proposal is satisfactory in relation to the proposed finished floor levels.

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.

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

- Built form sitting and setbacks.

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

ZONE CONSIDERATIONS

General Neighbourhood Zone: DO1, PO 1.1, PO 3.1, PO 4.1, PO 5.1, PO 7.1, PO 8.1, PO 9.1

OVERLAY CONSIDERATIONS

Airport Building Heights (Regulated) Overlay: DO1, PO 1.1

Hazards (Flooding – General) Overlay: DO1, PO 2.1

Stormwater Management Overlay: DO1, PO 1.1

Urban Tree Canopy Overlay: DO1, PO 1.1

GENERAL DEVELOPMENT POLICIES CONSIDERATIONS

Clearance from Overhead Powerlines: DO1, PO 1.1

Design in Urban Areas: DO1, PO 8.1, PO 10.1, PO 17.1, PO 17.2, PO 18.1, PO 20.1, PO 20.2, PO 20.3, PO 21.1, PO 21.2, PO 22.1, PO 23.1 – PO 23.6, PO 24.1

Infrastructure and Renewable Energy Facilities DO 1, PO 11.1, 12.1

Interface between Land Uses: DO1, PO 3.1 – PO 3.3

Transport, Access and Parking: DO1, PO 5.1, 10.1

Quantitative Snapshot Table		
Existing Site Features		
Site Area	885m ²	
Frontage Width	16.82m	
Depth	52m (at greatest extent)	
Proposed Features		
Provisions	Proposed	DTS/DPF Guidelines
Site Coverage	448m ² / 55.6%	60%
Building Height	7.01m	9m, to building levels
Primary Street Setback	6.5m (closest point), increasing to 12.7m (furthest point).	Average of adjoining, minus 1 metre. (5 metres) 8: 8.5m 4: 8m (3 metres in front of proposed dwelling)
Ground side setback	East: 1m (minimum) West: On boundary, increasing to 1m (minimum)	900mm
Upper side setback	East: 2.8m (minimum) West: 3.27m (minimum)	900mm + 1/3 of wall over 3m = 2.02m
Ground rear setback	1.2m	0.9m
Upper rear setback	22.22m	Where site area is less than 301m ² : 3m; Where site area is 301m ² or greater: 4m
Wall on Boundary	Length: 12.05m Height: 3m *Wall incorporates a parapet up to 3.7m in height and a length of 952mm.	11.5m length; 3m height; 45% total boundary length
Car parking	5 spaces, 3 of which are covered	2 spaces. 1 covered
Private Open Space	276m ²	Where site area is 301m ² or greater: 60m ²
Soft landscaping total SL forward of dwelling	258.22m ² / 29.1% 59.7m ² / 64.6%	25% of the site 30% of land forward of the building line
Rainwater tank	4000L retention tank & 1000L detention tank	4000L Retention & 1000L Detention.
Tree	4 small trees proposed	1 large tree or 2 medium trees or 4 small trees
	Trees located to the rear yard	10m ² and minimum 1.5m dimension of soil area.

Note: As the application is 'Performance Assessed', satisfaction of the suggested DPF is 'one way' of achieving the corresponding 'Performance Outcomes'.

Land Use

General Neighbourhood Zone, Desired Outcome 1 seeks:

Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities.

Whilst General Neighbourhood Zone, Performance Outcome 1.1 seeks:

Predominantly residential development with complementary non- residential uses that support an active, convenient, and walkable neighbourhood.

Given the proposed development seeks to construct a dwelling not exceeding two levels, the proposal satisfies the applicable land use policies and is a class of development envisaged in the Zone.

Building Footprint and Siting

Front Setback

General Neighbourhood Zone, Performance Outcome 5.1 seeks:

Buildings are setback from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape.

Due to the angled nature of the front boundary the dwelling achieves a minimum setback of 6.6 metres, increasing to a maximum setback of 12.7 metres.

The allotment to the east (8 Beadnall) incorporates an approximate setback of 8.5 metres. Whilst the allotment to the west, (4 Beadnall) incorporates an approximate setback to its front boundary of 8 metres, it should be noted that due to the angled nature of Beadnall Terrace the proposed built form would be set back behind this dwelling by approximately 3 metres. The proposed front setback is considered to provide acceptable transition from the adjacent eastern dwelling to the adjacent western dwelling and contribute to the existing streetscape.

Side Setbacks

General Neighbourhood Zone, Performance Outcome 8.1 seeks:

Building walls are set back from side boundaries to provide:

- (a) separation between dwellings in a way that contributes to a suburban character***
- (b) access to natural light and ventilation for neighbours.***

The proposed ground and upper side setbacks reflect the outcome sought in Performance Outcome 8.1 as it provides;

- adequate separation that will contribute to the suburban character within the locality when viewed from the public realm; and
- appropriate access to natural light and ventilation for neighbouring properties

The merits of the boundary wall are discussed further below.

Boundary Wall

General Neighbourhood Zone, Performance Outcome 7.1 seeks the following:

Dwelling boundary walls are limited in height and length to manage visual and overshadowing impacts on adjoining properties.

The proposal incorporates a boundary wall 12.05 metres in length and, generally, 3 metres in height along the western boundary. A portion of the wall incorporates a parapet up to 3.7m in height, with a length of length of 952mm. The wall length and parapet height exceed the suggested DTS/DPF by 505mm and 700mm, respectfully.

The adjacent allotment to the west incorporates a dwelling wall on the boundary, and further incorporates an attached verandah (with lattice screening) on the boundary to the rear and a carport forward of the building line set-back approximately 250mm. The proposed wall will abut the entirety of the existing wall and protrude slightly to the north and south.

It should be noted that any boundary development contributes to impacts upon adjacent properties, and that Performance Outcome 7.1 seeks to manage these impacts. Whilst the extent of boundary development will result in some visual impacts upon the adjacent western property – i.e. when exiting the front door or standing in the rear POS area – these are largely limited as a result of existing development located on or within close proximity to the built form and will result in minimal extent of the structure being visible. The images, taken from the adjacent western allotment, provide further context of the wall's location and potential extent of visibility.

To this end, the boundary wall, on balance, is considered acceptable when considered against the intent of General Neighbourhood Zone Performance Outcome 7.1.



Image 1: View of proposed location of boundary wall taken from adjacent dwelling at 4 Beadnall Tce.

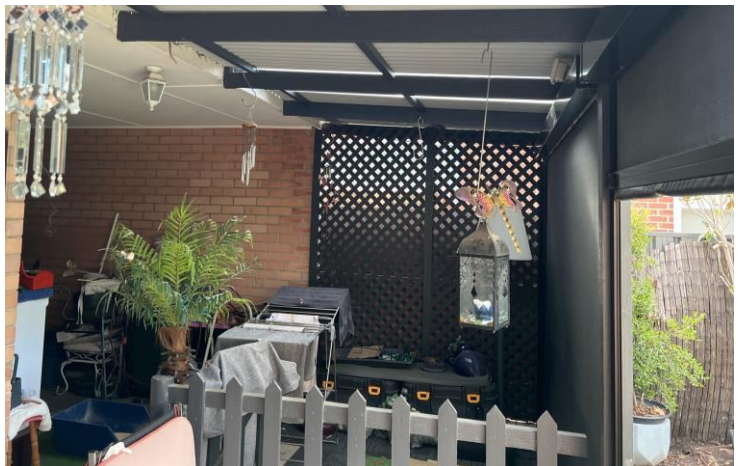


Image 2: View of proposed location of boundary wall taken from verandah area of adjacent dwelling at 4 Beadnall Tce.



