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WEDNESDAY 1 JULY 2015**

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DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.1
Originating Officer:	Rhiannon Hardy Development Officer - Planning
Applicant:	Telstra Corporation
Development Description:	A telecommunications facility, incorporating a monopole with a total height 31.94 metres above ground level
Site Location:	Lot 61 Denham Avenue, Morphettville (Kellett Reserve)
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 3 / Consent
Lodgement Date:	06/02/2015
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2015/208
Recommendation:	Development Plan Consent (Granted)

BACKGROUND

Development Application 100/2014/376

In March 2014, Telstra lodged Development Application 100/2014/376 which proposed to construct a telecommunications facility at 142 Morphett Road, Glengowrie. The development application was refused by Council's Development Assessment Panel (DAP) at its meeting held on 3 September 2014.

Telstra lodged an appeal with the Environment, Resources and Development (ERD) Court against this decision in November 2014 (ERD-14-318). The appeal is currently on hold pending investigation of alternative sites for the proposed facility.

Commercial Lease

Following discussions between Council staff and Telstra, Kellett Reserve has been identified as a potential alternative site, which is owned by the City of Marion. In order for the proposed telecommunications facility to be established on the land, the Council would need to enter into a commercial lease with Telstra.

The proposed commercial lease was presented to the Council at the General Council meeting held on 28 April 2015. At this meeting, it was resolved that Council:

1. Supports progressing negotiations to enter into a commercial lease with Telstra for the installation of a telecommunications facility, incorporating a monopole 31.16 metres in height, on Kellett Reserve subject to development approval and community consultation.
2. Notes that such telecommunications facility has the potential for inclusion of a light tower incorporated in the same structure.
3. Note that following the conduct of relevant processes associated with a telecommunications facility on Kellett Reserve, that a further report will be brought to Council seeking approval to enter into a commercial lease with Telstra.

The further report seeking Council approval to enter into a commercial lease is due to be presented to the General Council Meeting on 14 July 2015.

Category

The subject application is a Category 3 Consent form of development by virtue of Section 38 of the Development Act 1993, which prescribes that any development that is not assigned to Category 1 or 2 by the Development Regulations or a Development Plan will be taken to be a Category 3 development. The development does not fall within Category 1 criteria prescribed by Schedule 9 Part 1 2(g) of the Development Regulations 2008, as the proposed development is not considered to be of a minor nature.

Delegation

Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel (DAP).

Additionally, the application requires referral to the DAP given that the Council would gain a financial profit from a commercial lease with Telstra over the portion of the subject land upon which the telecommunications facility is proposed to be sited. It is Administration's view that the DAP is best placed to assess and determine applications where council owned assets or financial interests are involved.

In the interests of transparency, the Manager – Development Services wrote to the Hon John Rau MP requesting that the Development Assessment Commission be appointed as the relevant authority in relation to application. However, the Minister's delegate responded as follows:

"Having considered the matter there does not appear to be sufficient justification for the Commission to be appointed the relevant authority, particularly as section 34 (1) (1 b) of the Development Act 1993 envisages such circumstances and allows a council to assess and determine applications, even where council owned assets or financial interests are involved.

Each council has an independent Development Assessment Panel appointed for their professional expertise and independent decision-making. This provides a clear separation between the planning and administrative functions of a local authority.

It is my view the City of Marion is best placed to consider this local issue and to consult with affected residents and landowners in accordance with the notification requirements under the Development Act and Regulations."

SUBJECT LAND & LOCALITY

The subject land comprises allotment 61, FP 10392, contained in Certificate of Title 5888/045, known as Kellett Reserve. The allotment maintains a total area of 15,400 square metres.

The land accommodates the Morphetville Park Sports Club (MPSC) with clubrooms located in the north-western corner of the site. A series of mature Eucalyptus trees are located along the western boundary of the land (along Quinn Street), while a few smaller mature trees are also located in the south-eastern corner of the site.

The locality is predominantly residential in nature, as the subject land and adjacent properties are all contained within the Residential Zone. The subject land is in the Northern Policy Area 13, while the Regeneration Policy Area 16 is located north of Denham Avenue and the Medium Density Policy Area 12 is located west of Quinn Street.

Dwellings in the locality are predominantly single storey, however several new dwellings are two-storey. Newer housing stock at higher densities is common in the areas south, east and west of Kellett Reserve. The predominant housing type north of the reserve is 1950s maisonettes built by the SA Housing Trust, which are now in a combination of both public and private ownership.

The Neighbourhood Centre Zone is located approximately 75 metres west of the subject land, at the corner of Denham Avenue and Morphet Road. This Zone accommodates a group of shops including IGA supermarket and Australia Post outlet.

Morphett Road is located approximately 160 metres west of the site of the proposed facility.

Refer Attachment I & II

PROPOSED DEVELOPMENT

The application proposes to lease a portion of the subject land to accommodate a telecommunications facility. The proposal consists of the following elements:

- a 30-metre tall monopole;
- six (6) panel antennas (each 2.53m in length) mounted to a new headframe on the top of the proposed monopole, giving an overall finished height of 31.94m;
- six (6) remote radio units (each 518mm x 470mm) mounted below the proposed headframe;
- a pre-fabricated equipment shelter (2.28m width x 3.28m length x 3.0m height) to house the necessary base-station equipment;
- An underground cable tray connecting the equipment shelter to the monopole;
- Connections to power and fibre.

It is anticipated that the existing lighting pole for the sporting oval nearby the proposed location will be removed/relocated, while new flood lights will be attached onto the Telstra monopole. The details of this have not been finalised, and therefore relocation of the existing lighting tower is not proposed in the subject application.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	38 properties were notified during the Category 3 public notification process.
Representations: <i>Refer Attachment IV</i>	9 representations were received by Council; 8 against and 1 in favour of the application.
Persons wishing to be heard:	1. Michelle Roach of 1B McKellar Terrace, Morphetville 2. Wendy McLuckie of 8 Regan Avenue, Morphetville

<p>Summary of representations:</p> <p><i>Refer Attachment V</i></p>	<ul style="list-style-type: none"> • Concerns regarding health impacts. • Unsuitable proximity to sporting field. • Visually unsuitable for a residential parkland area. • Facility is too close to residential areas; should be located in a Commercial Zone. • There are already 2 towers in the area; a new facility is not needed. • Loss of property value. • Recommend alternative locations at the SA Power Networks sub-station site, reserve at the end of Na Botto Crescent, Morphett Arms Hotel, along the Sturt River, Outdoor Marion Swimming Centre, or Oaklands Wetland Reserve. • The height of the tower is not compatible with the locality, as it will be situated next to a single storey football club. • The tower and equipment shelter will create risks for player and umpires due to the proximity to the boundary. • The facility will reduce land space available for the expansion of the Morphettville Park Sporting Club. • The perception of potential health risks by parents whose children play and train at this facility will result in reduced numbers of juniors as they move to other clubs. • Concerns regarding electro static humming noise from the facility. • The City Of Mitcham recently rescinded a decision to erect a telecommunications facility at Hewett Reserve for the following reasoning: "Recent changes to the World Health Organisation information on the dangers of mobile phone radiation (MPR) now classify MPR as possibly carcinogenic to humans".
<p>Summary of Applicant's response:</p> <p><i>Refer Attachment IV</i></p>	<ul style="list-style-type: none"> • The motion to rescind consent to construct a telecommunications facility in the City of Mitcham was later defeated and the City of Mitcham again reaffirmed its decision to lease to Telstra. Only two elected members voted to rescind the previous decision. If anything, this recent decision of the City of Mitcham confirms that councils are increasingly recognising that council reserves are often the best place for such infrastructure, as unwanted as it may be by some members of the community, which is also understandable. • The impact on residential (or other) property values is not relevant to the proper assessment of this proposal against the Development Plan and cannot be taken into account by Council. • There is a general view in the representations that a residential zone per se is a wholly improper choice for telecommunication facilities such as that proposed. This is a completely incorrect assertion and not one reflected in the Development Plan. Notwithstanding that, the area in which the proposed facility can be located and meet its technical objectives is wholly contained within the Residential Zone apart from the small Neighbourhood Centre at the corner of Morphett Road and Denham Avenue. With no space available to Telstra within that centre zone, only land in the Residential Zone remains for consideration. • The EME levels emitted are very low and in the case of the

	<p>subject proposal, are estimated to be, as a maximum, 0.67% of the exposure limits mandated by the Australian Communications & Media Authority (ACMA).</p> <ul style="list-style-type: none"> • The issue of health impacts, perceived or otherwise, are not a relevant planning issue in the determination of this matter. • The most obvious impact of the proposed facility is that of visual impact, which is, on most occasions, an unavoidable outcome. Depending on the vantage point, the subject proposal will have visual impact on its locality to varying degrees. However, simply having visual impact is not a basis on which telecommunications facilities can or should be refused. • The design of the facility, particularly in terms of the number of antennas required and their mounting arrangement, has been minimised to the extent it can be. Whilst the facility is tall in comparison to its surrounds, it is only slight in terms of its overall bulk and will occupy only a very small percentage of the horizontal field of vision for most residents of the area. There is no requirement for the height of the facility to be dictated to by the scale of other development in the locality. • There is no alternative site identified by Telstra that is obviously better than the subject proposal, can meet the technical objectives and is reasonably available. • The new facility is required to enable an appropriate level of network service to continue to be provided to the area surrounding the proposed facility. • While the subject location at Kellett Reserve remains available to Telstra, it should be preferred to the previously refused proposal at 142 Morphett Road, Glengowrie. The relative response from notified residents (i.e. the number that responded compared with the number of notifications sent out) might also indicate, perhaps, that the Kellett Reserve location is more generally acceptable to the community.
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INTERNAL DEPARTMENT COMMENTS

Arboriculture:	<p>The tree closest to the facility is a regulated Eucalyptus camaldulensis (River Red Gum) with a trunk circumference of 2.15 metres. The tree is in good condition and would only be slightly affected by the footings/excavation for the monopole. The concrete pad for the other infrastructure will only cause minor damage to surface roots (if any). Recommend that any excavation is undertaken manually and that a protective barrier is erected around the tree trunk during construction.</p>
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GOVERNMENT AGENCY REFERRAL

Minister for Planning (Honourable John Rau MP):	<p>Council Administration requested that the Development Assessment Commission be appointed as the relevant authority in relation to application given that, if the application were approved, the Council would receive a financial gain from a commercial lease with Telstra. However, the Minister's delegate advised that:</p>
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	<p><i>"Having considered the matter there does not appear to be sufficient justification for the Commission to be appointed the relevant authority, particularly as section 34 (1) (1 b) of the Development Act 1993 envisages such circumstances and allows a council to assess and determine applications, even where council owned assets or financial interests are involved. Each council has an independent Development Assessment Panel appointed for their professional expertise and independent decision-making. This provides a clear separation between the planning and administrative functions of a local authority. It is my view the City of Marion is best placed to consider this local issue and to consult with affected residents and landowners in accordance with the notification requirements under the Development Act and Regulations."</i></p>
Adelaide Airport:	<p>Adelaide Airport has assessed the pole height as below the Obstacle Limitation Surface (OLS) therefore not requiring an Airspace approval in accordance with the Airports Act Protection of Airspace Regulations.</p>

Refer Attachment VI

DEVELOPMENT ASSESSMENT

The relevant provisions of the Marion Council Development Plan are listed below, beginning with the Zone and Policy Area provisions, followed by provisions from the General Section of the Development Plan. The proposed telecommunications facility is discussed in relation to the relevant objectives, principles of development control and desired character statement at each section.

Residential Zone

OBJECTIVES

- 1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.
- 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 The following forms of development are envisaged in the zone:
 - affordable housing
 - domestic outbuilding in association with a dwelling
 - domestic structure
 - dwelling
 - dwelling addition
 - small scale non-residential uses that serve the local community, for example:
 - child care facilities
 - health and welfare services
 - open space
 - primary and secondary schools
 - recreation areas
 - shops, offices or consulting rooms
 - supported accommodation.
- 2 Development listed as non-complying is generally inappropriate.
- 4 Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that:
 - (a) serves the needs of the local community
 - (b) is consistent with the character of the locality
 - (c) does not detrimentally impact on the amenity of nearby residents.

Northern Policy Area 13

OBJECTIVES

- 1 A policy area primarily accommodating low scale, low to medium density housing.
- 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.
- 3 Development that contributes to the desired character of the policy area.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 The following forms of development are envisaged in the policy area:
 - affordable housing
 - detached dwelling
 - group dwelling
 - residential flat building
 - row dwelling
 - semi-detached dwelling
 - supported accommodation.
- 2 Development should not be undertaken unless it is consistent with the desired character for the policy area.

DESIRED CHARACTER

...The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

The proposed telecommunications facility is not listed as an envisaged land use in the Residential Zone or Northern Policy Area 13. Principle of Development Control (PDC) 1 and 4 of the Residential Zone anticipates small scale non-residential uses that serve the local community. Whilst the proposed facility would serve the local and wider community via improved telecommunications coverage, the facility is not “small scale” given its substantial height of 31.94 metres.

This being said, the proposed telecommunications facility is not specifically discouraged in the Residential Zone because it is not listed as a non-complying form of development, and therefore accords with PDC 2.

The objectives, principles and desired character of the Northern Policy Area 13 do not anticipate any form of development other than residential dwellings.

Given that the application proposes a form of development which is neither encouraged nor discouraged in the Zone or Policy Area, the application should be assessed on its merits with reference to the relevant provisions of the General Section of the Development Plan.

GENERAL SECTION

Telecommunication Facilities: Objectives

OBJECTIVES

- 1 Telecommunications facilities provided to meet the needs of the community.
- 2 Telecommunications facilities sited and designed to minimise visual impact on the amenity of the local environment.

Telecommunication Facilities: PDC 1

PDC 1 Telecommunications facilities should:

- (a) be located to meet the communication needs of the community*
- (b) use materials and finishes that minimise visual impact*
- (c) have antennae located as close as practical to the support structure*
- (d) be located primarily in industrial, commercial, business, office, centre and rural zones*
- (e) where technically feasible, be co-located with other telecommunications facilities*
- (f) incorporate landscaping to screen the development, particularly equipment shelters and huts*
- (g) be designed and sited to minimise the visual impact on the character and amenity of the local environment, in particular visually prominent areas, main focal points and significant vistas.*

Objective 1: Need

Objective 1 and PDC 1(a) of the General Section: Telecommunications Facilities stipulate that telecommunications facilities should be provided to meet the needs of the community. The applicant (SK Planning on behalf of Telstra Corporation Limited) has made the following comments in relation to the need for the proposed facility:

“The need for the facility has come about simply due to the growth in demand for services, particularly data such as mobile internet and the dramatic increase in devices which use significantly more data, such as smartphones, tablets and internet dongles.

The result of this increase in data demand is the requirement to add additional capacity into the network (partly through the augmentation of existing sites and partly through construction of new facilities) and decrease the size of the area being serviced by each facility (and therefore the distance between the facility and the user).

The new facility is intended to improve network services in the suburbs of Glengowrie and Morphettville, which are currently predominantly serviced by existing facilities at the Warradale Barracks, the Morphettville Racecourse and the Plympton Park Supercentre. All the existing facilities are located more than 1 kilometre from the subject land and as such the capacity of the network to service the area adequately has diminished over time. Augmentation works have already been undertaken on existing sites in the surrounding area but there is an ultimate upper limit to how much each individual facility can handle and when customers are further from a facility they become more difficult to adequately service.

As such, it follows that more facilities at an increased density will be required over time as demand continues to grow. It is also important that sufficient signal levels are provided to ensure in-building coverage to as much of the area as possible and it has been determined that the selected location can meet most of the required technical and network objectives (including integrating with the existing network).”

Notwithstanding this explanation, recent decisions by the Supreme Court and Environment, Resources and Development (ERD) Court have determined that the need for telecommunications facilities is implicit when an application is lodged by a licenced telecommunications carrier.

In the case of the Development Assessment Commission v 3GIS Pty Ltd & Anor [2007] SASC 216, the Supreme Court has summarised that:

“Telecommunications facilities are therefore to be constructed in the area covered by the Development Plan in order to satisfy the community need for access to the relevant telecommunications technologies. The concern of the Development Plan then is to ensure that those necessary facilities are constructed in a manner which ensures that coverage is available to satisfy the need, but in a way which minimises the visual impact of those facilities on the amenity of the local environment.

It is not... a matter of balancing the impact of a particular development on the amenity against some demonstrated demand need. The demand need is given."

In this respect, it is accepted that the proposed development complies with Objective 1 and PDC 1(a).

Objective 2: Visual Impact

Objective 2 stipulates that telecommunications facilities should be "sited and designed to minimise visual impact on the amenity of the local environment". The proposed monopole will have a considerable visual impact on the amenity of properties within the local environment due to its substantial height.

However, the fact that the structure will have a visual impact and may impair the amenity of the locality does not necessarily establish non-compliance with Objective 2, as the objective seeks only to minimise visual impact by (a) siting and (b) design.

(a) Siting

The siting of the facility minimises its visual impact to a reasonable extent. The adjacent mature trees with a height of approximately 15-20 metres will assist in screening the lower portion of the monopole and equipment shelter, particularly when viewed from properties immediately south-east of the facility. However, the upper half of the monopole, including antennae, will be unobscured and clearly visible from surrounding areas.

It would, however, be impractical for the upper portion of the monopole to be sited in a manner that would effectively screen its entire height, given that mature trees rarely grow to this height and residential buildings in the subject locality should not exceed 9 metres in height. As such, it is considered that the proposed facility has been sited as well as practicable in the subject locality to minimise its visual impact.

A lighting tower is currently sited near to where the monopole is proposed, while three other lighting towers are located at other locations surrounding the sporting oval; all with a height of 18.68 metres. Whilst the existing lighting towers may assist in making proposed monopole less congruous in the context of the locality, the monopole will be 13.26 metres higher than these structures.

When considering whether the structure has been appropriately sited to minimise visual impact in accordance with Objective 2, parts (d), (e) and (g) of PDC 1 are relevant.

PDC 1(d) states that telecommunications facilities should be located primarily in industrial, commercial, business, office, centre and rural zones. The proposal fails to satisfy this provision, as it is located in a residential zone. However, this does not necessarily imply that the facility is inappropriate given that PDC 3 contemplates telecommunications facilities located in residential zones. Compliance with PDC 3 is assessed in further detail below.

PDC 1(e) recommends that telecommunications facilities should be co-located with other telecommunications facilities, where technically feasible. The applicant has asserted that *"There are no existing structures in the wider area on which the facility could be co-located and the network objectives for the site met."*

Council has previously queried the applicant as to whether a series of low-impact facilities (i.e. equipment utilising existing telecommunication towers, stobie poles, light poles, etc.) could substitute for the proposed facility, which would have a considerably reduced visual impact. The applicant has provided clarification in correspondence dated 11 August 2014:

“Telstra operates a 2G, 3G and 4G network and the physical demand for space to accommodate the necessary equipment is high. Stobie poles and light poles simply do not have the structural ability to accommodate this level of equipment, nor do they provide the necessary height. Further, an equipment shelter of some description is required at each location, which is difficult to accommodate on verges and the like.”

Council has also queried why the proposed telecommunications facility could not be located within the SA Power Networks substation located at 117-125 Morphett Road, Morphettville. The applicant has asserted that it would be undesirable to locate the telecommunications facility in the substation site due to maintenance restrictions and the marginal technical outcome achieved, as this site is located at the very northern extremity of the search area. It would therefore be technically impractical to co-locate the tower with existing telecommunications facilities within the substation site.

The above-mentioned explanations demonstrate that co-location with other telecommunications facilities is not a practical solution to cater for the required demand. Although it has not been definitively confirmed that it would not be technically feasible to achieve co-location (given that applications have not been lodged and assessed for a facility within the sub-station), the failure to comply with PDC 1(e) is not considered to warrant refusal of the subject application.

PDC 1(g) stipulates that telecommunications facilities should be *“designed and sited to minimise the visual impact on the character and amenity of the local environment, in particular visually prominent areas, main focal points and significant vistas.”* The subject land comprises a sporting oval, which is connected to open space reserves running east-west from the Sturt River to Morphett Road. The subject land therefore can be seen as a prominent area and focal point for the local environment, offering vistas of open space character to nearby residential properties. As discussed above, the proposed facility is considered to be designed and sited as well as practicable to minimise visual impact on the character and amenity of the local environment. Given that the facility is located on the western periphery of the oval and adjacent mature vegetation, vistas through the open space reserves should be largely maintained. Therefore, the proposal is considered to adequately comply with PDC 1(g).

(b) Design

When considering whether the structure has been appropriately designed to minimise visual impact in accordance with Objective 2, parts (b), (c) and (f) of PDC 1 are relevant.

PDC 1(b) encourages the use of materials and finishes that minimise visual impact. The applicant has asserted that the monopole will be constructed of concrete, while the antennas and other equipment at the top of the structure are intended to be left their standard grey colour. The proposed grey and concrete colours/materials should result in a muted and dull appearance, and therefore are considered to minimise visual impact as well as possible.

This view has been reinforced in the case of *TELSTRA CORP LTD v CITY OF ONKAPARINGA* [2013] SAERDC 28 (6 June 2013), where Commissioner Green observed that:

“... the concrete material and grey colours of the pole are probably the best possible to minimise visual impact; the grey concrete lightens when very dry making it less visible in clear skies, whilst it darkens up with rain or moisture which is a better matching shade and fit in darker skies.”

PDC 1(c) stipulates that the antennae should be located as close as practical to the support structure. The width/radius of the panel antennae arrangement atop the monopole equals approximately 2.7 metres. The applicant has confirmed that the number of antennas proposed is the minimum required for this location and they have been mounted on a compact headframe to minimise the overall bulk at the top of the monopole.

PDC 1(f) stipulates that the facility should incorporate landscaping to screen the development, particularly equipment shelters and huts. No landscaping is proposed surrounding the shelter, however the applicant has indicated that landscaping may be able to be planted on the northern and southern sides of the equipment shelter if it is deemed necessary by Council. However, it is noted that such landscaping would be outside of the area leased by Telstra, and therefore ongoing maintenance of this vegetation would be the responsibility of Council as the landowner. As such, it may be preferable that the equipment shelter is screened by other design techniques, as discussed below under PDC 2. If art form/design is adopted for the equipment shelter, landscaping is not considered necessary, as this may obscure the artwork from view.

Given that parts (b), (c) and (f) are reasonably satisfied, it can be seen that the facility has been designed to minimise visual impact as far as practicable in accordance with the relevant criteria of PDC 1, and therefore satisfies Objective 2 with respect to design.

Telecommunication Facilities: PDC 2

PDC 2 Telecommunications facilities in areas of high visitation and community use should use innovative design techniques (eg sculpture and other artworks) where possible and where the resulting design would positively contribute to the character of the area.

The proposed telecommunications facility is located in an area of high visitation and community use, and therefore innovative design techniques (e.g. sculpture and other artworks) are encouraged.

Council's Arts and Cultural Development Department have met with Telstra, and Telstra's representative has confirmed that Telstra would be amenable to funding a community artwork installation on the sides of the equipment shelter.

The form and nature of this artwork would be subject to a commissioning process by Council's Art and Cultural Development Department, and therefore the details of the art form cannot be assessed in detail as part of this application. However, it is my view that the provision of a community art installation on or surrounding the equipment shelter would achieve satisfactory compliance with PDC 2.

Recommended Condition of Consent 2 seeks that community artwork shall be installed on or surrounding the equipment shelter within twelve (12) months of the commencement of construction. The nature, timing and costs of the artwork will be subject to further discussions between Telstra's representatives and the relevant departments/persons of Council.

Telecommunication Facilities: PDC 3

PDC 3 Telecommunications facilities should be located in residential zones only if sited and designed to minimise visual impact by:

- (a) using existing buildings and vegetation for screening*
- (b) where possible, incorporating the facility within an existing structures that may serve another purpose maintaining that structure's character*
- (c) taking into account the size, scale, context and characteristics of existing structures, landforms and vegetation so as to complement the local environment.*

PDC 3 is considered to represent the most relevant and important provision of the Development Plan in relation to the proposed development, as it stipulates the criteria which should be met if a telecommunications facility is proposed to be located in a residential zone.

This principle states that telecommunications facilities should be located in a residential zone "only if sited and designed to minimise visual impact" by three methods; (a), (b) and (c).

Method (a) stipulates that the visual impact of the facility should be minimised by *“using existing buildings and vegetation for screening”*. The proposed facility is located approximately 1.5 metres north-east of an existing regulated tree (River Red Gum), which forms part of a line of eight (8) River Red Gum trees which have been planted within Kellett Reserve adjacent Quinn Street. This series of trees maintain an approximate height of 15-20 metres, which should obscure a considerable portion of the monopole when viewed from the south and south-west.

Mature trees are also featured along the eastern side of the reserve, which will assist in obscuring views of the facilities from residential properties east of the oval, particularly when combined with the substantial separation of approximately 140 metres with intervening open space, lighting towers, stobie poles, road, etc.

Mature vegetation is also featured on other open space reserves adjacent Kellett Reserve, including linear reserves located north-east and north-west of the subject land (linking Morphet Road and the Sturt Drain) and a reserve south of the subject land on McKellar Terrace. Although these reserves are considerably removed from the subject development site, they will nonetheless assist in obscuring the visual prominence of the facility when viewed from several vantage points within the wider locality.

The facility is proposed to be located adjacent the existing clubrooms of the Morphetville Park Sporting Club. This building is located north-east of the proposed facility, and is single-storey with a wall height of approximately 3 metres. This building will assist in screening the equipment shelter when viewed from the north and north-east, but will have little effect in screening the monopole.

As such, the proposed facility partially complies with 3(a).

Method (b) stipulates that visual impact should be minimised by *“where possible, incorporating the facility within an existing structures that may serve another purpose maintaining that structure’s character”*.

While the proposed facility is not located on an existing structure, the monopole is proposed to serve a secondary purpose in providing oval lighting for the Football Club. The elevation plans illustrate indicative flood lights located on the monopole 15.0 metres above ground level.

The Morphetville Park Sporting Club (MPSC) have previously identified that additional oval lighting is required. At the 9 September 2014 General Council meeting (GC090914M03) the President of the MPSC made a deputation to Council which included a request for the erection of an extra light tower and additional lights at the oval.

It has been indicated that the proposed flood lights on the monopole would enable relocation of the existing lighting tower adjacent the club rooms to provide lighting in other areas of the oval. However, this relocation would be subject to further assessment in a separate Development Application in the future.

It would not be possible for the proposed facility to be incorporated within existing structures because no other structures in the locality are of sufficient height to satisfy the technical requirements of the proposed facility.

As such, the proposed facility is considered to partially satisfy PDC 3(b) given that it would avoid the need for a further lighting tower to be constructed in the future.

Method (c) stipulates that visual impact should be minimised by *“taking into account the size, scale, context and characteristics of existing structures, landforms and vegetation so as to complement the local environment.”* The local environment features the nearby oval clubrooms building (approximately 3 metres height), predominantly single-storey and some two-storey dwellings (approximately 5-9 metres height), mature vegetation (15-20 metres height), oval

lighting (19 metres height) and typical street infrastructure including stobie poles and overhead wires. Although the proposed monopole will exceed the height of structures, landforms and vegetation in the locality, this does not necessarily imply that the visual impact is unreasonable.

Given that the technical requirements of the subject facility require a height of 31.94 metres, reduction in the height of the facility is not a feasible technique to minimise visual impact. It is also not permissible to screen the total height of the monopole by existing structures because no such structures exist in the subject locality.

On balance, the extent to which the subject facility would be screened by existing vegetation from a number of vantage points, combined with the dual use of the monopole for oval lighting, is considered sufficient to minimise visual impact in accordance with PDC 3.

This interpretation of satisfactory minimisation of visual impact is consistent with various recent decisions of the ERD Court. The following cases relate to similar telecommunications facilities proposed in Residential Zones, which were granted Development Plan Consent by the ERD Court.

In the case of *Telstra Corp Ltd v The Corp of the City of Whyalla* [2012] SAERDC 43 (27 July 2012), Commissioner Green observed that:

"Most of the target area is also relatively flat with few trees taller than 8 metres, no buildings taller than conventional two storey (and only a few of those) and no other structures available that may be useful to screen/mask/off-set the 31 metre height and exposure of the proposed structure.

The structure is designed, to an extent, with minimising visual impact in mind, by the following measures:

- *it is of relatively slim-line appearance (but for the tuft antennas at the top);*
- *it is likely (to be nominated and confirmed) to be a light grey colour...;*
- *the absence of any additional ground level structure/shed for housing equipment, with the ability of the proposal to use the existing enclosed building adjacent for such purposes; and*
- *use of some screening afforded from some angles of view by the building and trees about the site, and along Risby Avenue, perhaps and in a number of instances, obscuring the lower one quarter to one third of the proposed pole.*

I, nor any other expert witness, were able to offer any further design adjustments or treatments that would achieve more, in the way of minimising visual impact to a locality containing several dwellings and several vacant residential allotments."

Similar conclusions were offered in the case of *Telstra Corp Ltd v City of Onkaparinga & Anor* [2013] SAERDC 25 (22 May 2013). In relation to visual impact, Commissioner Green stated:

"Whilst no individual tree or vegetation screen planting is practical or feasible, or proposed, the above aspects mean that the proposed TF [telecommunications facility] will minimise negative impacts to visual amenity to some degree, though undoubtedly it would remain most visible from various residential properties in the near vicinity to the east and north. I can envisage no further design modifications to further minimise visual impact, whilst meeting the technical RF [radio frequency] requirements on this site and location."

When considering minimisation of visual impact, the Courts have established that the planning authority must consider whether minimisation of visual impact could be better achieved at alternative sites, but must also consider whether alternative sites would result in an obviously better outcome whilst meeting facility demand.

In the case of the Development Assessment Commission v 3GIS Pty Ltd & Anor SASC 216 (18 June 2007), the Full Court determined that:

“To the extent that a planning authority must ensure that the installation of a proposed facility will minimise the effect on the environment, the planning authority will need to consider, where alternative sites or low-impact facilities are suggested, whether that minimisation can be better achieved by installation of a facility at some other preferred site. But it will also need to consider whether that possible preferred site will meet the facility demand. If it will not, it may be discarded. There may be other reasons why a particular alternative site is inappropriate or impracticable.”

In the judgement of Telstra Corp Ltd v City of Onkaparinga [2013] SAERDC 28, Commissioner Green further summarised that:

“with regard to the role of alternative sites it is appropriate to consider obvious alternative sites which would clearly better meet the objectives and principles of the Plan and to consider them in a practical and commonsense fashion; and where alternative sites are under consideration, the Court is required to consider only the proposed facility and not whether some alternative site with some modified form of development would be more environmentally sensitive. An alternative site would have to be a reasonably practical alternative (including the likelihood of tenure being obtained) that would meet the facility demand and be a feasible alternative.”

The applicant has advised that the 'ideal' location and height for the facility from a technical perspective would be on Dalby Avenue, about half way between Eltham and Dunbar Avenues, and therefore Telstra has examined the surrounding area (within a few hundred metres) for potential locations.