Image 3: View of proposed location of boundary wall taken from rear yard of adjacent dwelling at 4 Beadnall Tce.

Rear Setbacks

The proposed rear setback, when considered against the corresponding numerical DTS/DPF guidelines for satisfying Performance Outcome 9.1, proposes the greatest departure. In this circumstance, a 1.2 metre setback is proposed whereas the suggested DTS/DPF guidelines suggests a setback of 4 metres.

The proposal must however be assessed against the qualitative provisions of General Neighbourhood Zone, Performance Outcome 9.1, which is highlighted below:

Dwelling walls are set back from rear boundaries to provide:

- (a) separation between dwellings in a way that contributes to a suburban character***
- (b) access to natural light and ventilation for neighbours***
- (c) private open space***
- (d) space for landscaping and vegetation.***

The Performance Outcome seeks to minimise impacts on the functionality and usability of the subject land, to maintain a residential-type character and ensure light and amenity impacts on adjacent allotments are minimised.

The proposed southern façade will be setback behind the existing fence by 1.2 metres, with the existing fence and subsequent separation assisting to provide some visual breakage. The dwellings on 3 and 5 Coppin Street are setback approximately 12.5 metres and 6.5 metres, respectfully; the extent of separation afforded is considered more than sufficient to maintain adequate natural light and ventilation.

Images 4 and 5, taken from the rear yards of 3 and 5 Coppin Street provide the Panel with an appreciation of the outlook currently experienced.



Image 4: Current northern view from as seen from rear yard of no. 3 Coppin Street.



Image 5: Current northern view from as seen from rear yard of no. 5 Coppin Street.

It is appreciated the outlook currently experienced by occupants of No. 3 and 5 Coppin Street, Glengowrie will change, especially the outlook experience by the occupants of no. 5 Coppin Street whose current outlook to a small-scale light-weight outbuilding will be replaced by a dwelling wall.

This notwithstanding I am of the opinion that the setback provides maintains appropriate access to natural light and ventilation.

In my opinion *'separation between dwellings in a way that contributes to a suburban character'* means the retention of a 'residential character' through the provision of built form outcomes which are consistent with the Code (and what the Code can facilitate) and are reflective of what occurs within a residentially based Zone.

There is no uniform provision of rear setbacks of dwellings within the immediate locality. Furthermore, it should be acknowledged that it is not uncommon for structures, in some form, to be located close to, or on, rear boundaries and that the Code further anticipates structures, albeit not necessarily dwellings, on rear or close to rear boundaries. The Zone and the Planning & Design Code contemplates the construction of ancillary structures between dwellings and boundaries, subject to satisfying applicable provisions.

In reviewing the locality, it is evident domestic outbuildings are located on, or within close proximity, to rear boundaries of a majority of allotments within the immediate locality. If the rear portion of the proposed dwelling (i.e. gym, office and bathroom component) was detached from the main building (i.e. not located under the main roof) it could/would be considered a habitable outbuilding, an element of development which does not have minimum rear boundary setback requirements. A Deemed-To-Satisfy pathway for such a development could in fact permit the construction of a boundary wall that is 12.5 metres in length and 3 metres in height, with no consideration of the impacts on adjoining properties or the character/pattern of development within the locality.

The subject dwelling is provided with 276 square metres private open space and 199 square metres of side/rear yard area that can accommodate future landscaping and vegetation. The proposed rear setback will not have any impact on the proposals ability to provide sufficient private open space or soft landscaping opportunities.

Whilst acknowledging the outlook experienced by adjacent occupants will change, when considering the actual impacts likely to be attributed to the 1.2 metre rear setback on adjacent occupants and

occupants of the subject land, I am of the view the proposal appropriately satisfies the intent and desired outcome of General Neighbourhood Zone Performance Outcome 9.1.

Site Coverage:

General Neighbourhood Zone, Performance Outcome 3.1 seeks:

Building footprints allow sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

The dwelling proposes an approximate building footprint of 448 square metres, which equates to approximately 55.6% of the site. Whilst the extent of building footprint is significant, it is considered proportionate to the overall size of the allotment and maintains the provision of acceptable separation around the built form. The overall building footprint is considered to satisfy the suggested DTS/DPF guidelines.

Design and Appearance

Design in Urban Areas, Performance Outcome 20.1 seeks:

Garaging is designed to not detract from the streetscape or appearance of a dwelling.

Design in Urban Areas, Performance Outcome 20.2 seeks:

Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.

The dwelling incorporates a modern design, choosing to provide a mixture of materials (brick, render and cladding), colours (white and grey), fenestration and articulation to promote a unique and highly attractive street presentation. The garage is setback to a greater degree than the remainder of the dwelling, and is complementary to the design of the dwelling, resulting in minimal dominance when viewed from the street.

All upper-level rear and side facing windows, with the exception of the stairwell, incorporate sill heights which will assist in mitigating the potential for overlooking.

The recessed upper levels and additional articulation assists in minimising the two-storey nature of the built form and it is considered that the built form and character is such that the general design responds appropriately to its setting within the streetscape and wider locality.

The proposed dwelling is considered to appropriately respond to the existing built environment and will positively contribute to the existing character of the locality, thereby satisfying Design in Urban Areas DO 1 and the applicable design related Performance Outcomes.

Other

The proposal is considered to appropriately satisfy the applicable Stormwater Management, Urban Tree Canopy and Hazards (Flooding – General) requirements through the provision of appropriate retention/detention tanks, tree plantings and finished floor levels.

It is noted the representor has raised concerns relating to potential noise occurring from the rooms located to the rear of the site. Noise primarily consisting of music or voices (or both) from an activity at domestic premises does not fall under the auspices of the PDI Act 2016 or the Local Nuisance and Litter Control Act 2016 and therefore Council has no available avenue to control or limit such noise from occurring. The Legal Services Commission of SA advises such complaints should, if

warranted, be reported to police who have wide powers to stop excessive noise. It is further noted construction of habitable rooms must meet minimum BCA and NCC requirements in relation to material and installation (these would be considered in the Building Assessment stage).

CONCLUSION

The proposal seeks to replace an existing dwelling with a new two storey dwelling, albeit one which proposes a significantly larger footprint and lesser setbacks than the existing.

Whilst the boundary wall dimensions slightly exceed the suggested DTS/DPF guidelines and the boundary structure will be visible from the separate vantage points on adjacent land, the extent of visual impact will largely be limited as a result of that dwelling's layout and, as such, the extent of structure visible is not considered to result in any adverse or unacceptable amenity impacts.

The proposed rear setbacks depart considerably from the suggested DTS/DPF guidelines however, when considered against the Performance Outcome criteria, it is clear the quantitative departure does not manifest in an unacceptable qualitative outcome.

The proposed dwelling's ability to provide appropriate private open space and soft landscaping areas is not compromised, nor is the ability for the adjacent dwellings to the immediate south to be provided with appropriate natural light and ventilation. In this regard the proposal satisfies General Neighbourhood Zone PO 9.1(b), (c) and (d).

It is acknowledged the outlook currently experience by occupants of allotments to the immediate south will change and that a built form with greater setbacks would provide more separation and reduce potential visual and amenity impacts. The locality includes multiple allotments with structures located on, or close to, rear boundaries with many of these ancillary outbuildings likely to present a less orderly and attractive appearance/façade. It is evident that structures, in some form, are anticipated to be sited on, or close to, rear boundaries. In this regard the proposal is considered to reasonably satisfy General Neighbourhood Zone PO 9.1(a).

It is further worthy to note, in regard to the proposed built form, should the structure have been proposed as a 'freestanding' or 'ancillary' structure and not incorporated into the dwelling via the main roof a different set of assessment criteria would apply. In this situation the location and setback of the built form could be similar or in some circumstances even sited on the rear boundary.

The proposal, on balance, satisfies most of the applicable Desired and Performance Outcomes, with the proposed boundary wall dimensions and rear setback being elements of the built form most likely to result in additional impacts on adjacent allotments.

Whilst the proposed built form will result in a changed outlook experienced from adjacent allotments, the extent of these departures is not considered unreasonable, nor fatal, to the overall merits of the proposal.

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 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: 22034431 to construct a two storey detached dwelling incorporating a wall on the western boundary at 6 Beadnall Terrace, Glengowrie be GRANTED subject to the following Conditions.

CONDITIONS

- 1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
- 2. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.
- 3. All car parking areas, driveways and vehicle manoeuvring areas must be constructed in accordance with the approved plans and 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. Any form of development on the property boundary (such as mortar joints on any face brickwork, blueboard material or similar, render etc) shall be finished in a professional manner and to the same standard as the remainder of the subject dwelling.
- 5. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.
- 6. 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 lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
- 7. 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).

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.

NOTES

1. 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>

2. 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.
3. The Fences Act 1975 details certain requirements and procedures in order to remove, replace or repair boundary fencing. If you intend to remove or repair an existing boundary fence, you are obligated to give the other affected neighbours 30 days notice to comment and respond as per a "Form 2". If a fence is removed (even if only temporarily) by a neighbour without the consent of the adjoining owner, or without following the procedure under the Fences Act, you may be liable to compensate the other owner.

For more information, please refer to the Legal Services Commission brochure titled "Fences and the Law". Copies are available at Council's Administration Centre, or online at <http://www.lawhandbook.sa.gov.au/ch31s02.php>.

As the proposal involves work on or near the boundary, it is recommended that the boundaries are clearly defined by a Licensed Surveyor prior to the commencement of any building work.

4. 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
5. 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).

REPORT REFERENCE: CAP170523 – 4.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON 17 MAY 2023



Originating Officer:	Ben Green Development Officer - Planning (Consultant)
Applicant:	Mr Robert McBryde
Development Description:	Change of Use and Construct New Single Storey Office Building Including Associated Carpark, Carport, Landscaping, Fences, and Move Existing Light Pole
Application No:	23000395
Site Location(s):	500 Morphett Road Warradale & 156-162 Sturt Road Warradale (comprising 4 allotments)
Zone:	Urban Renewal Neighbourhood
Lodgement Date:	10 January 2023
Planning and Design Code:	Operative Version 2022.24 - (22 December 2022 to 18 January 2023)
Referrals:	Commissioner of Highways (Direction)
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	<p>Public Notification required</p> <p>Office: Urban Renewal Neighbourhood Zone, Table 5, Clause 5(b) office, except development that:</p> <ol style="list-style-type: none"> 3. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary [...] and: <ol style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m (b) the height of the proposed wall (or post height) exceeds 3m measured from the top of footings <p>Carport and Fence: Urban Renewal Neighbourhood Zone, Table 5, Clause 3(d) carport and 3(h) fence, except development that:</p> <ol style="list-style-type: none"> 2. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary [...] and: <ol style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m
Recommendation:	That Planning Consent be GRANTED subject to Conditions

Attachments

Attachment I:	Proposal Plans and supporting documentation
Attachment II:	Statement of Representations
Attachment III:	Applicant's Response to Representations

SUBJECT LAND

The subject land consists of 5 allotments – including 4 allotments addressed as 156-162 Sturt Road Warradale, and 1 allotment located at 500 Morphett Road Warradale, identified as Lot 21 FP6920.

The subject land is located to the north-western corner of the intersection of Morphett Road and Sturt Road. The land has a total combined street frontage of approximately 55 metres with Sturt Road to the south, and 75 metres with Morphett Road to the east. The land has a total combined area of approximately 3,500m². The land is quite flat, having a north-north-westerly fall of approximately 1.4% (1-in-70).

500 Morphett Road is the northern-most allotment of the subject land and is currently occupied by a single storey detached dwelling with associated domestic outbuildings and structures. The allotment has an approximate width of 17.5 metres and an area of 650m². The site is located approximately 50 metres from the intersection with Sturt Road, and has its own vehicular access to Morphett Road on the northern side of the land.

The 4 allotments of 156-162 Sturt Road have a combined area of approximately 2,850m² and are occupied by a mixed tenancy office building and two associated car parking areas.

The existing office building has a combined floor area of approximately 1,100m² and is divided into 4 tenancy areas. The western carpark has 24 car parking spaces and is accessed via Sturt Road to the south. The northern carpark has 26 car parking spaces and is accessed via Morphett Road to the east.



Figure 1: Subject land (highlighted)

LOCALITY

The locality includes a variety of land uses at a variety of intensities. Some original detached dwellings remain (particularly to the immediate north and adjacent to the west of the subject Lot 21), notwithstanding much of the surrounding land has been redeveloped into either commercial uses or more compact forms of housing. Newer housing in the area is typically in the form of narrow semi/detached and terrace style housing, as well as residential flat buildings.

Commercial uses on the western side of Morphett Road and on the southern side of Sturt Road are generally single storey with floor areas typically ranging between 250m² and 1,000m². The land to the north-east of Morphett and Sturt Roads includes the Westfield shopping centre, as well as other small-to-medium sized commercial buildings.

The locality is intersected by Morphett and Sturt Roads, both of which are State-maintained arterial roads, carrying substantial traffic volume through this locality.