Several alternative sites have been considered for the proposed telecommunications facility. These alternative sites are detailed in the following table:

Site	Visual impact	Technical Outcome	Tenure Likelihood
1. Subject land: Kellett Reserve (Denham Avenue, Morphettville)	Although surrounded by residential properties, the visual impact of the facility would be partially screened by existing mature vegetation and intervening open space and recreational areas.	Ideal, particularly if located in the north-western corner of the site (near the clubrooms)	Subject to Commercial Lease agreement with the Council
2. Previous Development Application 100/2014/376: Car Yard (142 Morphett Road, Glengowrie)	The structure would be highly visible and unobscured when viewed from residential properties within several hundred metres to the west and south of the land on Stanley Street, Wilkins Street and Livingstone Street	Good	Confirmed
3. Morphett Arms Hotel (138-140 Morphett Road, Glengowrie)	Although surrounded by residential properties, the facility could be screened by the existing two-storey hotel building and large trees located on the subject land. However, Telstra has advised that the owner of Morphett Arms would not permit the facility to be located near the building, only adjacent the southern boundary which would be highly visible from nearby residential properties. This would result in a heightened visual impact than that proposed at Kellett Reserve.	Good	“A commercial arrangement suitable to both Telstra and the landowner could not be agreed and as such this location is not available to Telstra.”
4. Morphett Village shops (141 Morphett Road and	Although this property is located in the Neighbourhood Centre Zone, the visual impact would be heightened in this location	[no information provided]	“At the conclusion of discussions with the owners, no suitable

9 Denham Avenue, Morphettville)	due to close proximity of residential properties and lack of mature trees on the land. Also potential conflict with car parking and loading areas surrounding the building.		location could be found and as such this location is not available to Telstra”
5. SA Power Networks Electricity Sub-station (117-125 Morphett Road, Morphettville)	Visual impact potentially lessened if facility is located adjacent existing vegetation or towers. Applicant has advised that “given the location of high voltage lines throughout and around the site, the only possible location is in the north-eastern corner of the site, which is closest to residences and furthest from the service area being targeted”.	Marginal, with “unacceptable installation and maintenance constraints”.	Only available if the equipment shelter can be accessed directly from the street (with the monopole within a few metres of that location). The applicant has advised that this location would not meet Telstra’s technical requirements.
6. Robin Johnson Engineering (115 Morphett Road, Morphettville)	Minimised if sited adjacent to the existing two-storey building, and further minimised if located near the southern boundary which borders the substation site. However, visual impact would be worse than the current proposal if located adjacent the northern or eastern boundaries which border residential properties.	Inadequate	[no information provided]
7. Low Impact Facilities (various)	Significantly reduced, as new monopole would not be required, which is the primary cause of visual impact.	Unsuitable antennae height, poor access for installation and maintenance, safety issues for electricity workers	[no information provided]

Note: Visual impact comments have been asserted by the author of this report, whilst technical outcome and tenure likelihood comments have been provided by the applicant.

The above table identifies a number of alternative locations, however the applicant has asserted that each of these alternative locations face either difficulties in tenure likelihood, maintenance issues or marginal technical outcomes. A number of the sites identified would also result in a similar or heightened visual impact than the subject location, and therefore can be discarded. Only locations 3, 5 and 7 have potential for further minimisation of visual impact, and are discussed below.

A location near the Morphett Arms (3) building may provide for decreased visual impact due to screening by the existing two-storey building, as well as mature trees. However, Telstra have asserted that the land owner will not agree for a facility to be constructed in this location. Given that tenure is unavailable, this site is not a feasible alternative location.

A location within the SA Power Networks sub-station (5) would provide greater minimisation of visual impact, however the applicant has asserted that there is no space available within the site that would meet Telstra’s technical requirements. As such, pursuant to the reasoning of the Courts, this site must be discarded.

Siting the facility on existing stobie poles as a series of low impact facilities (7) would be an ideal outcome for minimising visual impact. However, the applicant has asserted that this simply would not meet their technical and financial requirements, as “*the cost of each facility is several hundred thousand dollars. There is no business case nor regulatory requirement for Telstra to spend three, four or five times that amount to avoid a single facility requiring development approval*”. This cannot therefore be considered as a viable alternative site.

As a result of these considerations, it is accepted that no other alternative sites are available which offer a greater minimisation of visual impact. On balance, the visual impact of the proposed facility is deemed acceptable with reference to the relevant provisions of the General

Section: Telecommunications Facilities and with regard to various decisions of the ERD Court and Supreme Court.

Telecommunication Facilities: PDC 4

PDC 4 Telecommunications facilities should not have a direct or significant effect on the amenity, character and settings of Historic Conservation Areas, local heritage places, State heritage places or State heritage areas.

The proposed telecommunications facility will not have an effect on Historic Conservation areas, local heritage places or State heritage places/areas. PDC 4 is therefore not relevant to the subject application.

Design and Appearance

OBJECTIVES

1 Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.

PRINCIPLES OF DEVELOPMENT CONTROL

1 Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:

- (a) building height, mass and proportion*
- (b) external materials, patterns, colours and decorative elements*
- (c) roof form and pitch*
- (d) façade articulation and detailing*
- (e) verandas, eaves, parapets and window screens.*

The proposed telecommunications facility, and in particular the monopole, does not reinforce the positive aspects of the local environment and built form due to its substantial height of 31.94 metres, which exceeds the height of dwellings and vegetation located in the immediate locality. However, the equipment shelter is proposed to incorporate community artwork, which should form a positive contribution to the local environment.

PDC 1 suggests that buildings should reinforce the Desired Character of the locality, which the proposed facility does not given that the Northern Policy Area 13 only envisages residential development. PDC 1 also recommends that buildings should have regard to height, mass and proportion. In this instance, the height of the monopole is not compatible with the locality, but its mass will be minor given the slimline appearance of the monopole.

While the proposal does not clearly satisfy the relevant provisions of the General Section: Design and Appearance, telecommunications facilities seldom “reinforce positive aspects of the local environment”, but this does not imply that such facilities are inappropriate. The proposed treatments are considered adequate to enhance design/appearance of the facility as best as practicable.

Interface between Land Uses

OBJECTIVES

- 1 Development located and designed to minimise adverse impact and conflict between land uses.*
- 2 Protect community health and amenity from adverse impacts of development.*
- 3 Protect desired land uses from the encroachment of incompatible development.*

PRINCIPLES OF DEVELOPMENT CONTROL

2 Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality.

3 Development adjacent to a Residential Zone should be designed to minimise overlooking and overshadowing of adjacent dwellings and private open space.

The proposed development has been located and designed to minimise adverse impact and conflict between land uses, as the facility should not impede the operation of the existing sports oval, and as discussed above, has been designed as well as possible to minimise adverse visual impacts.

However, it is acknowledged that the proposed facility may result in the perception of adverse impacts on the health and amenity of the community, which is demonstrated by the concerns raised in the representations received by Council through the Category 3 notification.

Although Objective 2 seeks to protect community health, the Courts have established that any perceived or actual health impacts cannot be considered by the Council in its assessment of the proposed facility.

In relation to amenity, it is clear that the proposed facility will result in adverse visual impacts, and therefore fails to satisfy Objective 2.

However, the fact that this objective is not satisfied should not necessarily warrant refusal of the application. Commissioner Hamnett offered an interpretation of the above objectives and principles in the case of *Bettcher v City of Charles Sturt & Anor* SAERDC 39 (14 August 2013):

“The key question... was not whether the proposed facility would have a visual impact – clearly it would – but whether, in accord with Objective 2 under the heading “Telecommunications Facilities”, it would be “sited and designed to minimise visual impact on the amenity of the local environment”. Ms McKinlay ... pointed to other relevant provisions in the General Section of the Development Plan, including Objective 1 under the heading “Interface between Land Uses”, which requires development to be “located and designed to prevent adverse impact and conflict between land uses”; and Principle 2 under the same heading which requires that development adjacent to a residential zone or residential area “should be designed and sited to minimise negative impacts to existing and future land uses considered appropriate in the locality”.

Ms McKinlay acknowledged that the existing dwellings adjoining the side and rear boundaries of the subject land would have their amenity adversely affected by the development as a result of the visual impact of the monopole and its proximity to their boundaries. In her opinion the site was “not ideal in terms of impact on its neighbours”.

However, Ms McKinlay was satisfied that, given the demonstrated need for the facility, all possible steps had been taken to minimise its visual impact. On balance, therefore, she concluded that the proposal was sufficiently in accord with all relevant provisions of the Development Plan to merit consent. As noted earlier, Ms McKinlay was the only expert planner to give evidence. I agree with her analysis and accept her conclusions.”

The facility should not result in overlooking of adjacent land given that the monopole shall not be subject to activity except in the case of infrequent maintenance activities. Given that the monopole maintains a diameter of approximately 1.2 metres at the base to 0.6 metre at the top, shadow from the structure is likely to be cast in a narrow strip which would not overshadow habitable areas in a manner that would offend the relevant provisions of the Development Plan (see General Section: Design & Appearance: Overshadowing). Accordingly, the proposal is considered to adequately comply with PDC 3.

Orderly and Sustainable Development

OBJECTIVES

1 Orderly and economical development that creates a safe, convenient and pleasant environment in which to live.

3 Development that does not jeopardise the continuance of adjoining authorised land uses.

4 Development that does not prejudice the achievement of the provisions of the Development Plan.

PRINCIPLES OF DEVELOPMENT CONTROL

1 Development should not prejudice the development of a zone for its intended purpose.

7 Development should be located and staged to achieve the economical provision of public services and infrastructure, and to maximise the use of existing services and infrastructure.

The proposed facility is considered to be orderly, and shall fulfil economic objectives by contributing to network coverage for the target area. Although the visual impact of the facility will not contribute toward a pleasant environment in which to live for the immediate locality, this impact is not considered to outweigh the underlying compliance with the provisions of the Telecommunications Facilities section of the Development Plan. Indeed, there are limited circumstances where a telecommunications facility would “*create a pleasant environment in which to live*”, but this does not imply that telecommunications facilities are fundamentally inappropriate.

The development does not jeopardise the continuance of adjoining authorised land uses, as the siting of the facility will permit the subject land to be continue its authorised use as sporting oval and recreation area. A recreation area is an anticipated form of Development in the Residential Zone, and therefore the proposed facility should not prejudice the development of a zone for its intended purpose.

PDC 7 emphasises that infrastructure should be provided to maximise the use of existing services and infrastructure. While the proposed telecommunications facility does not clearly satisfy this provision because it proposes a new monopole, the monopole could be used for oval lighting for the football club, and therefore would avoid the need for further lighting tower structures to be constructed in the future.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to visual impact of the facility, alternative locations, and need for the facility have been addressed in the body of the report.

The representors have also raised concerns regarding property values and health impacts. While these concerns are noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

ANALYSIS/CONCLUSION

The proposed telecommunications facility is to be located in the Residential Zone and the Northern Policy Area 13. The Residential Zone stipulates that non-residential uses should be small scale and should not detrimentally affect the amenity of nearby residents, while Policy Area 13 envisages low scale and low density development. The proposed 31.94 metre high monopole associated with the facility does not align with these provisions, as it is clearly of a size which far exceeds the scale of development anticipated by the Zone and Policy Area. However, there is no specific reference to telecommunications facilities in the Zone and Policy Area, and telecommunications facilities are not specifically listed as a non-complying form of development. As such, the proposed facility is neither specifically encouraged nor discouraged, and therefore the merits of the application should be determined with reference to other provisions of the Development Plan.

The facility satisfies a majority of the applicable provisions of the General Section: Telecommunications Facilities. The facility will meet the needs of the community, as Telstra have identified that the facility is required to ensure ongoing network coverage for the suburbs of Glengowrie and Morphettville.

The facility is considered to be satisfactorily designed and sited to minimise visual impact on the amenity of the local environment. Although the facility will certainly result in a visual impact due to its substantial height, a number of factors will assist in minimising visual impact, such as:

- a) The existence of mature trees near the facility and surrounding the reserve, which will screen the facility from a number of vantage points.
- b) The potential dual use of the monopole of oval lighting (avoiding the need for additional lighting towers in the future, as additional oval lighting was formally requested by the Morphettville Park Sporting Club last year).
- c) The use of grey muted materials on the monopole and antennae, which should not be overly bright or obtrusive.
- d) The potential for landscaping and/or artwork surrounding the equipment shelter.
- e) The facility's location on the periphery of the oval, maintaining vistas through the oval and adjacent reserves.

Having regard to recent decisions by the ERD Court and Supreme Court, these minimising attributes are deemed sufficient to achieve adequate compliance with Objective 2 and PDC 1 and 3 of the General Section: Telecommunications Facilities.

It is noted that PDC 1(d) (General Section: Telecommunications Facilities) stipulates that telecommunications facilities should be located in industrial, commercial, business, office, centre or rural zones. While this provision indicates that the Residential Zone is not an ideal location, it may be permissible if the relevant criteria of PDC 3 are appropriately satisfied.

PDC 3 (General Section: Telecommunications Facilities) further reiterates the importance of minimising visual impact by siting the facility with existing vegetation and buildings to screen the facility. While existing structures will have little effect in screening the monopole, adjacent vegetation will screen the facility from a number of vantage points, but not all.

When considering whether visual impact has been adequately minimised, it is important to consider whether an alternative site is available and would provide a superior planning outcome, whilst being technically viable. Various alternative sites have been considered and assessed in this report, however it has been reasonably concluded that no other alternative sites are available which meet the technical requirements for the facility and achieve a notably reduced impact on the amenity of the locality.

The proposal does not favourably complement the provisions of the Development Plan in relation to Design and Appearance and Interface Between Land Uses because the facility will

not enhance the amenity of the locality, and is likely to result in considerable visual impact. However, telecommunications facilities are requisite infrastructure and are seldom designed to enhance amenity. As such, failure to complement these provisions of the Plan should not necessarily warrant refusal of the application, provided that the provisions under Telecommunications Facilities are reasonably satisfied.

For the reasons outlined above, it is my view that the proposal adequately meets the relevant objectives and principles of the General Section: Telecommunications Facilities.

As such, 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 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: 100/2015/208 for a telecommunications facility, incorporating a monopole with a total height 31.94 metres above ground level at Lot 61 Denham Avenue, Morphettville, be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/208, including drawing numbers SHT NO. S1, S3-2 & S3-1 received by Council on 29 January 2015 and email correspondence from Mark Baade dated 22/06/2015, except when varied by the following conditions of consent.
- 2. A community artwork installation shall be installed on or surrounding the equipment shelter within twelve (12) months of the commencement of construction.
- 3. The applicant shall at all times ensure the site of the approved development will not (apart from existing fencing) be enclosed in any way so as to obstruct any artwork from public view.
- 4. All existing regulated trees within the subject site not directly affected by site work and building work must be protected during development and retained. Prior to any earthworks on the site, fencing must be erected around the base of the nearby River Red Gum tree. Vehicles must not be parked or earth/materials placed under the trees.
- 5. Excavation surrounding the tree shall be undertaken manually. Any structural roots (i.e. greater than 25mm in diameter) of the regulated tree that are uncovered shall be retained where possible or, if not, shall be severed by saw cutting, sharp axe or secateurs and not with a backhoe or machinery or blunt instrument. Wounds shall be immediately dressed with a commercially available tree-wound healing compound.
- 6. The structure herein approved shall be maintained, kept tidy, free of graffiti and in good repair and condition at all times.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment IV:</i>	<i>Statement of Representations</i>
<i>Attachment V:</i>	<i>Applicant's Response to Representations</i>
<i>Attachment VI:</i>	<i>External Agency Referral Comments</i>

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.2
Originating Officer:	Alex Wright Development Officer - Planning
Applicant:	The Islamic Society of SA
Development Description:	Demolition of existing dwelling and outbuildings (656 Marion Road), demolition of existing hall building (658 Marion Road - adjacent western boundary) and construction of a building comprising hall, dwelling and balcony with car parking and landscaping below
Site Location:	656 & 658 Marion Road Park Holme
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 3/Consent
Lodgement Date:	12/03/2015
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2015/421
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 3 Consent form of development pursuant to Section 38 of the Development Act 1993, which prescribes any development that is not assigned to Category 1 or 2 by the Development Regulations or a Development Plan will be taken to be a Category 3 development. Council administration were of the view that the proposed development is not considered to be of a minor nature only and that it may impact on the owners or occupiers of land in the locality of the site of the development due to the scale of the built form, proposed use, hours of operation and the associated noise and amenity impacts. As such, it was Council administration's view that the development is not minor and therefore does not fall within the Category 1 criteria prescribed by Schedule 9 Part 1 2(g) of the Development Regulations 2008.