The subject land (and adjoining land) is located between Morphett Road at its eastern aspect and Hobart Avenue to the west and is situated within the Urban Renewal Neighbourhood Zone to the north of Sturt Road. Land adjacent to the south of Sturt Road bounded by Morphett Road and Branksome Terrace is also located within the Urban Renewal Neighbourhood Zone.

Land to the west of Hobart Avenue is contained within the General Neighbourhood Zone, whilst land further to the south lies within the Housing Diversity Neighbourhood Zone.

Land to the east of Morphett Road and north of Sturt Road (the Westfield triangle) is located within the Urban Activity Centre Zone.

The subject land and locality can be viewed via this [Google Maps link](#).

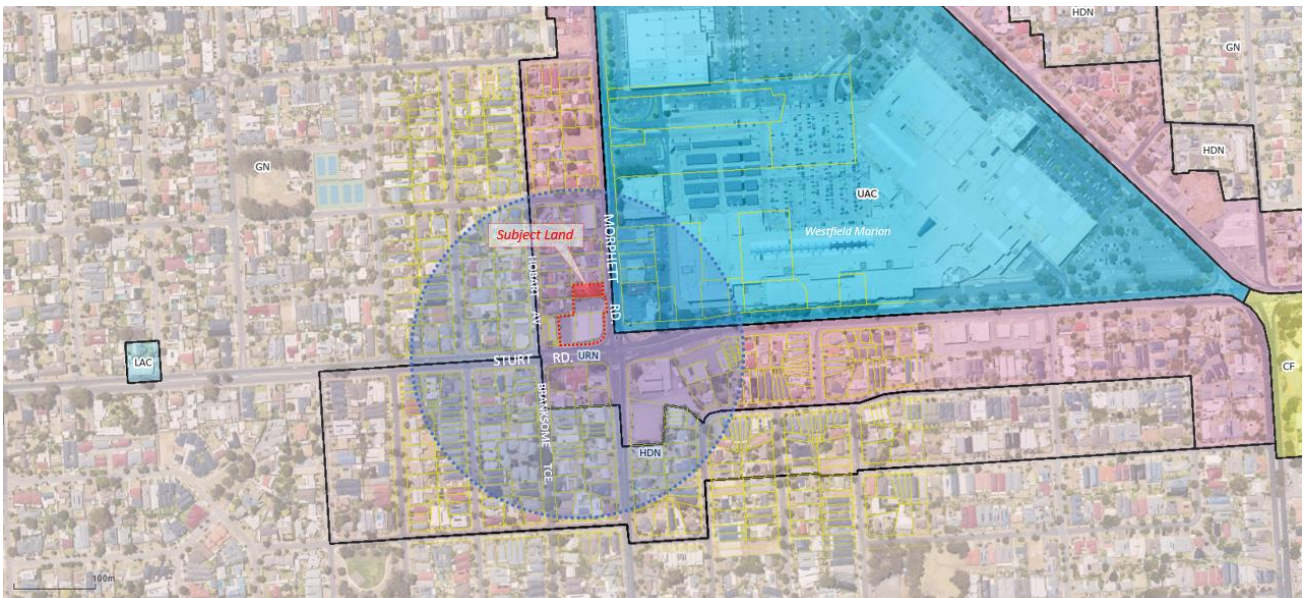


Figure 2: The locality (highlighted) and zone boundaries



**Figure 3: The locality
PROPOSED DEVELOPMENT**

The proposed development is primarily located at 500 Morphet Road, and would include demolition of the existing dwelling and associated structures, and construction of a new single storey office building with rear carpark, carport, and northern boundary retaining walls (to a maximum height of 400mm) and associated fencing. Carpark access is to be provided through the existing northern carpark of Lot 318, No. 156-162 Sturt Road, and would result in the removal of 3 existing car parking spaces to facilitate access.

The office building would have a floor area of approximately 245m² and be constructed on the northern side boundary. The building proposes a wall totalling 18 metres in length on the boundary generally at 3.0 to 3.15 metres in height above natural ground level (3.0 metres above finished floor level). This total length includes a shorter screen wall of 3.0 metres length at the rear of the building with a height of 2.25 metres above ground level.

The proposed carpark provides 11 car parking spaces, of which the western 6 parking spaces would be covered by the proposed carport. The carport would be cantilevered from 2.4 metre high support posts to be located in the western side boundary landscaping strip. The roof would have an area of 92m² and maximum height above ground level of 2.9 metres, with the highest side located furthest from the western side boundary.

The carpark civil works would include raising the finished ground level and associated northern boundary retaining up to 0.4 metres above natural ground level, located between the new office

building and the western boundary. The northern side boundary fence would be 2.1 metres high and installed on top of the proposed retaining wall, with a combined total height between 2.4 to 2.5 metres.

Access to the new carpark would be provided through the existing northern carpark of 156-162 Sturt Road. The access would require the removal of 3 car parking spaces, reducing the northern carpark spaces from 26 to 23 spaces. The access arrangement would be formalised by reciprocal easements for free and unrestricted right of way between the two affected allotments and Morphett Road via the 156-162 Sturt Road northern carpark access to Morphett Road.

The carpark access modifications would also include moving the existing light pole in the northern carpark to be setback 5.3 metres from the western boundary (2.6 metres closer to the western boundary than the existing pole location).

PROCEDURAL MATTERS

Classification

The subject land is located in the Urban Renewal Neighbourhood Zone of the Planning & Design Code (the Code) as of 22 December 2022.

The proposed development is not classified as “accepted”, “deemed to satisfy” nor “restricted” development in the Zone.

The proposed development is therefore “performance assessed development” under Sections 105 and 107 of the Planning, Development and Infrastructure Act 2016 (the Act), and will be assessed on its merits against the relevant applicable policies of the Code.

Public Notification

The proposed office building is not excluded by default under Table 5 of the zone due to the boundary wall exceeding 11.5 metres length and 3 metres height from footings upon the boundary (however the wall height was amended to be mostly 3.0 metres in height post notification).

Similarly, the proposed carport is not excluded by default under Table 5 of the zone due to the western boundary structure exceeding 11.5 metres in length (post height does not exceed the prescribed 3.0 metre height above footings).

The northern boundary fence, which is development due to exceeding a height of 2.1 metres, is also not excluded by default under Table 5 of the zone due to the length on boundary exceeding 11.5 m.

Given the above, the proposed development was publicly notified between 16 January 2023 to 6 February 2023. During this time one (1) representation was received who reside on the property to the north of the subject land. The representor was opposed to the development and indicated they wish to be heard by the Council Assessment Panel (the Panel). As such the Panel is the Relevant Authority to determine the development application under the Marion CAP Instrument of Delegations.

Referrals

External Commissioner of Highways

The proposed development would increase the number and frequency of movements through an existing access to a State Maintained Road (Morphett Road), and as such was referred to the Commissioner of Highways as required under the Procedural Matters table of the Major Urban Transport Routes Overlay of the Code.