As the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel.

BACKGROUND

The subject allotments have long standing existing use rights for a place of worship, community hall and dwelling and there have been numerous consents granted for alterations and additions to the existing place of worship (658 Marion Road, Park Holme) since 1992.

Whilst the existing dwelling (656 Marion Road, Park Holme) is provided with appropriate on-site car parking, an existing lawful shortfall in car parking exists for the place of worship and associated hall. As such, no on-site car parking for the mosque or community hall is currently provided. 10 off-site car parking spaces are however provided at the Ascot Park Primary School in accordance with a previous approval granted for the addition of a mezzanine floor (within the mosque) granted consent in 2007 (100/1490/2006).

During the assessment process, Council staff requested additional information to the proposal that sought clarification on the following:

Information Requested	Information Provided
Confirmation fencing, similar to that of the existing mosque, to the Marion Road and Condada Avenue frontages will be provided.	Provided – fencing will match existing.
Confirmation of the proposed western setback. The floor plan illustrates the western façade has a step back of approximately 500mm however the ground floor layout does not illustrate this step back.	Clarification provided – proposed minimum western side setback is 5 metres and steps back to a minimum of 5.5 metres.
Confirmation of the proposed colours and materials of the building.	Provided
A fully detailed landscaping plan nominating the location of all plantings, projected growing heights and species.	Provided
Acknowledgement of the cost associated for the removal and eventual replacement of two Council street trees.	Provided

SUBJECT LAND & LOCALITY

The subject land comprises two separate allotments and is located on the corner of Marion Road and Condada Avenue, Park Holme. The subject land is rectangular in shape and supports a 32.61 frontage to Marion Road, a 39.7 metre frontage to Condada Avenue and a total allotment area of approximately 1,518.39 square metres.

The allotment at 658 Marion Road (corner of Marion Road and Condada Avenue) incorporates the existing place of worship (mosque) and 1960/70's era community hall which incorporates a wall approximately 5.5 metres in height and 18 metres in length along the western boundary. The allotment at 656 Marion Road incorporates a single storey detached dwelling in average condition and several outbuildings sited on the northern boundary. The 'Imam' and his family members use the detached dwelling as a residence, whilst the patrons of the adjacent community hall use approximately two thirds of the rear yard as an outdoor congregation area.

The subject land is relatively flat in nature and contains no existing regulated or mature vegetation of significance. Several Council street trees, in addition to three SA Power Networks stobie poles, are located within the Marion Road and Condada Avenue road reserves.

The subject land is devoid of any easements or encumbrances and vehicular access to/from 656 Marion Road is currently provided via an existing single width crossover located to the northern end along Marion Road (which is a road under the care and control of DPTI.)

The wider locality is predominantly characterised by residential, and to a lesser extent, commercial land uses on both sides of Marion Road, and solely residential dwellings along Condada Avenue. The subject site and land to the north, east (opposite side of Marion Road) and west is residential in nature, located with the Northern Policy Area 13 of the Residential

Zone and predominantly consists of single storey detached dwellings on large allotments. Land to the immediate south of the subject site (opposite side of Condada Avenue) is located within the Marion Road Policy Area 1 of the Commercial Zone.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The applicant proposes to demolish the existing detached dwelling and associated outbuildings (656 Marion Road) and existing the hall building (658 Marion Road - adjacent western boundary) and construct an elevated building comprising hall, dwelling and balcony with associated car parking and landscaping below (at ground level).

The elevated building is divided into a community hall that incorporates an open meeting space, kitchen, male/female toilets, lift and stairwell, and a dwelling that comprises four bedrooms, ensuite and walk in robe, laundry, and an open plan kitchen/dinning/living area that has direct access to the associated decked and screened area of private open space.

The application proposes the establishment of a sealed car park, underneath the proposed building, accommodating a maximum of 24 vehicles.

Vehicular access will be provided via two (2) new crossovers, with all obsolete crossovers along Marion Road and Condada Avenue to be reinstated. Ingress into the site is to be provided via the construction of a new crossover to the western side of the allotment along Condada Avenue, whilst egress out will be provided via the construction of a new crossover to the northern side along Marion Road. Vehicular access will be restricted to in only movements via the Condada Avenue crossover and out only movements via the Marion Road crossover. Appropriate directional signage advising of the in/out restrictions will be provided.

Generous low to medium level landscaping has been provided adjacent the northern, eastern and western boundaries to improve the appearance of the site and aid in softening the two storey nature of the structure.

2.1 metre high colourbond fencing is proposed to run the length of the northern and western boundaries, whilst fencing along the eastern side of the allotment will match and complement the existing decorative wrought-iron fencing.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	12 properties were notified during the Category 3 public notification process.
Representations:	4 representations were received by Council. 3 Representations in favour of the proposal were received, whilst 1 representation against the proposal was received.
Persons wishing to be heard:	Mr & Mrs D P & D T Sapkota
Summary of representations:	<ul style="list-style-type: none">• Location of carpark can cause damage to private property (i.e. fence).• A solid brick fence should be provided along the northern boundary in lieu of the proposed 2.1 metre high colorbond fence.

	<ul style="list-style-type: none"> The planter box located along the northern balcony should be increased in height. <p style="text-align: right;"><i>Refer Attachment IV</i></p>
Applicant's response:	The applicant's planning consultant has responded to the concerns raised by the representors within <i>Attachment V</i> .

GOVERNMENT AGENCY REFERRAL

Department of Planning, Transport & Infrastructure:	DPTI has advised it does not object to the proposal subject to a number of conditions being attached to any consent. Should the Panel be supportive of the application, it is recommended the conditions suggested by DPTI be attached to the consent.
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Refer Attachment VI

INTERNAL DEPARTMENT COMMENTS

Engineering:	Council's Development Engineer did not raise concerns in relation to the proposed car park layout, car park numbers or vehicular manoeuvrability.
Arborist:	Council's Arborist has confirmed the street trees within Council's road reserve along Marion Road and Condada Avenue preventing proposed access can be removed and eventually replaced provided removal/replacement fees of \$750+GST & \$250+GST are paid.

ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Northern Policy Area 13 are listed in the following table and discussed in further detail below:

Residential Zone
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>
<p>Principles of Development Control</p> <p>1 The following forms of development are envisaged in the zone:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ domestic outbuilding in association with a dwelling ▪ domestic structure ▪ dwelling ▪ dwelling addition ▪ small scale non-residential uses that serve the local community, for example: <ul style="list-style-type: none"> - child care facilities - health and welfare services - open space - primary and secondary schools - recreation areas - shops, offices or consulting rooms ▪ supported accommodation.

2 Development listed as non-complying is generally inappropriate.

3 Vacant or underutilised land should be developed in an efficient and co-ordinated manner to increase housing choice by providing dwellings at densities higher than, but compatible with adjoining residential development.

4 Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that:

- (a) serves the needs of the local community*
- (b) is consistent with the character of the locality*
- (c) does not detrimentally impact on the amenity of nearby residents.*

Whilst a dwelling is listed an envisioned land use within the Residential Zone, a community or meeting hall, which is similar to the use proposed, is not listed as either an envisaged or a non-complying use.

A dwelling is an envisaged use within the Residential Zone, and although a dwelling in the traditional sense has not been proposed given the raised nature, limited private open space area (provided via a balcony), the location of the dwelling and the overall layout of the site, the proposed dwelling has been designed for a specific type of occupant.

The community hall, which replaces the existing community hall, is used for the purposes of community gatherings/events associated with the existing mosque, and is considered to share similar characteristics to that of a community centre. Whilst a community/religious hall is not an envisaged form of development within the zone, small scale non-residential uses that serve the local community are envisaged. In my opinion, a community hall achieves this aim and is likely to maintain similarities to other small-scale non-residential uses envisaged in the zone. The proposed community centre will be used in conjunction with the existing mosque and, with the exception of Friday prayer, is a predominately small-scale use.

Whilst the proposal seeks a change in the use of land to incorporate a car park, and construct a raised and expanded community hall and dwelling, it is anticipated the uses, whilst not all expressly envisioned within the Zone, will not adversely affect the amenity of the locality (discussed further in this report).

The overall footprint of the community hall at 283m² will be larger than the existing hall (an increase of 53m²) and raised 2.5 metres above the ground. However the size, scale and physical form on the community hall is akin to that of a generously-proportioned two storey dwelling and therefore will not result in significant bulk/scale or amenity impacts. The provision of on-site car parking and the incorporation of appropriate acoustic measures will significantly minimise potential impacts upon the amenity of nearby residents.

The proposal is considered to accord with Principle of Development Control 4 in that the community hall element of the proposal is of an appropriate nature and scale to the local (and to some degree, the wider) community.

The proposed development is considered to be of positive aesthetic value, will be an improvement over what is currently provided and will aid in improving and upgrading the Marion Road and Condada streetscapes. To avoid repetition, the design merits of the proposal are further discussed within the *Design and Appearance* chapter of this report.

The subject site abuts residential allotments to the north and west. To assist in protecting the amenity of these dwellings, a 2.1 metre high colorbond fence is proposed to run the length of the northern and western boundaries. The existing western boundary consists of a 5.5 metre high, 18 metre long structure (current community hall) and a 1.5 metre high colorbond fence, whilst the northern boundary consists of a 1.5 metre high colorbond fence. The proposed 2.1 metre high colorbond fence will provide a greater level of privacy for all occupants and a improved visual outlook for the occupants of the adjacent dwelling at 2 Condada Avenue.

To avoid repetition, the potential noise and amenity impacts caused by the proposed development are further discussed within the *Interface Between Land Uses* and *Car Parking* Chapters of this report.

Northern Policy Area 13

Objectives

- 1 A policy area primarily accommodating low scale, low to medium density housing.
- 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.
- 3 Development that contributes to the desired character of the policy area.

Desired Character

The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

The following forms of development are envisaged in the policy area:

- affordable housing
- detached dwelling
- group dwelling
- residential flat building
- row dwelling
- semi-detached dwelling
- supported accommodation.

Northern Policy Area 13: PDC 1

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

Northern Policy Area 13: PDC 2

Assessment

Objective 1 of both the Residential Zone and Northern Policy Area 13 seek to accommodate low-to-medium residential development and whilst the proposal incorporates a dwelling, the remainder of the proposal does not reflect the intent of these objectives. The proposal incorporates several non-residential elements that are not envisaged within the Policy Area and further, does not incorporate a dwelling type specifically sought.

Northern Policy Area 13 Principle of Development Control 1 does not specifically envisage the construction of an undefined dwelling. This notwithstanding, it is considered to share similar characteristics to that of a detached dwelling (in relation its form and function) and is essentially replacing an existing detached dwelling, in a different location and configuration.

Whilst the removal of a mature street tree along Marion Road will be required, the tree is not considered to be of a height and size that significantly contributes to the existing landscape character of the locality.

The above notwithstanding, the overall character of the built environment is considered to be significantly improved by the proposed development. Removal of the existing detached dwelling

(in average condition) and community hall (that includes a wall of significant height and length on the boundary) and replacing both with a specifically designed building incorporating a community hall and dwelling that incorporates similar colours, materials and architectural style to that of the adjacent mosque will improve the overall built form and provide continuity through the streetscape.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Design & Appearance	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <ul style="list-style-type: none"> <i>(a) building height, mass and proportion</i> <i>(b) external materials, patterns, colours and decorative elements</i> <i>(c) roof form and pitch</i> <i>(d) façade articulation and detailing</i> <i>(e) verandas, eaves, parapets and window screens.</i> <p><i>General Section: Design & Appearance: PDC 1</i></p>	<p>Complies</p> <p>The proposed building has been designed to be of a similar bulk and scale to that of a two-storey dwelling whilst incorporating elements that match or complement the adjacent mosque.</p> <p>The lower level of the hall will incorporate stylized columns and arches that match the existing mosque design, whilst the upper level will be rendered white and incorporate windows similar to that of the mosque.</p> <p>The dwelling component will present to Condada Avenue as a more traditional dwelling by incorporating a front door on the lower level and floor to ceiling windows and balcony presenting to the street.</p> <p>A predominately hip-end colorbond roof at a pitch of 15 degrees incorporating similar colours to that of the mosque is proposed and will aid in presenting a more traditional residential appearance and scale of the building.</p>
<p><i>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</i></p> <p><i>General Section: Design & Appearance: PDC 3</i></p>	<p>Complies</p>
<p><i>Balconies should:</i></p> <ul style="list-style-type: none"> <i>(a) be integrated with the overall form and detail of the building</i> <i>(b) include balustrade detailing that enables line of sight to the street</i> <i>(c) be recessed where wind would otherwise make the space unusable.</i> <p><i>General Section: Design & Appearance: PDC 5</i></p>	<p>Complies</p>

<p>Overshadowing</p> <p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i></p> <ul style="list-style-type: none"> (a) windows of habitable rooms (b) upper-level private balconies that provide the primary open space area for a dwelling (c) solar collectors (such as solar hot water systems and photovoltaic cells). <p><i>General Section: Design & Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <ul style="list-style-type: none"> (a) north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June (b) ground level open space of existing buildings receives direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following: <ul style="list-style-type: none"> (i) half of the existing ground level open space (ii) 35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres) (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area. <p><i>General Section: Design & Appearance: PDC 10</i></p>	<p>Complies</p> <p>Whilst overshadowing via the existing boundary wall (to be demolished) already occurs, the applicant has provided shadow diagrams (enclosed in Attachment III) which illustrate the projected extent of overshadowing on 21 June (winter solstice). These diagrams illustrate that shadow cast into the western adjoining property will subside throughout the morning and that no overshadowing onto habitable room windows will occur after 12 midday, whilst the extent of overshadowing to the area of POS is limited.</p>
<p>Relationship to the Street and Public Realm</p> <p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p><i>General Section: Design & Appearance: PDC 15</i></p>	<p>Partially Complies</p> <p>Both the community hall and dwelling front onto their respective street frontages of Condada Avenue and Marion Road.</p>
<p><i>Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.</i></p> <p><i>General Section: Design & Appearance: PDC 16</i></p>	<p>Complies</p>
<p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p><i>General Section: Design & Appearance: PDC 17</i></p>	<p>Complies</p> <p>Appropriate setbacks to the northern and western boundaries have been provided and these facades incorporate appropriate detailing and glazing to reduce potential visual impacts caused by the building's two-storey nature.</p>
<p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design & Appearance: PDC 18</i></p>	<p>Partially Complies</p> <p>The stairs and lift to the community hall, whilst not clearly visible from the street, are provided with direct access from the car park and mosque. A highly visible entrance from the street frontage is not considered paramount as the hall is ancillary to the mosque.</p> <p>The dwelling entrance is clearly visible from Condada Avenue.</p>

Setbacks

Building Setbacks from Road Boundaries

Except in areas where a new character is desired, the setback of buildings from public roads should:

- (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
- (b) contribute positively to the function, appearance and/or desired character of the locality.

General Section: Design and Appearance: PDC 23

Partially Complies
(See Table Discussion)

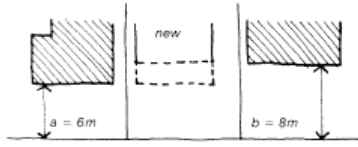
Except where specified in a particular zone, policy area or precinct, buildings and structures should be set back from road boundaries having regard to the requirements set out in Table Mar/1 - Building Setbacks from Road Boundaries.

General Section: Design and Appearance: PDC 24

Does Not Comply
(See Table Discussion)

Location of Road Boundary	Setback distance from road boundary (metres)
Within the Caravan and Tourist Park Zone	See zone provisions
Within the Regional Centre Zone	See zone provisions
Within Research Policy Area 7 located within the Industry Zone	10 metres
Within the Residential Zone	See zone provisions
Within the Suburban Activity Node Zone	See zone provisions
Within the Urban Employment Zone	See zone provisions
All other zones	8 metres
Table Mar/1 - Building Setbacks from Road Boundaries.	

Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjacent allotments	Setback of new building
Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p>  <p>When $b - a \leq 2$, setback of new dwelling = a or b</p>
Greater than 2 metres	At least the average setback of the adjacent buildings

General Section: Design and Appearance: PDC 25

Does Not Comply
(See Table Discussion)

Dwellings should be designed within the following parameters:

Minimum setback from primary road frontage where no established streetscape exists: 8 metres from arterial roads 5 metres in all other circumstances.

Does Not Comply
(See Table Discussion)

Minimum setback from secondary road frontage: 3 metres

Residential Zone: PDC 7

Complies

The 5 metre setback is consistent with the secondary street setback of the existing mosque. Landscaping forward of the building will aid in further reducing the building's bulk and scale and presence upon the streetscape.

<p>Side and Rear Setbacks <i>Dwellings should be designed within the following parameters:</i></p> <p><i>Minimum setback from side boundaries</i> <i>Where the wall height is not greater than 3 metres:</i> (a) 2 metres within Hills Policy Area 11 (b) 1 metre in all other circumstances.</p> <p><i>Where the wall height is between 3 metres and 6 metres:</i> (a) 3 metres if adjacent southern boundary (b) 2 metres in all other circumstances.</p> <p><i>Minimum setback from rear boundary</i></p> <p>6 metres for a single storey dwelling in all other circumstances. 8 metres for a 2 or more storey dwelling in all other circumstances.</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>In the absence of specific setback requirements for non-residential buildings within a Residential Zone, assessment against the general intent of the Residential Zone side and rear setbacks requirements has been undertaken. The proposed upper level northern side setback of 3 metres complies with the upper level setback required for a two storey dwelling within the Northern Policy Area 13. The potential visual impact of the upper level will be further minimised through the incorporation of a 2.1 metre high colourbond fence along the northern boundary and proposed medium to high level landscaping between the fence and building.</p> <p>As such, the proposed 3 metre setback is considered appropriate and will adequately minimise potential visual impacts resulting from the height and size of the building.</p> <p>Does Not comply (See Table Discussion)</p>
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Front Setback

Setbacks for non-residential buildings within a residential zone has not been prescribed and whilst not specifically a dwelling, the upper level hall of the building is designed to present to the street as a dwelling. The building also shares similar characteristics to that of a commercial building primarily as a result of the lower level car park. Dwellings within a Residential Zone located on an arterial road should be setback a minimum 8 metres from the front boundary, whilst the minimum front setback from an arterial road boundary for buildings and structures in all other zones is 8 metres (unless otherwise specified).

In the absence of specific setback requirements, assessment against the general intent of these provisions has been undertaken along with assessment against the applicable Design and Appearance provisions.

The proposed front setback of 1.7 metres to the verandah and 5.5 metres to the two-storey hall component does not accord with the 8 metres required for dwellings located on an arterial road in the Residential Zone or the 8 metre setback required for a building in a zone not listed within Table Mar/1 - Building Setbacks from Road Boundaries.

The upper level setback of 5.5 metres maintains a similar, albeit slightly further forward, front setback to that of the adjacent mosque whilst the proposed verandah setback of 1.7 metres will be significantly forward of the existing mosque and adjacent dwelling to the north.

Whilst the proposed building is setback slightly forward of the mosque and significantly forward of the adjacent dwelling to the north, in my view the building's front setback is acceptable as it is similar with and compatible to the adjacent mosque. Furthermore, the front façade incorporates a unique design that will positively contribute to the existing streetscape and locality and adequately aid in minimising the potential visual impacts caused by the limited front setback. Furthermore, a uniform and consistent front setback of existing buildings (dwellings and commercial structures) along Marion Road is not present and the proposed setback will not have any adverse visual or amenity impacts on the immediate locality.

Whilst the proposed verandah setback of 1.7 metres will be significantly forward of the existing mosque and adjacent dwelling to the north, it is located in line with the existing mosque entry portico, and behind the recently approved verandah extension (Development Application 100/1101/2015) that provides a 900mm boundary setback. The verandah is of a relatively open nature and incorporates design elements that match and complement the existing mosque and will aid in contributing to a varied streetscape.

Whilst not complying with a number of applicable Principles of Development Control, the front setbacks are nonetheless considered acceptable.

Rear setbacks

In the absence of specific setback requirements for non-residential buildings within a Residential Zone, assessment against the general intent of the Residential Zone rear setbacks requirements has been undertaken.

The proposed western setbacks would not meet the minimum 8 metres required for a two-storey dwelling within the Northern Policy Area 13 of the Residential Zone.

Whilst the proposed setback is less than required 8 metres, the proposed 5 metre setback is significantly greater than what currently exists, whereby a 5.5 metre high, 18 metre long wall is located on the boundary. The removal of this wall will significantly increase the amenity of the adjacent property (2 Condada Avenue). This notwithstanding, the overall length of the proposed building at 20 metres (27 metres if including the rear balcony) will nonetheless result in a visual impact over that which currently exists when viewed from the rear yard of the adjacent allotment to the west.

Whilst the western boundary is taken as the rear of the allotment due to the primary frontage being taken as Marion Road, some regard should also be given to the ‘re-orientation’ of the dwelling to face Condada Avenue. In this instance, a new two storey detached dwelling ‘re-oriented’ to achieve a primary street frontage to Condada Avenue would require the provision of a 2 metre upper level side setback to the western boundary. In this regard, a greater visual impact could occur compared to that currently proposed by the 5 metre setback.

As such, the separation afforded to the rear boundary is considered sufficient to minimise the visual impact of the building from the adjacent property. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.

Building Height	
<p><i>Maximum building height (from natural ground level): 2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>The proposed building incorporates a maximum building height, to the roof ridge, of 7.5 metres, which is less than the maximum permitted in the Policy Area. It should be noted the building height is similar to that of the existing mosque and a conventional two storey residential dwelling.</p>

Noise

Residential development close to high noise sources (eg major roads, railway lines, tram lines, industry, and airports) should be designed to locate bedrooms, living rooms and private open spaces away from those noise sources, or protect these areas with appropriate noise attenuation measures.

General Section: Residential Development: PDC 26

Residential development on sites abutting established collector or higher order roads should include a landscaped buffer between the dwellings and the road as well as front fences and walls that will supplement the noise control provided by the building facade. 2

General Section: Residential Development: PDC 27

External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:

- (a) active communal recreation areas, parking areas and vehicle access ways*
- (b) service equipment areas and fixed noise sources on the same or adjacent sites.*

General Section: Residential Development: PDC 29

Complies

Whilst the proposal does not incorporate an acoustic wall or acoustically rated windows to the dwelling, the dwelling component is positioned to the rear of the allotment adjacent the western boundary and is provided with sufficient separation to and shielding from Marion Road to avoid potential noise disturbances.

Transportation and Access

Land Use

Land uses arranged to support the efficient provision of sustainable transport networks and encourage their use.

General Section: Transportation and Access: PDC 1

Complies

Movement Systems

Development should be integrated with existing transport networks, particularly major rail, road and public transport corridors as shown on Location Maps and Overlay Maps - Transport, and designed to minimise its potential impact on the functional performance of the transport network.

General Section: Transportation and Access: PDC 2

Complies

Development should provide safe and convenient access for all anticipated modes of transport.

General Section: Transportation and Access: PDC 8

Complies

Driveway crossovers should be separated and the number minimised to optimise the provision of on-street visitor parking (where on-street parking is appropriate).

General Section: Transportation and Access: PDC 11

Complies

Should the need arise, appropriate space is provided along Condada Avenue to provide on-street parking.

Access

Development should have direct access from an all-weather public road.

General Section: Transportation and Access: PDC 22

Complies

Development should be provided with safe and convenient access which:

- (a) avoids unreasonable interference with the flow of traffic on adjoining roads*
- (b) provides appropriate separation distances from existing roads or level crossings*
- (c) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced*

Complies

<p>traffic through over-provision (d) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.</p> <p>General Section: Transportation and Access: PDC 23</p>	
<p>The number of vehicle access points onto arterial roads shown on Overlay Maps - Transport should be minimised and, where possible, access points should be: (a) limited to local roads (including rear lane access) (b) shared between developments.</p> <p>General Section: Transportation and Access: PDC 25</p>	<p>Complies A single 'in only' crossover is located on Condada Avenue whilst a single 'out only' crossover has been provided on Marion Road.</p>
<p>Development with access from roads with existing or projected traffic volumes exceeding 6000 vehicles per day should be sited to avoid the need for vehicles to reverse onto or from the road.</p> <p>General Section: Transportation and Access: PDC 26</p> <p>Development with access from arterial roads or roads as shown on Overlay Maps – Transport should be sited to avoid the need for vehicles to reverse onto or from the road.</p> <p>General Section: Transportation and Access: PDC 27</p>	<p>Complies Dedicated entry and exit points to the site have been provided, including the provision of an 'out only' crossover onto Marion Road.</p>
<p>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</p> <p>General Section: Transportation and Access: PDC 28</p>	<p>Complies</p>
<p>Access for People with Disabilities</p> <p>Development should be sited and designed to provide convenient access for people with a disability.</p> <p>General Section: Transportation and Access: PDC 32</p>	<p>Complies Sufficient space has been provided within the car park to accommodate people with a disability.</p>
<p>Vehicle Parking</p> <p>Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.</p> <p>General Section: Transportation and Access: PDC 34</p>	<p>Complies (Discussed further below)</p>
<p>Development should be consistent with Australian Standard AS: 2890 - Parking facilities.</p> <p>General Section: Transportation and Access: PDC 35</p>	<p>Complies</p>
<p>Vehicle parking areas should be sited and designed to:</p> <ul style="list-style-type: none"> (a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development (b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network (c) not inhibit safe and convenient traffic circulation (d) result in minimal conflict between customer and service vehicles (e) avoid the necessity to use public roads when moving from one part of a parking area to another (f) minimise the number of vehicle access points onto public roads (g) avoid the need for vehicles to reverse onto public roads (h) where practical, provide the opportunity for shared use of car parking and integration of car parking areas with adjoining development to reduce the total extent of vehicle parking areas and the requirement for access points (i) not dominate the character and appearance of a site when viewed from public roads and spaces (j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas (k) include infrastructure such as underground cabling and connections to power infrastructure that will enable the recharging 	<p>Complies</p>

<p><i>of electric vehicles.</i></p> <p><i>General Section: Transportation and Access: PDC 36</i></p>	
<p><i>Vehicle parking areas that are likely to be used during non-daylight hours should provide floodlit entry and exit points and site lighting directed and shaded in a manner that will not cause nuisance to adjacent properties or users of the parking area.</i></p> <p><i>General Section: Transportation and Access: PDC 38</i></p>	<p>Partially Complies</p> <p>The car park will be available for use by congregation members between the hours of 7am to 10pm, whilst occupants of the dwelling will have unrestricted access. Car park lighting and exit points have been provided.</p>
<p><i>Vehicle parking areas should be sealed or paved to minimise dust and mud nuisance.</i></p> <p><i>General Section: Transportation and Access: PDC 39</i></p>	<p>Complies</p>
<p><i>To assist with stormwater detention and reduce heat loads in summer, outdoor vehicle parking areas should include landscaping.</i></p> <p><i>General Section: Transportation and Access: PDC 40</i></p>	<p>Complies</p>
<p><i>Vehicle parking areas should be line-marked to delineate parking bays, movement aisles and direction of traffic flow.</i></p> <p><i>General Section: Transportation and Access: PDC 41</i></p>	<p>Complies</p>
<p>Vehicle Parking for Residential Development</p> <p><i>On-site vehicle parking should be provided having regard to:</i></p> <ul style="list-style-type: none"> <i>(a) the number, nature and size of proposed dwellings</i> <i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i> <i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i> <i>(d) availability of on-street car parking</i> <i>(e) any loss of on-street parking arising from the development (e.g. an increase in number of driveway crossovers).</i> <p><i>General Section: Transportation and Access: PDC 43</i></p>	<p>Complies</p>
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i></p> <p><i>2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</i></p> <p><i>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</i></p> <p><i>1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>Whilst the proposed dwelling is not of a dwelling type listed, it shares similar characteristics to that of a detached dwelling which would require the provision of 3 car parking spaces. As explained below, sufficient car parking has been provided to meet the minimum requirements and needs of the likely occupants.</p>

As a way of introduction to the history of the site, and for Members to gain an understanding as to the merits of the car parking of the proposal, the following is provided for the benefit of the Panel.

Historically the allotment at 658 Marion Road has been used as a place of worship and associated community hall, whilst the allotment at 656 Marion Road has been used for residential purposes containing a single storey detached dwelling. Council's records indicate the site at 658 Marion Road has never provided on-site car parking, with patrons relying on the surrounding road network. The site at 656 Marion Road has always provided parking for occupants of the dwelling.

In 2003 consent was granted for alterations to the building at 658 Marion Road, which also converted the building from a church to mosque (the building remained a place of worship). In 2006, an application to construct a mezzanine floor within the mosque building was granted consent, subject to the provision and use of 10 car park spaces on a nearby site. Use of car parking at the Ascot Park Primary School was arranged and according to the applicant, remains in use.

As part of this application, a car park containing 24 spaces is to be located at ground level under the raised dwelling and community hall building.

As discussed earlier the proposed dwelling has been provided with 3 dedicated on-site parking spaces, which satisfies Council's Development Plan.

In my view, the community hall is similar to that of a community centre, and as such, for the purposes of this assessment, the community centre car parking requirements contained within Council's Development Plan have been used when assessing the Off Street Vehicle Parking Requirements.

According to *Carrabs Nominees Pty Ltd v City of Burnside* [2003] SAERDC 115, an existing shortfall of car parking that is lawful cannot weigh against the consideration of a proposed development. However, if a proposed development were to exacerbate that shortfall it may not warrant approval. As such, whilst the redevelopment of the site provides opportunity to rectify the historical shortfall in car parking, regard must also be had to the fact the existing situation remains lawful and the likely increase in demand associated with any increase in floor area.

The Development Plan specifies that a Community Centre requires 10 car park spaces per 100 square metres of floor area. Whilst an entirely new community centre proposing a footprint (283m²) of this size would require 29 spaces, as the new building is replacing the existing, the proposed community hall will result in an increase of 53 square metres (230m² to 283m²) and therefore an additional 6 spaces are required to accommodate the increase in demand.

Overall, the proposed development will require the provision of 9 additional spaces to accommodate the anticipated demand created by the dwelling and expanded community hall.

When having regard to the minimum number of parking spaces required when assessing the total floor area increase and loss of on-site parking spaces at 656 Marion Road, the proposal will provide an additional 15 spaces over the requirements stipulated within Council's Development Plan. The provision of off-street parking spaces is likely to result in a reduction in on-street parking compared to the existing situation as a number of attendees will be provided with off-street parking and will therefore no longer be required to park in surrounding streets. Even if discounting the 10 spaces provided at Ascot Park Primary School, 5 spaces would still be provided against the existing lawful shortfall.

The applicant had confirmed the hall will not be used when the mosque is in use. The total floor area of the hall requires the provision of 29 car parking spaces, whilst an average prayer session (excluding Fridays) would result in a maximum 20 attendees, which theoretically would require the provision of an additional 7 park spaces. Therefore, despite the total floor area of the community hall and number of patrons attending prayers at the mosque resulting in a theoretical car parking demand of at least 36 spaces, this demand will not be realised on the site, as neither building will be used simultaneously.

In Council's opinion, the overall provision of 24 spaces will significantly reduce the impacts caused by the existing lawful shortfall in parking by reducing the current demands placed on the local street network.

The subject application was referred to the Department for Planning, Transport and Infrastructure who did not object to the proposed development. Furthermore, the applicant

provided a Traffic and Parking Assessment prepared by MFY that concluded the traffic associated with the development would be readily accommodated by the existing road network. The proposed use is considered to provide safe and convenient vehicular access, in addition to appropriate on-site parking, the amount of additional trips generated by the floor area increase of the hall would not compromise the arterial road function of Marion Road, the functional performance of the adjacent road network, or prevent the provision of safe and convenient access for all anticipated modes of transport.