Referral Response:

The Commissioner of Highways provided its referral response pursuant to Schedule 9 (3)(7) (Development Affecting Transport Routes and Corridors) with the power of direction on 16 February 2023, raising no objection to the proposal, and providing advice, with comments, conditions and/or notes as follows:

Condition 1

Vehicular access to serve the site shall be in accordance with the Site Plan by Aspex Building Designers, drawing number PD02, revision number D, date 31/12/2022.

Condition 2

All vehicles shall enter and exit Morphett Road in a forward direction. All onsite vehicle manoeuvring areas shall remain clear of any impediments.

Condition 3

The redundant crossover on Morphett Road shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense prior to operation of the development.

Condition 4

Stormwater run-off shall be collected on-site and discharged without impacting the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

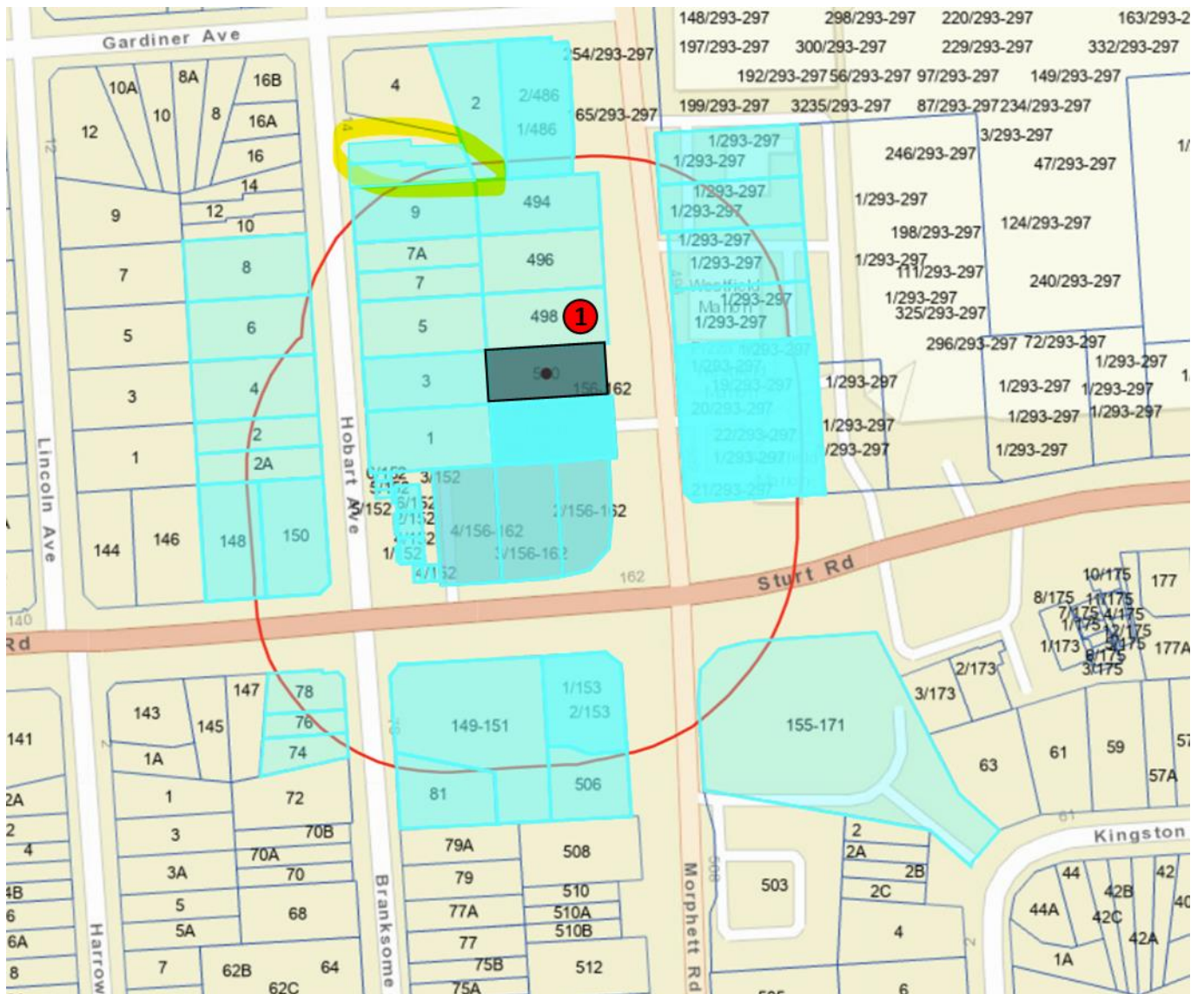
Advisory Note 1

Future Advertising signage should be consistent with DIT's publication 'Advertising Signs: Assessment Guidelines for Road Safety'.

Internal Development Engineer

Council's Development Engineer has reviewed the proposal in relation to the proposed finished floor levels and stormwater disposal and advised that whilst the proposed stormwater disposal is satisfactory, the finished floor levels should be increased a by 100mm (to 100.20).

PUBLIC NOTIFICATION



The above maps identifies all properties within a 60m buffer of the subject land.

Representations

- One (1) received - opposing the development.
- The representor has indicated a desire to address the Assessment Panel.

Representations Received

Name	Address	Wish to be heard	Position
Amit Chhikara	498 Morphet Rd. WARRADALE	Yes	Opposed

Applicant Response

A response by the applicant is included within the Report attachments addressing the matters raised and concerns of the representor.

AMENDED PLANS – POST PUBLIC NOTIFICATION

The applicant submitted a revised / amended plan package post public consultation in April 2023. Whilst not fundamentally altering the development proposal, it has provided some refinements including the following:

- Reduction of most of the height of the northern elevation side boundary wall of the office building from 5.0 to 3.0 metres above footing level,
- Reduction of masonry nib wall height abutting the northern elevation of the office building from 2.7 to 2.1 metres above footing level (the same height as the proposed replacement fence),
- Reduction of the height of the east (front) elevation parapet of the office building from 5 to 4.5 metres,
- Changing the roof profile to be a ridged roof aligned in the east-west direction,
- Changing the design of the rear (west) elevation parapet to reflect the amended roof profile and reduction of its overall height.

ASSESSMENT

The proposed development relates to both land use and built form. The 'change of land use' element of the proposal is assessed against the Urban Renewal Neighbourhood Zone policies and also assessed against all prescribed and applicable provisions of the Planning and Design Code.

The following Planning and Design Code criteria have been identified as relevant to the assessment of the subject application. These criteria are listed in full (together with their associated DPFs) in Appendix 1:

Zone / Subzone:

Urban Renewal Neighbourhood Zone – DO 1, PO/DPF 1.1(f), PO/DPF 1.2(b), PO 1.3, PO 1.5, PO/DPF 2.1(a), PO/DPF 3.1, PO/DPF 5.1, PO/DPF 6.1, PO/DPF 7.1, PO/DPF 10.2

Relevant Overlays:

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

Hazards (Flooding – General) Overlay - DO 1, PO/DPF 2.1.

Stormwater Management Overlay - DO 1.