To minimise the amount the traffic flow in and out of the subject site, a single 'in only' crossover will be located along Condada Avenue whilst a single 'out only' crossover shall be located on Marion Road. To reinforce the 'out only' nature of the Marion Road crossover, it will be angled at 70 degrees to the kerb. Further, to ensure the provision of safe and convenient access to and from the site is maintained, directional signage will be located within the car park.

Interface Between Land Uses	
<p><i>Development located and designed to prevent adverse impact and conflict between land uses.</i></p> <p><i>Protect community health and amenity and support the operation of all desired land uses.</i></p> <p><i>General Section: Interface Between land Uses Objective 1 & 2</i></p>	Complies
<p><i>Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</i></p> <p><i>(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants</i></p> <p><i>(b) noise</i></p> <p><i>(c) vibration</i></p> <p><i>(d) electrical interference</i></p> <p><i>(e) light spill</i></p> <p><i>(f) glare</i></p> <p><i>(g) hours of operation</i></p> <p><i>(h) traffic impacts.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 1</i></p>	Complies
<p><i>Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 2</i></p>	Complies
<p><i>Development adjacent to a Residential Zone should be designed to minimise overlooking and overshadowing of adjacent dwellings and private open space.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 3</i></p>	<p>Complies</p> <p>As discussed within the Visual Privacy and Overshadowing segments of this report, the proposal is considered to adequately accord with the applicable criteria.</p>
<p><i>Non-residential development on land abutting a residential zone should be designed to minimise noise impacts to achieve adequate levels of compatibility between existing and proposed uses.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 6</i></p>	Complies
<p>Noise Generating Activities</p> <p><i>Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant Environment Protection (Noise) Policy criteria when assessed at the nearest existing noise sensitive premises.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 7</i></p>	Complies

The proposed development proposes a non-residential use within a Residential Zone and therefore has been assessed against the relevant Interface Between Land Uses Principles of Development Control.

Noise and Traffic

The development has been designed to minimise adverse impact and conflict between different land uses given the site's location on a major arterial road which experiences a high level of traffic and noise impacts and will reduce reliance on the local road network. Further, the applicant proposes a limit on the hours of use of the car park and the incorporation of sufficient acoustic measures. The car park is located adjacent the northern and western property boundaries and therefore has the potential to impact on the adjacent residential allotments in terms of noise.

The report provided by Sonus (acoustic engineers) on behalf of the applicant demonstrates the proposed use will achieve the goal noise levels outlined within the Environment Protection (Noise) Policy 2007. The EPP recommends an average noise level for frequent and regular activity at the site of 47 dB(A) during the day (7am to 10pm) and 40dB(A) at night (10pm to 7am). Additionally the EPP states an instantaneous maximum noise level requirement of 60 dB(A) for development that operates during the above prescribed night period. As the site is located adjacent a noise generating source (Marion Road) a 5db(A) penalty is applied. The report considers noise from vehicle movements, car park activity and general activity occurring on site. The report suggests in order for the proposed development to achieve the requirements of the Policy, sealed acoustic fencing to a height of 2.1 metres along the entire length of the northern and western boundaries and acoustic absorption of at least 50mm thick with a minimum density of 32kg/m² to the underside of the undercroft soffit, is required.

The incorporation of these measures is considered to assist in minimising the potential for disturbances above what noise disturbance may be experienced from being located within close proximity to Marion Road. To further minimise the potential for unreasonable interference from traffic or noise impacts, the applicant has confirmed access to the car park, other than to occupants of the dwelling, will be restricted to 7am to 10pm of each day.

It is recommended that if the Panel are supportive of the proposal, the recommendations suggested within the Environmental Noise Assessment report prepared by Sonus be attached to the consent via the conditions (as recommended in this report).

As discussed earlier within this report the applicant provided an independent Traffic and Parking Assessment prepared by MFY that concluded the traffic associated with hall increase would be readily accommodated by the existing road network. The proposed use is considered to provide safe and convenient vehicular access, in addition to appropriate on-site parking, and the amount of additional trips generated by the floor area increase of the hall would not compromise the arterial road function of Marion Road. The report by MFY demonstrates the proposed use will not generate additional traffic to the extent that it would adversely affect the functional performance of the adjacent road network or prevent the provision of safe and convenient access for all anticipated modes of transport.

It should be acknowledged, due to the site's close proximity to Marion Road (which has an average daily two way traffic flow of approximately 37,100 vehicles per day) the overall amenity of adjacent residential allotments will be less than if they were located away from major noise sources.

As such, I consider the issue of noise and traffic to be adequately addressed by the proposed plans and recommended conditions, and I am of the opinion the amenity of adjacent allotments within the locality will not be adversely compromised to the extent where refusal is warranted.

The proposal is considered to reasonably satisfy the applicable Interface Between Land Uses Objectives and Principles of Development Control.

Private Open Space

Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:

- (a) to be accessed directly from a habitable rooms of the dwelling*
- (d) to minimise overlooking from adjacent buildings*
- (e) to achieve separation from bedroom windows on adjacent sites*
- (f) to have a northerly aspect to provide for comfortable year round use*
- (g) not to be significantly shaded during winter by the associated dwelling or adjacent development*
- (h) to be partly shaded in summer*
- (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality*
- (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.*

General Section: Residential Development: PDC 15

Complies

- a) The nominated area of POS areas is directly accessible from a habitable room.
- d) The area of POS will not be directly overlooked by adjacent buildings as it is located on a raised balcony and screened.
- e) The area of POS is not located next to bedrooms of dwellings on adjacent sites.
- f) The area of POS maintains a northerly aspect to provide for comfortable year round use.
- g) The proposed area of POS will not be significantly shaded during winter by the associated dwelling or adjacent development.
- h) POS areas are capable of being shaded during summer.
- j) The dwelling is well proportioned and contains 4 bedrooms. The dwelling has been designed for a specific purpose, the nominated area of POS is considered to have sufficient shape and area to be functional for the likely needs of the occupants.

Partially Complies

- i) The Mosque's Imam and immediate family are to be the occupants of the dwelling. Traffic should not adversely affect the subject land due to the POS's location to the rear of the allotment and away from high noise/ air pollutant sources. It should be acknowledged the nominated area of private open space is located to the rear of the hall and within close proximity to the mosque, both of which, will be used until 10pm, and therefore the occupant's amenity may be less than that experience by a normal residential dwelling.

Nevertheless, assuming the Imam or other person/s residing in the dwelling have a direct involvement in the mosque and/or activities occurring in the hall, the impact of such upon the amenity of the occupants will be minimal.

Dwellings located above ground level should provide private open space in accordance with the following table:

Dwelling type	Minimum area of private open space
Studio (where there is no separate bedroom)	No minimum requirement
One bedroom dwelling	8 square metres
Two bedroom dwelling	11 square metres
Three + bedroom dwelling	15 square metres

General Section: Residential Development: PDC 21

Complies

The four bedroom dwelling is provided approximately 70m² of private open space.

Private open space located above ground level should have a minimum dimension of 2 metres and be directly accessible from a habitable room.

General Section: Residential Development: PDC 22

Complies

The area of private open space is provided achieves 7 metre by 10 metre dimensions.

Visual Privacy

Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:

(a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct

(b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms

(c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.

General Section: Design & Appearance: PDC 12

Complies

The windows along the northern façade will be entirely fixed and obscured therefore preventing potential overlooking, whilst the windows located along the western façade will incorporate fixed and obscure glazing to a height of 1.7 metres above the internal floor level to minimise direct overlooking onto the adjacent western allotment. These measures are considered to adequately accord with General Section Design & Appearance Principle of Development Control 12.

A 70 square metre balcony with direct access to the living/dining/meals area of the dwelling is located to the northern-western corner of the building. In order to minimise potential overlooking and maintain the amenity of the occupants, the balcony will incorporate solid balustrading to a height of 1.5 metres above the proposed floor level and 600mm wide raised planter boxes (see balustrade cross-section within *Attachment III*). The location and height of these planter boxes, in addition to the associated landscaping, will aid in mitigating potential overlooking and limit direct downward overlooking onto the adjacent dwellings to the north and west.

In my opinion, the setbacks afforded, in addition to the incorporation of raised planter boxes, is considered sufficient to prevent persons standing on the subject balcony from achieving direct downwards views. As such, the proposal is considered to appropriately protect the privacy and amenity of the adjacent allotments.

Should the Development Assessment Panel support the proposal, it is recommended a condition be attached to the Development Plan Consent ensuring the landscaping located within the planter boxes is maintained for the life of the development and immediately replaced when necessary to ensure the privacy of the adjacent dwellings is appropriately maintained.

The separation afforded through the increase in setbacks and partial screening provided through the incorporation of raised planter boxes are considered to sufficiently minimise direct overlooking in accordance with Principle 12.

Energy Efficiency

Development should provide for efficient solar access to buildings and open space all year around.

General Section: Energy Efficiency: PDC 1

Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.

General Section: Energy Efficiency: PDC 2

Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.

General Section: Energy Efficiency: PDC 3

Complies

The dwelling is oriented so that the main activity areas and private open space faces north for exposure to winter sun, and thereby provide for efficient solar access to open space all year around.

As identified in the Overshadowing section of this table, the proposed building is designed and sited to ensure adequate winter sunlight remains available to the main activity areas of adjacent buildings.

Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.

General Section: Energy Efficiency: PDC 4

Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.

General Section: Energy Efficiency: PDC 5

Complies

The dwellings incorporate a hipped roof form set at a 15 degree pitch, with north-facing sections upon which solar hot water services and/or photovoltaic cells could be sited.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Complies

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas. Approximately 20% of the allotment has been allocated for landscaping and landscape strips long both road frontages.

Given the current condition of the subject land which contains no formal landscaping of any type, it is considered that the provision of this landscaping will greatly enhance the appearance of the site when viewed from surrounding land.

<p><i>Fences and walls, including retaining walls, should:</i></p> <p>(a) not result in damage to neighbouring trees</p> <p>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</p> <p>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</p> <p>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</p> <p>(e) assist in highlighting building entrances</p> <p>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</p> <p>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</p> <p>(h) be constructed of non-flammable materials.</p> <p>General Section: Landscaping, Fences & Walls: PDC 5</p>	<p>Complies</p> <p>The proposed 2.1 metre high colorbond fencing along the northern and western boundaries is considered necessary to maintain privacy and security, without unreasonably affecting the visual amenity or access to sunlight of adjoining land. Additionally, the fence will aid in reducing the transmission of noise between the subject site and adjacent allotments.</p> <p>Additional fencing, similar to that around the existing mosque, will be installed along the Condanda Avenue and Marion Road boundaries.</p>
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Crime Prevention

<p><i>Development should be designed to maximise surveillance of public spaces through the incorporation of clear lines of sight, appropriate lighting and the use of visible permeable barriers wherever practicable.</i></p> <p>General Section: Crime Prevention: PDC 1</p>	<p>Complies</p>
<p><i>Buildings should be designed to overlook public and communal streets and public open space to allow casual surveillance.</i></p> <p>General Section: Crime Prevention: PDC 2</p>	<p>Complies</p>
<p><i>Development should provide a robust environment that is resistant to vandalism and graffiti.</i></p> <p>General Section: Crime Prevention: PDC 3</p>	<p>Complies</p>
<p><i>Development should provide lighting in frequently used public spaces including those:</i></p> <p>(a) along dedicated cyclist and pedestrian pathways, laneways and access routes</p> <p>(b) around public facilities such as toilets, telephones, bus stops, seating, litter bins, automatic teller machines, taxi ranks and car parks.</p> <p>General Section: Crime Prevention: PDC 4</p>	<p>Complies</p>
<p><i>Development, including car park facilities should incorporate signage and lighting that indicate the entrances and pathways to, from and within sites.</i></p> <p>General Section: Crime Prevention: PDC 5</p>	<p>Does Not Comply</p> <p>Whilst directional signage and lighting illustrating the entrance to the dwelling and hall has not been provided, these entrances are clearly defined.</p>
<p><i>Site planning, buildings, fences, landscaping and other features should clearly differentiate public, communal and private areas.</i></p> <p>General Section: Crime Prevention: PDC 7</p>	<p>Complies</p>
<p><i>Buildings should be designed to minimise and discourage access between roofs, balconies and windows of adjoining dwellings.</i></p> <p>General Section: Crime Prevention: PDC 8</p>	<p>Complies</p>
<p><i>Development should avoid pedestrian entrapment spots and movement predictors (eg routes or paths that are predictable or unchangeable and offer no choice to pedestrians).</i></p> <p>General Section: Crime Prevention: PDC 10</p>	<p>Complies</p>

The proposed development has been designed to maximise casual surveillance of Marion Road and Condada Avenue by providing entryways, balconies and/or windows facing these areas. Furthermore, low to medium level landscaping has been incorporated throughout the site to provide clear lines of sight and differentiate between the public and private areas. Additionally fencing, similar to that around the existing mosque, will be installed along the Condada Avenue and Marion Road boundaries to provide additional security.

Whilst the proposed development accords with a majority of applicable Principles, due to the raised nature of the proposed dwelling/hall and semi-obscured mosque windows, the car park will experience a reduced level of casual surveillance. Appropriate car park lighting will aid in reducing the potential for entrapment or anti-social behaviour.

Nevertheless, the measures taken are considered sufficient and will ensure the proposed land use provides an appropriate level of safety and amenity to the users.

A recommended condition of consent has been included which seeks for site lighting, including within the car park to comply with relevant Australian Standards.

REPRESENTOR'S CONCERNS

The concerns raised by the representor in relation to potential overlooking caused by the upper level balcony, the height and composition of the boundary fencing and the potential traffic impacts have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

ANALYSIS/CONCLUSION

Whilst a dwelling is listed as an envisioned land use within the Residential Zone, a community or meeting hall, which is similar to the proposed use, is not listed as either an envisaged or a non-complying use.

A dwelling is an envisaged use within the Residential Zone, and although a dwelling in the traditional sense has not been proposed, the dwelling has been designed for use by the Imam of the mosque. The hall will maintain its use for community gatherings/events associated with the mosque and is considered to share similar characteristics to that of a community centre. A community hall shares characteristics to that of other small scale non-residential uses that serve the local community.

It is anticipated the uses, whilst not all expressly envisioned within the Zone, will not adversely affect the amenity of the locality. Furthermore, it should be emphasised a hall and dwelling, albeit in a different form and location, presently exists on the subject site. In my opinion, the proposal is unlikely to generate adverse amenity impacts upon adjoining properties to the extent where refusal is warranted.

In terms of design and appearance, the proposed building has been designed to be of a similar bulk and scale to that of a two-storey dwelling whilst incorporating elements that match or complement the adjacent mosque. The dwelling component of the building will present to Condada Avenue as a more traditional dwelling by incorporating a front door on the lower level and floor to ceiling windows and a balcony on the upper level. Whilst the rear setbacks proposed do not reflect the rear setback sought for a two storey dwelling within the residential zone, the extent of separation afforded is considered sufficient to minimise potential bulk and scale impacts caused by the building's two storey nature. The raised planter boxes and associated landscaping are considered to appropriately mitigate potential overlooking and limit direct downward overlooking onto the adjacent dwellings to the north and west. The proposed privacy methods are considered sufficient and will appropriately preserve the privacy and amenity of the adjoining properties.

In respect to the provision of on-site car parking and access arrangements to and from the subject land, both are considered to adequately meet Development Plan criteria in terms of the number of on-site parks provided, whilst vehicular access to and from the site has been determined as being satisfactory. The overall provision of 24 spaces will significantly reduce the impacts caused by the existing lawful shortfall in parking by providing off-street parking and thereby reducing the current demands placed on the local street network.

It is anticipated that some additional noise impacts from vehicles and patrons accessing the ground level car park will be generated as a result of the proposed use. To protect the amenity of neighbouring properties, acoustic measures, such as the 2.1 metre high colorbond fence along the northern and western boundary and acoustic absorption to the underside of the undercroft soffit have been incorporated. Furthermore, access to the car park, other than to occupants of the dwelling, will be restricted to 7am to 10pm of each day.

Assessment relating to the qualitative Principles of Development Control have concluded the development satisfies a majority of the relevant Development Plan criteria. In my opinion, the use itself is not of a scale or intensity that will create significant amenity and /or economic impacts on adjacent land uses.

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 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: 100/2015/421 for Demolition of existing dwelling and outbuildings (656 Marion Road), demolition of existing hall building (658 Marion Road - adjacent western boundary) and construction of a building comprising hall, dwelling and balcony with car parking and landscaping below at 656 Marion Road PARK HOLME 5043 be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/421, being documents;
 - 01, 02, 03, 04, 05 prepared by Carumag, received by Council on 22/06/2015;
 - Environmental Noise Assessment prepared by Sonus (dated February 2015), received by Council on 25/02/2012;except when varied by the following conditions of consent.
2. All northern and western fencing shall be sealed airtight at all junctions (including with the ground), to the reasonable satisfaction of the Council and be installed and in use prior to the occupation/use of the dwelling or hall (whichever occurs first).
3. Acoustic absorption of at least 50mm thick with a minimum density of 32kg/m² to the underside of the undercroft soffit be installed and in use prior to the commencement of the use and undertaken to the reasonable satisfaction of the Council.
4. Access to the car park, other than by occupants of the associated dwelling, shall be restricted to the following times:
 - 7am to 10pm on the same day, 7 days per week.
5. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.
6. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.

7. All areas nominated as landscaping or garden areas on the approved plans shall be planted and maintained with a suitable mix and density of native trees, shrubs and groundcovers prior to the commencement of the use to the reasonable satisfaction of the Council.
8. Landscaping shall be maintained so as to not obstruct the views of drivers or pedestrians entering or exiting the site, to the reasonable satisfaction of Council.
9. All new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
10. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).
11. Wheel stopping devices shall be placed within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council.
12. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
13. 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.
14. All car parking spaces shall be linemarked or delineated in a distinctive fashion prior to occupation of the premises, with the marking maintained in a clear and visible condition at all times.
15. Directional signs indicating the location of car parking spaces must be provided on the subject land and maintained in a clear and legible condition at all times. All directional signage shall be installed and in use prior to the commencement of the use to the reasonable satisfaction of the Council.
16. Pedestrian walkways on the subject site shall be adequately lit in accordance with Australian / New Zealand Standard AS/NZS 1158.3.1:1999 "Road Lighting Part 3.1: Pedestrian area (Category P) lighting - Performance and installation design guidelines". Such lighting shall be maintained at all times, to the reasonable satisfaction of the Council.
17. All external lighting of the site, including car parking areas and buildings, shall be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not to cause nuisance or loss of amenity to any person beyond the site to the reasonable satisfaction of the Council.
18. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

Note: A copy of the information guide can be viewed at the City of Marion webpage www.marion.sa.gov.au/page.aspx?u=181

19. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
20. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
21. A trap shall be installed as part of the site's stormwater system to prevent grease, oil, sediment, litter and other substances capable of contaminating stormwater from entering the Council's stormwater drainage system. The trap shall be regularly cleaned and maintained in good working order to the reasonable satisfaction of the Council.
22. Stormwater must be disposed of in such a manner that does not flow or discharge onto land of adjoining owners, lie against any building or create insanitary conditions.

Department of Planning Transport and Infrastructure Conditions

23. Access to serve the site shall consist of an ingress only access from Condada Avenue and an exist only access to Marion Road.
24. The exit to Marion Road shall be a maximum of 4 metres in width and angled to meet the road at 70° to the kerbline.
25. All vehicles shall enter and exit the site in a forward direction.
26. Signage and/or line marking shall be employed to reinforce the desired flow of traffic through the site.
27. The proposed carpark shall be consistent with AS/NZS 2890:1:204 and 2890:6:2009, where applicable.

NOTES

1. An invoice for the required payment of \$750+GST & \$250+GST for removal of two Council Street Tree's shall be sent via post once Development Approval has been issued.
2. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
3. 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, to the reasonable satisfaction of the Council. (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).
4. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
5. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.

6. 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.
7. 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.

Department of Planning Transport and Infrastructure Notes

8. Access arrangements created by this application rely upon a one-way flow of traffic across two allotments that are currently held by the same owner under different titles. Consideration should be given to merging the allotments in order to preserve the approved access arrangements into the future.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plans</i>
<i>Attachment IV:</i>	<i>Supporting documentation</i>
<i>Attachment V:</i>	<i>Statement of Representations</i>
<i>Attachment VI:</i>	<i>Applicant's Response to Representations</i>
<i>Attachment VII:</i>	<i>External Agency Referral Comments – DPTI</i>

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.3
Originating Officer:	Steve Hooper Manager Development Services
Applicant:	Lock Surveys
Development Description:	Land Division (comprising three stages) and the construction of three buildings for the purpose of retail showroom with associated car parking, landscaping and advertising signs.
Site Location:	11L Main South Road, Sturt & 1496-1522 Main South Road, Sturt
Zone:	Residential Zone (Northern Policy Area 13) and Neighbourhood Centre Zone
Application Type:	Category 3 / Non-Complying
Lodgement Date:	29/08/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1517 (100/C185/2014)
Recommendation:	Development Plan Consent and Land Division Consent (Granted), subject to the concurrence of the Development Assessment Commission.

CATEGORISATION & DELEGATION

The subject application is a Category 3 Non-Complying form of development as both a 'shop' and 'advertisement or advertising hoarding' are listed as non-complying forms of development within the procedural matters of the Residential Zone.

Council has delegated the consideration of non-complying development applications to the Development Assessment Panel.

BACKGROUND

The rear portion of the subject land comprises former DPTI land at one stage intended for use in association with the Southern Expressway but subsequently deemed surplus to DPTI requirements. This portion of the site is located within the Residential Zone and triggers the non-complying status of the application.

During the assessment process, modifications to the proposal plans were required to address the concerns of DPTI with respect to access and egress from Main South Road. Revisions were made to the plans such that DPTI is now in a position to support the proposal plans. These plans were provided to Council on 27 January 2015.

SUBJECT LAND & LOCALITY

The subject land comprises an area of approximately 8340 square metres, situated on the western side of Main South Road and the eastern side of the Southern Expressway. The land comprises a number of existing allotments and titles, but is distinguished by three distinct areas which are as follows:

- the northern portion of the land comprises an existing group of shops with associated car-parking (approximately 46 car spaces) to the immediate south-west. This group of shops currently comprises a barber shop and an Indian supermarket;
- the southern portion of the land comprises a group of shops fronting Main South Road including 'Kerry Elliss Golf' shop and a bridal shop with approximately 17 off-street parking spaces at the front and 7 spaces to the rear.

The above-mentioned allotments are situated within the Neighbourhood Centre Zone and are separated from one another by a retail premises currently occupied by 'Marcellina's' Restaurant.

Land to the rear is vacant, comprising approximately 2410 square metres situated within the Residential Zone and partially obscured from Main South Road by the aforementioned retail premises. There are no distinguishing features on this land with the exception of an 11kv power pole adjacent to the Southern Expressway bikepath.

The land is burdened by easements and rights of way, which complicate the redevelopment potential of the land.

The locality is commercial in nature forming part of a long-established commercial strip on the western side of Main South Road and separated from residential areas to the west by the Southern Expressway.

Refer Appendix II

PROPOSED DEVELOPMENT

The proposal comprises both land division and land use (construction) components integrated as one application. The subject application is part of a three-stage land division process, and is reliant upon two other land division applications, referred herein as 'Stage One' and 'Stage Two'.

Stage One – DA 100/D184/14

Stage 1 extinguishes the existing titles to create two Torrens Title Allotments. One allotment will comprise a site area of 1987 square metres which will accommodate the existing retail buildings at the southern end of the site, namely Kerry Elliss Golf Shop and the small shopping complex to its immediate north with the existing parking area in front of these shops included.

The internal roadway to the immediate west of these buildings will now form part of the larger allotment as will a 3.8 metre wide driveway to the south of the Kerry Elliss Golf Shop. Otherwise, the land forming part of these shops remains essentially the same.

The larger allotment will comprise a site area of 6353 square metres and will include the vacant land situated within the Residential Zone, together with the shops at the northern end of the site and associated car-parking areas and internal roadways.

Stage Two – DA 100/C186/14

Stage 2 comprises a community title subdivision of the existing shops at the southern end of the site (the 1987 square metre allotment), formalising the existing three shops on their own community allotments and providing for common car-parking and bin storage areas.

Stage 3 – DA 100/2014/1517 (100/C185/14) (the subject application)

Stage 3 comprises two elements – land division and built form (including car parking and landscaping).

The land division seeks to create a community title land division of the larger 6353 square metre allotment, formalising the proposed development of retail tenancies on the vacant land together with a community title allotment for the existing shops at the northern end of the site. Common property will include existing and proposed car-parking areas and internal roadways.

The vacant land is proposed to be developed for three retail tenancies, each tenancy comprising a stage in this development application. The retail buildings are 340 square metres, 610 square metres and 870 square metres in area, respectively. Loading areas are confined to the rear of southern side of the individual buildings. The buildings have been required by the Technical Regulator to maintain a 3.1 metre setback from the 11kv power pole. This setback is achieved.

The proposal will integrate existing and proposed car-parking so as to be shared with the Indian Supermarket and barber shop.

The proposal also includes associated advertising signage and landscaping at the front of the buildings.

The whole of the development proposed, including the three stages of land division, are more particularly outlined on the attached plans.

Refer Appendix III

ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Northern Policy Area 13 are listed in the following table and discussed in further detail below:

Residential Zone

Objectives

- 1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.
- 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.

Principles of Development Control

- 1 The following forms of development are envisaged in the zone:
 - affordable housing
 - domestic outbuilding in association with a dwelling
 - domestic structure
 - dwelling
 - dwelling addition
 - small scale non-residential uses that serve the local community, for example:
 - child care facilities
 - health and welfare services
 - open space

- primary and secondary schools
- recreation areas
- shops, offices or consulting rooms
- supported accommodation.

2 Development listed as non-complying is generally inappropriate.

3 Vacant or underutilised land should be developed in an efficient and co-ordinated manner to increase housing choice by providing dwellings at densities higher than, but compatible with adjoining residential development.

4 Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that:

- (a) serves the needs of the local community
- (b) is consistent with the character of the locality
- (c) does not detrimentally impact on the amenity of nearby residents.

Northern Policy Area 13

Objectives

1 A policy area primarily accommodating low scale, low to medium density housing.

2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.

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

Desired Character

The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

Principles of Development Control

1 The following forms of development are envisaged in the policy area:

- affordable housing
- detached dwelling
- group dwelling
- residential flat building
- row dwelling
- semi-detached dwelling
- supported accommodation.

Assessment

The proposal is not consistent with the general intent of the Residential Zone, nor the desired character applicable to the Northern Policy Area.

However, it is my opinion that the locality displays attributes which warrant the consideration of alternative land uses (in particular, commercial land uses), from those expressly envisaged within the zone.

In this respect, I have formed the opinion that the site is entirely unsuited to residential uses by virtue of its isolation from other residential properties, its proximity to two major roads and its setting in a commercial locality. I note that the Statement of Effect provides planning precedent to support a land-use which on its face, is inconsistent with the overall intent, purpose and desired character of the zone but could nonetheless warrant approval. I accept that this is one

such locality and note the legal precedents referenced in the Statement of Effect provided by the applicant.

I have therefore formed the view that the separation of the subject land from the remainder of the Residential Zone and consistency with the general character, land use, function and design of surrounding development in the immediate locality is of greater relevance than the intent of the Residential Zone.

ZONE & POLICY AREA ASSESSMENT

The front portion of the site is located within the Neighbourhood Zone.

The relevant objectives, desired character and principles of development control of the Neighbourhood Centre Zone are listed in the following table and discussed in further detail below:

Neighbourhood Centre Zone

Objectives

- 1 A centre providing a range of facilities to meet the shopping, community, business, and recreational needs of the surrounding neighbourhood.*
- 2 A centre that provides the main focus of business and community life outside a district centre, and provides for the more frequent and regularly recurring needs of a community.*
- 3 A centre accommodating residential development in conjunction with non-residential development.*

Principles of Development Control

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

- bank
- child care facility
- consulting room
- dwelling in conjunction with non-residential land uses
- library
- health centre
- office
- petrol filling station
- place of worship
- playing field
- pre-school
- primary school
- recreation area
- restaurant
- shop
- supermarket.

- 2 Development listed as non-complying is generally inappropriate.*

- 6 Development of the following respective centres should be carried out in accordance with the concepts shown on:*

- (a) Concept Plan Map Mar/1 - Clovelly Park Centre and Commercial*
- (b) Concept Plan Map Mar/3 - Marion/Mitchell Park Neighbourhood Centre*
- (c) Concept Plan Map Mar/4 - Park Holme Neighbourhood Centre.*

- 7 Land division in the zone is appropriate provided new allotments are of a size and configuration to ensure the objectives of the zone can be achieved.*

Assessment

Whilst the existing retail building is located within the Neighbourhood Zone, the proposed buildings are located within the adjacent Residential Zone. However, as indicated previously, the locality is one which is not suited to residential land uses and is more suited to retail land

uses. Any future refinement to the Neighbourhood Zone as part of a future Development Plan Amendment would plausibly include all of the subject land within this zone.

I note the planning doctrine whereby under certain circumstances, the provisions of an adjacent zone are to be taken into consideration when the subject land is on the periphery of a zone (as referenced in the Statement of Effect).

In this respect I have formed the view that the land use is appropriate and consistent with the objective and intent of the Neighbourhood Zone and represents a form of development expressly envisaged within the zone and inherently suited to the locality.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Design & Appearance	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <p>(a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandas, eaves, parapets and window screens.</p> <p><i>General Section: Design & Appearance: PDC 1</i></p>	<p>Complies</p> <p>The building will comprise modern tilt up construction with concrete wall panelling painted colorbond 'dune' individual verandahs to each tenancy, and colorbond skillion roof.</p> <p>The irregular shape of the allotment presents an opportunity to provide articulation through varied angles that create visual interest.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p>(a) the visual impact of the building as viewed from adjacent properties (b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Partially Complies</p> <p>Proposed retail tenancies 1 & 2 are sited on the boundary with the southern expressway bike path. A landscape buffer exists between the bike path and traffic on the Expressway.</p>
<p><i>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</i></p> <p><i>General Section: Design & Appearance: PDC 3</i></p>	<p>Complies</p>
<p><i>Structures located on the roofs of buildings to house plant and equipment should be screened from view and should form an integral part of the building design in relation to external finishes, shaping and colours.</i></p> <p><i>General Section: Design & Appearance: PDC 4</i></p>	<p>Complies</p>
<p><i>Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.</i></p> <p><i>General Section: Design & Appearance: PDC 16</i></p>	<p>Complies</p> <p>The three stages will have a coordinated appearance. Each stage incorporates uniform signage and landscaping to provide an integrated built form.</p>