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

Urban Transport Routes Overlay - DO 1, DO 2, PO 1.1, PO 2.1, PO 3.1, PO 10.1.

General policies:

Clearance from Overhead Powerlines - DO 1; PO 1.1

Design in Urban Areas - DO 1, PO 1.3, PO 1.4, PO 1.5, PO 2.1, PO 2.2, PO 2.3, PO 2.4, PO 2.5, PO 3.1, PO 4.1, PO 4.2, PO 4.3, PO 7.2, PO 7.3, PO 7.4, PO 7.5, PO 7.6, PO 7.7; PO/DPF 8.1, PO 9.1, PO 11.1, PO 42.1, PO 42.2, PO 42.3, PO 43.1.

Infrastructure and Renewable Energy Facilities – DO 1, PO/DPF 12.2.

Interface between Land Uses – DO 1, PO/DPF 2.1, PO 3.1 (b), PO 3.2, PO 3.3, PO 4.2, PO 6.1, PO 7.1.

Out of Activity Centre Development - DO 1, PO 1.1, PO 1.2

Site Contamination - DO 1, PO/DPF 1.1(b).

Transport, Access and Parking - DO 1, PO 1.2, PO 1.4, PO 2.1, PO/DPF 3.1, PO 3.3, PO 3.4, PO/DPF 3.5, PO 3.8, PO 3.9, PO 4.1, PO 5.1, PO 6.1, PO 6.2, PO 6.3, PO 6.4, PO 6.5, PO 10.1.

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

- Land Use
- Built Form
- Interface between Land Uses
- Parking and Traffic
- Environmental, Waste and Stormwater Management

Land Use

The Desired Outcome for the Zone seeks:

DO 1:

Housing and other land uses which no longer meet community preferences are replaced with new diverse housing options. Housing density increases, taking advantage of well-located urban land. Employment and community services will improve access to jobs, goods and services without compromising residential amenity.

The DO for the Zone is a broad policy statement seeking renewed / improved re-development at increased densities and indicates that establishing employment and community services should be of

a type which improves access to jobs, goods and services without compromising the residential amenity of these areas.

In conjunction with the Desired Outcomes for the Zone, PO / DPF 1.1 also identifies that the Zone contemplates a range of non-residential land uses that are compatible with higher density residential uses. Within the list provided in DPF 1.1 (amongst a range of residential forms of development) are other anticipated land uses including *Office*, *Consulting room*, and *Shop*, which in a commercial context are considered to be particularly low-key and low impact. In this regard, the proposed office will be operating within standard business hours and creates limited noise/external impacts on amenity of the locality. Other more active / intensive uses of land such as *Pre-school*, *Educational establishment* and *Place of worship* are also listed as envisaged land uses. The proposed office land use and intensity is considered to be appropriately low key and capable of co-existing within the subject mixed-use locality.

The locality is noted as being particularly commercially orientated, being at the interface of the Urban Activity Centre Zone. Therefore, in terms of character, this proposal is considered to provide a low-key / low-intensity transition between the existing more intensive Westfield Marion complex and its peripheral retail and commercial businesses and the adjoining residential uses to the west. This is considered to be desirable in respect of the character of the Urban Renewal Neighbourhood Zone and will form somewhat of a buffer for the nearby General Neighbourhood Zone to the western side of Hobart Avenue.

PO / DPF 1.2 and PO 1.3 of the Zone seeks that commercial development will comprise *small-scale shops*, *consulting rooms* or *offices* with floor areas of up to 250m² (outside of the Activity Centre), which improve accessibility to services within the zone.

Whilst these provisions are considered to be most applicable to areas which would benefit from increased availability of such small-scale commercial activity, it is also considered to be appropriate in respect of the areas fringing activity centres such as the Westfield Marion complex noting its predominantly retail and recreation focussed offerings. The establishment of peripheral commercial business to an area such as this, will increase the density of diverse commercial activity and encourage / result in a greater degree of these activities being utilised within single trip / visits to this locality, minimising additional travel.

To this end, non-residential uses are contemplated within the Urban Renewal Neighbourhood Zone, amongst existing and new higher density residential development, and the proposed development represents supplementary, business / service offerings which can benefit the residents of the surrounding neighbourhood-type zones within the locality.

The proposal's low-key and low-intensity activity purports a form of development which is readily capable of co-habiting the zone and locality without unreasonable adverse impacts.

Built Form

The Urban Renewal Neighbourhood Zone does not provide a great deal of explicit direction for the actual built form of non-residential development. The provisions relating to building height/bulk and scale, site coverage along with building siting and wall on-boundary relationships are provided in relevant Zone PO / DPF's 2.1, 3.1, 5.1, 6.1 and 7.1, as follows:

Parameter	DTS/DPF Guideline	Proposed Development	Performance Value Achieved?
Site Coverage	Nil.	< 59% - <i>Not inconsistent with Urban / neighbourhood site coverage principles – typically in the order of 60%</i>	Satisfactory

<i>Building Height</i>	12.5 metres 3 levels	4.7 metres (maximum height) 1 level	Satisfied
<i>Primary Road Setback</i>	Not less than 3 metres	3.8 metres (<i>excluding canopy / awning which projects 1.2 metres</i>)	Satisfied
<i>Boundary Walls</i>	No greater than 3 metres in height from the top of footings. No greater than 11.5 metres in length.	3.0 metres wall height above footings, with parapet heights of 4.5 metres to front and 3.4 metres to rear 18 metres building wall 'on boundary' (north side) – <i>with additional fencing to 2.4 – 2.5 metres in height on remainder of northern boundary.</i> 15.9 metre length carport structure 'on boundary' (western (rear) aspect, 2.4 metre post height - <i>with existing full width 2.0 metres high concrete block boundary fence to be retained.</i>	Satisfied Does not accord the DTS/DPF value – but considered to be acceptable – <i>see further performance assessment below</i> Does not accord the DTS/DPF value – but considered to be acceptable – <i>see further performance assessment below</i>
<i>Side Setback</i>	0.9 metres for a wall height less than 3m 0.9m plus 1/3 of the wall height above 3m for walls greater than 3m in height	1.2 metres office building south side boundary setback falls slightly short of the 1.4m setback required. 1.0 metres carport north side and 0.93 metres south side boundary setbacks.	The southern side setback of the building should be 1.4m to strictly meet the Code but a 200mm shortfall to a car park that forms part of this project is considered acceptable. Satisfied
<i>Rear Setback</i>	3 metres (first building level)	18.6 metres (office building rear wall to boundary setback.)	Satisfied

The above table identifies that the proposed buildings and their siting satisfies many quantitative provisions offered by the relevant Designated Performance Features for each parameter, with the exception of:

- Length of the office building wall upon the northern boundary, which exceeds the prescribed maximum by 3.5 metres, and
- Length of the total cumulative structures on the northern boundary comprising the additional fence / wall combinations (which exceed the parameters of an 'exempt fence' and so are accordingly assessed against the same provisions as any other buildings or structures), and
- Length of the carport structure upon the rear boundary, which exceeds the prescribed maximum by 4.4 metres, notwithstanding the existing boundary concrete block wall at 2.0 metres is maintained, and
- A 200mm shortfall on the southern side setback of the office building facing the existing car park.

In each of the above instances, where the performance value for walls / structures upon the boundaries have been exceeded, it is apparent that the composition of these walls and structures is

existing (western boundary wall) or is proposed to be established in order to provide a degree of physical separation from the proposed commercial activities on the land.

Whilst it is contemplated that as a relationship between residential allotments / dwellings, continuous walls on boundaries are not considered to be a good design trait (as it unnecessarily encloses and fortifies land, buildings and POS areas) in this instance the walls on boundaries seek to preserve the amenity of the neighbouring properties.

Contextually, the arrangement of walls on boundaries – particularly the northern boundary – are not considered to be unreasonable or inappropriate, given that the land and dwelling to the north:

- Holds a northern aspect – and is not subject to any overshadowing impacts by the proposal,
- Maintains reasonable side boundary separation, in the order of 1.5 metres itself – and is not deprived of natural light or ventilation for the dwellings' south aspect rooms or windows, and
- The land continues to enjoy large open spaces, including generous front setback, lawn and landscaping and a large Private Open Space (POS) area in the rear yard which is not subject to any overshadowing or overlooking by virtue of the subject walls & fences on the boundary.

Whilst the appearance of the proposed new office building is not in keeping with the nearby adjacent residential dwellings, the proposal provides an aesthetic and land use / intensity transition at its interface to the adjoining dwellings on its north and western aspects, which are not considered to be unreasonable within the Urban Renewal Neighbourhood Zone and the surrounding mixed use locality.

Interface Between Land Uses

The one representation which has been received (from occupiers of adjacent land to the north at 498 Morphett Road) have indicated their concern in respect of the commercial land use being established within a zone / locality which was inaccurately perceived as being for residential use only. They also perceive that their property may be subject to increased susceptibility to crime or antisocial behaviour / activities, dust, noise, light-spill and accidental damage, such as vehicle impact to boundaries.

An objective assessment in respect of antisocial behaviours / crime is difficult to assess at a planning level, and antisocial behaviour / activities or crime may occur regardless of the development or its factors. For instance, the establishment of commercial activities may also offer deterrents such as CCTV surveillance, security (or security systems), fencing and lighting of car parking areas, as is already present within the existing car parks of 156-162 Sturt Road.

Whilst these forms of interface impacts are a present concern for the neighbouring residents, they are only lightly touched upon by the Code – Performance Assessment provisions – within *Design in Urban Areas – Safety* – PO 2.1, 2.3, 2.4 and 2.5 in respect principally of passive surveillance opportunities only.

The other tangible impacts of concern, including dust, noise, light-spill and accidental damage have been suitably addressed in the response to the representation which confirmed the following, which are considered to reasonably respond to the elements of concern:

- New 2.1 metre high colorbond Good Neighbour fencing on the common boundary (measured from proposed ground level), which will provide a high level of security for the representor.
- The hours of operation of the proposed office will not exceed 7 am to 9 pm Monday to Friday and 8 am to 5 pm on Saturday.
- The car park is to be a bitumen finish, which will avoid dust nuisance.

- There are no (additional) high level static lights to be constructed in the proposed car park. Any external wall-mounted lights for the rear of the building will be motion-sensor operated to minimise any disturbance and will be shielded to minimise light spill onto neighbouring properties.
- One existing light pole on the abutting commercial site at 502 Morphett Road (on the southern boundary of the subject land) is to be relocated slightly to the west (the same distance from the representor's land), and so will not cause additional light spill of the representor's land.

The operation of the proposed offices accords with the hours of operation outlined in *Interface Between Land Uses PO 2.1* and *DTS/DPF 2.1*, whilst lighting can be appropriately configured to avoid light-spill into the adjacent residential properties (*PO 6.1*).

Considering the locality and existing interface with Morphett Road and the adjacent Urban Activity Centre uses / activities, it is considered that the contextual relationship (*Out of Activity Centre Development DO 1, PO 1.1 (a) and (c) and particularly PO 1.2 (b)*) at the edge of the UAC Zone is appropriate for the proposed office use. The actual impact of the proposed offices is considered to be negligible to the adjoining residential properties in this location.

Traffic interface and onsite parking / manoeuvring have been addressed by the applicants' traffic and parking consultants, and is considered to represent an appropriate arrangement for access and egress through the existing carpark and crossover to Morphett Road.

Parking and Traffic

Access from Morphett Road is obtained through the existing northern car park of 156-162 Sturt Road (Lot 318), and will remove 3 of the existing parking spaces to provide the access to the new car park.

The proposed parking arrangements have been assessed by Phil Weaver & Associates - Traffic Engineering Consultants, in respect of access & egress, internal manoeuvring and parking suitability / ratio (including the maintained compliant parking ratio for the existing development at 156-162 Sturt Road with respect to the 3 car parking spaces lost to the new carpark access), and concludes that:

The proposed development will:

- *Provide a design standard that is appropriate and more than meets the dimensional requirements of the relevant Australian Standards for off-street car parking areas for a proposed office use,*
- *Generate traffic volumes that are appropriate for the zoning and location of the subject site, via use of an existing access point and will reduce the number of crossovers within this section of Morphett Road. Unlike the current residential dwelling there should be no requirement for drivers associated with the proposed development to reverse either into or out of Morphett Road, and*
- *Not result in adverse traffic or parking impacts within the locality particularly given that all traffic movements generated by the subject development will both enter and exit the site in a forward direction via an existing two-way access point on Morphett Road.*

It is anticipated that Morphett Road and Sturt Road, as State-maintained arterial road corridors, will readily accommodate the volume and nature of traffic generated by the proposed development, which fundamentally includes a number of staff and potential for customer / client parking (and the car park configuration is considered to be able to accommodate the anticipated parking requirements).

The proposed use will see a moderate increase in traffic within the locality, however given the existing volume of traffic movements to and from the locality (including other adjacent commercial premises and the Westfield Complex, the proposal is not considered to present any particular focussed traffic impacts. In this respect, it is likely that customers / clients will make use of shared and other adjacent parking options as part of a single trip to multiple destinations accessible without driving between destinations, as identified in *Transport, Access and Parking – Vehicle Parking Rates - PO 5.1 (b) & (c)* and *Vehicle Parking Areas - PO/DPF 6.1, PO 6.3*.

The eleven (11) proposed car parking spaces satisfies *Table 1 - General Off-Street Car Parking Requirements through the provision of a rate of 4 parking spaces per 100m² of floor area*. It is also noted that the locality is well serviced by public transport options.

The proposed car parking facilities are considered to be safe, have convenient and readily interpretable points of access and manoeuvring spaces and are at a level supported by a qualified and experienced traffic engineer in accordance with the Code and the nature of office use proposed. Both the proposed and the existing northern car parks are afforded a good degree of passive surveillance and lighting from the existing light poles at the northern boundary of Lot 318 / south aspect of the subject land.

Environmental, Waste and Stormwater Management

Council's Development Engineer has reviewed the proposal in relation to the proposed finished floor levels and stormwater disposal and advised that whilst the proposed stormwater disposal is satisfactory, the finished floor levels should be increased a by 100mm (to 100.20). Should the Panel be of the mind to approve the application, it is recommended a Reserved Matter be attached to the consent seeking an amended engineering plan detailing minimum finished floor levels of 100.20.

Stormwater generated from sealed areas and roofed buildings is to be diverted to a 6000 litre detention sump / pumping chamber to manage peak stormwater flow, which discharges to the Morphett Street water table in close accordance with *Stormwater Management Overlay - PO / DPF 1.1*, which is not directly relative to commercial activity. There is no proposed re-use for captured / detained stormwater.

Similarly, the Urban Tree Canopy Overlay makes reference in its Desired Outcome DO 1 and PO 1.1 to residential developments – and whilst the proposal is not residential in nature, it does provide pervious and landscaped areas in the order of approximately 68m². The landscaping proposed and incorporates generally low landscaping with shrubs and grasses and incorporates two (2) equivalent *Medium trees (Urban Tree Canopy Overlay – PO/DPF 1.1)*, identified as *Native Gardenia – aka yellow mangosteen – (Atractocarpus fitzalanii)* with a mature height to 6.0 - 8.0 metres and spread of 4.0 metres, which surpasses the requirements for urban tree canopy cover.

The site is serviced by SA Water Corp. sewer infrastructure as well as potable / domestic water supply provisions.

The site plans confirm that general waste is to be contained within bins behind the office building in a dedicated space. The bin area is screened by a 2.1 metre high wall on the northern boundary and behind a shared space (in the car park) that provides ease of access for bins to be taken to the road. Within the traffic report forming part of the application it was stated that, *"given the relatively small size of the subject development it is anticipated that waste and recycling generated by the office development could be collected by Council's waste contractor directly in front of the site on Morphett Road in a manner similar to that generated by the existing residential dwelling on the subject land."*

CONCLUSION

The proposal seeks Planning Consent for the demolition of the existing dwelling and re-development of a single storey office building of 250m² (nominally to be utilised in two tenancies). It also incorporates an associated new carport structure, car parking facilities, fences / walls and landscaping. It is situated within the Urban Renewal Neighbourhood Zone and lies directly opposite to the Urban Activity Centre Zone occupied by the Westfield Marion complex.

The main assessment considerations attributed to the development relate to the proposed land use and interface with the adjoining residential properties, some of which have been raised and addressed following the public notification process (via amendments).

The proposed development is considered to predominantly accord with the quantitative Code – Performance Assessment provisions, and where the Code's DTS/DPF values have not been explicitly met, the proposal has been assessed generally as sufficiently satisfying the Performance Outcomes and overarching Desired Outcomes identified within the prescribed assessment provisions of the Planning and Design Code to warrant Planning Consent.

Notably, notwithstanding the public notification representation received and the views / concerns expressed, the proposal is of a type of development which is envisaged within the Urban Renewal Neighbourhood Zone. The proposal also affords opportunities for commercial activities (within defined scale limitations) to be established and become accessible for the surrounding neighbourhood and residents' convenience. Furthermore, the proposal lies at the fringe of the Urban Activity Centre Zone, where the soft transition between higher-intensity / large scale retail and entertainment activity occurs and the establishment of smaller scale, lower-intensity commercial activities creates a graduated transition towards the more predominantly residential neighbourhood-type areas, thereby reducing interface impacts with sensitive receivers.

The proposal is considered to present an overall built form, nature and intensity of use, which is considered to be suitably capable of cohabitating the zone and locality without unreasonable adverse affects to the nearby neighbouring residential occupancies.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Planning and Design Code, in accordance with Section 126(1) of the *Planning, Development and Infrastructure Act 2016*.

It is considered that the development exhibits sufficient merit when assessed on balance against the relevant Desired Outcomes and Performance Outcomes of the P&D Code to warrant Planning Consent subject to the conditions and notes listed below.

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 variance 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: 23000395 for the Change of Use and Construct New Single Storey Office Building Including Associated Carpark, Carport, Landscaping, Fences, and Move Existing Light Pole, at 500 Morphett Road and 156-162 Sturt Road Warradale, be GRANTED subject to the following Reserved Matter and Conditions.

RESERVED MATTER

Pursuant to section 102 (3) of the Planning, Development and Infrastructure Act of 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval:

1. An amended engineered siteworks plan shall be provided to the Council Assessment Manager detailing the proposed Finished Floor Levels at 100.20.

CONDITIONS OF CONSENT

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. The operating hours shall be limited within the following times:
Monday to Friday (inclusive) 7:00am to 9:00pm (excluding public holidays) and
Saturday 8:00am to 5.00pm (excluding public holidays)
3. All landscaping shall be undertaken in accordance with the approved landscaping plan(s) and detail(s), with all planting to be established within the first planting season following practical completion of building work, and shall thereafter be maintained in healthy condition, to the satisfaction of the Council Planning Authority, with any diseased or dying plants being replaced as / where required.
4. All waste and other rubbish shall be stored in a manner so that it does not, in the reasonable opinion of the Council, create:
 - insanitary conditions on or off the site;
 - an unreasonable nuisance off the site; or
 - pollution to the environment (including by pollution caused by substances, materials or things entering the stormwater system either by wind or water).
5. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.

6. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.
7. All external lighting must be designed and constructed in accordance with Australian Standard (AS 4282-1997).

CONDITIONS OF CONSENT (Department of Infrastructure & Transport)

1. Vehicular access to serve the site shall be in accordance with the Site Plan by Aspex Building Designers, drawing number PD02, revision number D, date 31/12/2022.
2. All vehicles shall enter and exit Morphett Road in a forward direction. All onsite vehicle manoeuvring areas shall remain clear of any impediments.
3. The redundant crossover on Morphett Road shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense prior to operation of the development.
4. Stormwater run-off shall be collected on-site and discharged without impacting the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

ADVISORY NOTES

1. The Local Nuisance and Litter Control Act 2016 has restrictions relating to the control of noise, dust, smoke, odours and unsightly conditions in the urban environment. Please note that conditions of this nature which unreasonably affect the amenity of neighbours may contravene the Act.
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.

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.

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 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.**

ADVISORY NOTES (Department of Infrastructure & Transport)

1. **Future Advertising signage should be consistent with DIT's publication 'Advertising Signs: Assessment Guidelines for Road Safety'.**

**5. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 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	Next conference currently scheduled for 31st May 2023.
100/2021/0195	3, 7 and 9 Franklin Street Sturt	13/01/2023	GRANTED	REFUSE	Conciliation conference adjourned for 12 May 2023.

**6. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 17 MAY 2023**



No items listed for discussion.