<p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p><i>General Section: Design & Appearance: PDC 17</i></p>	<p>Complies</p> <p>The buildings will not be highly exposed to public view being situated at the rear of the site and with limited street exposure. Likewise, the Southern Expressway is separated from the site by elevation and landscaping. Nonetheless walling is broken up via proposed signage, canopies, fenestration and roller-doors.</p>
<p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design & Appearance: PDC 18</i></p>	<p>Complies</p> <p>Entries to individual tenancies are emphasised in the proposed design.</p>
<p>Outdoor Storage and Service Areas</p> <p><i>Outdoor storage, loading and service areas should be:</i></p> <ul style="list-style-type: none"> <i>(a) screened from public view by a combination of built form, solid fencing and/or landscaping</i> <i>(b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles</i> <i>(c) sited away from sensitive land uses.</i> <p><i>General Section: Design & Appearance: PDC 22</i></p>	<p>Complies</p> <p>Storage areas include a designated bin area at the rear of the site and loading docks that will not be visible from Main South Road. The development has sensitively located these aspects of the building design.</p> <p>Proposed tenancy 1 will require refuse recycling facilities either within the building or via the possible occupancy of a car space to the south of the building. Recommended condition 9 seeks amended plans detailing the location of this facility prior to Development Approval being issued.</p>
<p>Interface Between Land Uses</p>	
<p><i>Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</i></p> <ul style="list-style-type: none"> <i>(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants</i> <i>(b) noise</i> <i>(c) vibration</i> <i>(d) electrical interference</i> <i>(e) light spill</i> <i>(f) glare</i> <i>(g) hours of operation</i> <i>(h) traffic impacts.</i> <p><i>General Section: Interface Between Land Uses: PDC 1</i></p>	<p>Complies</p> <p>The proposal is remote from residential land uses and consistent with adjoining land uses. There are no adverse impacts anticipated which would impact upon the locality.</p>
<p><i>Development should provide for the on-site loading, unloading and turning of all traffic likely to be generated.</i></p> <p><i>General Section: Transportation and Access: PDC 14</i></p>	<p>Complies</p> <p>Internal loading docks proposed for each tenancy.</p>
<p>Access</p> <p><i>Development should have direct access from an all-weather public road.</i></p> <p><i>General Section: Transportation and Access: PDC 22</i></p>	<p>Complies</p>

<p><i>Development should be provided with safe and convenient access which:</i></p> <ul style="list-style-type: none"> <i>(a) avoids unreasonable interference with the flow of traffic on adjoining roads</i> <i>(b) provides appropriate separation distances from existing roads or level crossings</i> <i>(c) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision</i> <i>(d) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.</i> <p><i>General Section: Transportation and Access: PDC 23</i></p>	<p>Complies – subject to DPTI requirements.</p> <p>DPTI has put forward a number of mandatory requirements and conditions in relation to the proposal and access and egress onto Main South Road. These requirements have been included in the recommended conditions of approval. This includes the removal of one of the proposed ingress/egress points. The amended plans reflect DPTI requirements.</p>
<p><i>Development with access from roads with existing or projected traffic volumes exceeding 6000 vehicles per day should be sited to avoid the need for vehicles to reverse onto or from the road.</i></p> <p><i>General Section: Transportation and Access: PDC 26</i></p>	<p>Complies</p> <p>Condition of approval from DPTI</p>
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Complies</p> <p>Plans amended to comply as per DPTI requirements.</p>
<p>Access for People with Disabilities</p> <p><i>Development should be sited and designed to provide convenient access for people with a disability.</i></p> <p><i>General Section: Transportation and Access: PDC 32</i></p> <p><i>Where appropriate and practical, development should provide for safe and convenient access to the coast and beaches for disabled persons.</i></p> <p><i>General Section: Transportation and Access: PDC 33</i></p>	<p>Complies</p> <p>Disabled persons ramps provided into each tenancy</p>
<p>Vehicle Parking</p> <p><i>Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.</i></p> <p><i>General Section: Transportation and Access: PDC 34</i></p>	<p>Complies</p> <p>Refer comments at conclusion of table.</p>
<p><i>Development should be consistent with Australian Standard AS: 2890 - Parking facilities.</i></p> <p><i>General Section: Transportation and Access: PDC 35</i></p>	<p>Complies</p>

<p><i>Vehicle parking areas should be sited and designed to:</i></p> <ul style="list-style-type: none"> <i>(a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development</i> <i>(b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network</i> <i>(c) not inhibit safe and convenient traffic circulation</i> <i>(d) result in minimal conflict between customer and service vehicles</i> <i>(e) avoid the necessity to use public roads when moving from one part of a parking area to another</i> <i>(f) minimise the number of vehicle access points onto public roads</i> <i>(g) avoid the need for vehicles to reverse onto public roads</i> <i>(h) where practical, provide the opportunity for shared use of car parking and integration of car parking areas with adjoining development to reduce the total extent of vehicle parking areas and the requirement for access points</i> <i>(i) not dominate the character and appearance of a site when viewed from public roads and spaces</i> <i>(j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas</i> <i>(k) include infrastructure such as underground cabling and connections to power infrastructure that will enable the recharging of electric vehicles.</i> <p><i>General Section: Transportation and Access: PDC 36</i></p>	<p>Complies</p>
<p><i>Vehicle parking areas should be sealed or paved to minimise dust and mud nuisance.</i></p> <p><i>General Section: Transportation and Access: PDC 39</i></p>	<p>Complies</p>
<p>Advertisements</p>	
<p><i>The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <ul style="list-style-type: none"> <i>(a) consistent with the predominant character of the urban or rural landscape</i> <i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i> <i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i> <p><i>General Section: Advertisements: PDC 1</i></p>	<p>Complies</p> <p>Non-illuminated signage proposed for each tenancy and comprises consistent dimensions, will not extend beyond the canopy and is consistent with signage in the locality (which is a dominant factor in the locality). The signs are considered to be appropriately proportioned for the building size.</p>
<p><i>Advertisements and/or advertising hoardings attached to buildings should not be sited on the roof or higher than the walls of a building, unless the advertisement or advertising hoarding is appropriately designed to form an integrated and complementary extension of the existing building.</i></p> <p><i>General Section: Advertisements: PDC 7</i></p>	<p>Complies</p>
<p>Advertising along Arterial Roads</p> <p><i>Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.</i></p> <p><i>General Section: Advertisements: PDC 24</i></p>	<p>Does Not Comply</p> <p>Advertising signs are proposed adjacent to the Southern Expressway. Although this signage will be partially obscured from the street it may distract motorists from their primary task of driving. It is therefore recommended that these signs are not supported and a condition of approval has been included to this effect.</p>

Crime Prevention

Development should provide a robust environment that is resistant to vandalism and graffiti.

General Section: Crime Prevention: PDC 3

Partially Complies

A recommended condition of consent seeks the use of an anti-graffiti treatment to the rear façade of the buildings to assist in graffiti removal.

Council's Graffiti Program Co-Ordinator has advised that to deter graffiti a dark colour should be used. As such, the painting of the buildings in 'dune' is not ideal given part of Tenancy 1 and 2 will abut the boundary of the Southern Expressway bike path.

Panel Members may wish to discuss this element of the proposal with the applicant at the meeting.

Development, including car park facilities should incorporate signage and lighting that indicate the entrances and pathways to, from and within sites.

General Section: Crime Prevention: PDC 5

Complies

Subject to condition of consent in relation to a lighting plan being provided.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Complies

The landscaping legend provides for native plants or if unavailable drought tolerant plants. Landscaping is provided to the front of the building in area frequented by pedestrians/customers.

Additional landscaping in the car-parking area to the front of the site would provide for an improvement to the amenity of the site and has been suggested as a condition of approval. Applicant has indicated that they are amenable to this requirement.

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Land Division

OBJECTIVES

1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.

Complies

The land division provides for orderly refinement of the existing titles which currently do not align with either the existing or proposed built form on the land.

2 Land division that creates allotments appropriate for the intended use.

Complies

<p><i>3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.</i></p>	<p>Complies The land division acknowledges the existing retail buildings on the land together with established and proposed parking areas. The proposal is also commendable for improving the access and egress to Main South Road as negotiated with DPTI. Customers and staff to the rear proposed tenancies will be able to egress the site via the driveway to the south of the Kerry Elliss Golf Shop.</p>
<p>PRINCIPLES OF DEVELOPMENT CONTROL</p> <p><i>1 When land is divided:</i> <i>(a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner</i> <i>(b) a sufficient water supply should be made available for each allotment</i> <i>(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</i> <i>(d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.</i></p>	<p>Complies</p>
<p>Design and Layout</p> <p><i>4 Allotments fronting South Road...and having no alternative vehicle access from a side or rear street should have a minimum frontage of 16 metres and a minimum depth of 32 metres.</i></p>	<p>Complies</p>

TABLE DISCUSSION

The proposal satisfies a majority of the applicable principles of development control contained within the Marion Council Development Plan. In some cases, landscaping, advertising signage and lighting, conditions of consent are recommended to provide for an improved planning outcome.

The provision of parking has not been addressed in the table. As the proposal incorporates Torrens Title land division (Stage 1) which effectively provides for a separation of parking areas for one group of shops from the other, parking needs to be considered for both proposed sites.

With respect to the existing three shops at the southern end of the site (Golf Shop, vacant and Bridal Shop), the long-established parking areas will remain as per existing and will comprise 17 off-street parking spaces at the front of the site and 7 spaces to the rear. This does not increase or decrease the parking areas available for these shops. These shops are currently on two titles, peculiarly divided 'on paper' through the middle of the bridal shop. Parking areas have always been shared between the three shops with no reliance on the adjacent properties. In any event, an entirely unrelated parcel of land 'Marcellina's', separates these shops from the remainder of the current site.

Historically, this parking area has been adequate to meet the needs of the three shops. The land division merely refines the titles such that the boundaries will reflect the long established land use and car parking. Parking provision is considered satisfactory.

With respect to the larger allotment, parking is to be shared between the new buildings and the northern-most shops. The applicant has provided a parking and traffic report from Phil Weaver & Associates. The proposal will result in 60 off-street car-parking spaces.

Table Mar/2 – Off Street Vehicle Parking Requirements recommends a parking rate of 4 spaces per 100 square metres of floor space. As the total floor area for the development is 1821

square metres, 72 car parking spaces would be required. This indicates a short-fall of 12 spaces.

In the traffic and parking report, reference is made of a general accepted rate of 2.5 spaces per 100 square metres of floor space in lieu of the 4 spaces per 100 square metres suggested in the Development Plan. The reduced rate is frequently referenced by parking and traffic consultants and has been accepted as a more realistic parking rate for retail showrooms. Based on this reduced parking requirement (which I accept as a recommended standard adopted by traffic consultants), the proposal requires 56 off-street parking spaces and provides 60 off-street parking spaces. In my opinion, the proposal will provide suitable parking to meet the needs of the proposed development.

REPRESENTOR'S CONCERNS

No representations were received during the public consultation process.

ANALYSIS/CONCLUSION

The land division proposed is considered orderly and appropriate and provides for an improved car-parking, access and egress arrangement from that which currently exists. The community allotments which are proposed have been demonstrated to be of adequate size and dimension for the intended and existing land-uses over the site.

I have formed the view that the proposed retail buildings are an appropriate land use within the locality notwithstanding this portion of the site lies within the Residential Zone. The site provides for compelling circumstances to support an alternative land-use to those uses envisaged within the residential zone. Retail land uses are entirely consistent with the surrounding locality and can co-exist with established commercial tenancies in the vicinity. The buildings are contemporary buildings with suitable loading, parking, pedestrian access (including disabled access), landscaping and generally satisfy applicable Council Wide provisions.

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 and Land Division Consent subject to the concurrence of the Development Assessment Commission and subject to appropriate 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 and Land Division Consent for Development Application No: 100/2014/1517 (100/C185/2014) for land division (three stages) and the construction of three buildings for the purpose of retail showrooms with associated car parking and landscaping at 11L & 1496-1522 Main South Road, Sturt be **GRANTED** subject to the concurrence of the Development Assessment Commission and the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1517 (100/C185/14), except when varied by the following conditions of consent.
- 2. The advertising signs on the north-western elevation of the proposed buildings, adjacent to the Southern Expressway shall be removed. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
- 3. Lighting shall be provided throughout the car parking areas. Amended plans shall be provided which details the location and type of lighting to be provided prior to Development Approval being issued.
- 4. All external lighting of the site, including car parking areas and buildings, shall be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not to cause nuisance or loss of amenity to any person beyond the site to the reasonable satisfaction of the Council.
- 5. Pedestrian walkways on the subject site shall be adequately lit in accordance with Australian / New Zealand Standard AS/NZS 1158.3.1:1999 "Road Lighting Part 3.1: Pedestrian area (Category P) lighting - Performance and installation design guidelines". Such lighting shall be maintained at all times, to the reasonable satisfaction of the Council.
- 6. Bicycle facilities shall be provided in accordance with Australian Standard AS 1742.9-2000 "Manual of uniform traffic control devices Part 9: Bicycle facilities".
- 7. The floor plan shall be amended to incorporate end-of-journey shower and change facilities for staff to encourage walking and cycling to the site. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
- 8. The exterior of the buildings to be constructed shall incorporate an anti-graffiti treatment to assist in the removal of graffiti.

9. A revised Landscaping Plan shall be provided which illustrates new landscaping within all existing and proposed car-parking areas associated with the development. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
10. Proposed Tenancy 1 shall incorporate a designated refuse/recycling bin storage facility. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
11. The southernmost access serving the site (Access 1) shall be limited to left turn out movements only. Accordingly, the access shall be angled at 70 degrees to the road and appropriately signed and line marked to reinforce the desired traffic flow.
12. The median on South Road adjacent the southernmost access (Access 1) shall be extended by 5.0 metres to further reinforce the left out nature of the southern-most access. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
13. The access adjacent Allotment 23 in FP147057 (Access 2) shall be permanently closed and reinstated with gutter and kerb to council standard. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
14. The northern-most access serving the site (Access 3) shall be modified to provide left turn in and left turn out movements. A 1.0 metre separation shall be provided between the existing stobie pole and the ingress and egress crossovers associated with this access. Amended plans, detailing the above, shall be provided to Council for consideration and approval prior to Development Approval being issued.
15. All works associated with the modification to the access points and the South Road median shall be undertaken to Council and DPTI standards at the applicant's cost. Prior to undertaking any detailed design, the applicant shall contact DPTI's Project Engineer, on (08) 8226 8262 to discuss the required works. All works shall be completed prior to the issue of Section 51 certificates.
16. All vehicles shall enter and exit the site in a forward direction.
17. All delivery and service vehicles over 6.4 metres in length shall only access the site outside of peak traffic and customer periods.
18. The largest vehicle permitted on site shall be restricted to an 8.8 metre vehicle as per AS2890.2-2002.
19. All on-site car parking and vehicle manoeuvring areas shall be consistent with As/NZS 2890.1:2004 and AS/NZS 2890.6:2009.
20. All proposed signs visible from the Southern Expressway and South Road shall not contain any element that flashes, scrolls or moves.
21. All non-illuminated signs shall be finished in a material of low reflectivity to minimise the risk of sun/headlamp glare that may dazzle or distract motorists.
22. The utilisation of Trailer Mounted Variable Message Displays for advertising purposes shall not be permitted on or adjacent the subject land.
23. Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of the adjacent arterial roads. Roof water is to drain into

four 12,000 litre detention tanks prior to the low flow discharge to the downstream system. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

24. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
25. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
26. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).
27. Landscaping shall be maintained so as to not obstruct the views of drivers or pedestrians entering or exiting the site, to the reasonable satisfaction of Council.
28. Wheel stopping devices shall be placed within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council.
29. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
30. 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.
31. The driveways, parking areas and vehicle manoeuvring areas must be maintained in a good condition at all times.
32. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
33. All car parking spaces shall be linemarked or delineated in a distinctive fashion prior to occupation of the premises, with the marking maintained in a clear and visible condition at all times.
34. Directional signs indicating the location of car parking spaces must be provided on the subject land and maintained in a clear and legible condition at all times.
35. The car parking spaces herein approved shall be available free of charge to any individual visitor to the site or employee of the site during the business hours of the premises.
36. At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.
37. Advertising signage shall incorporate the street number of the premises.
38. The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services (SA Water H0023783).

- 39. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.**

NOTES

- 1. 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, to the reasonable satisfaction of the Council. (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).**
- 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. 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.**
- 4. Upon approval of this development, DPTI will amend the controlled-access records to reflect the approved access arrangements. A copy of the Decision Notification Form and the approved plan should be sent to DPTI's Road Corridor Management Officer, Mr Daniel Sladic, GPO Box 1533, Adelaide 5001.**

Attachments

<i>Attachment I:</i>	<i>Certificate of Titles</i>
<i>Attachment II:</i>	<i>Aerial Photograph & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment VI:</i>	<i>External Agency Referral Comments</i>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.4
Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Fairmont Homes Pty Ltd
Development Description:	A two storey building comprising four dwellings incorporating a garage wall on the western boundary, with associated car parking and landscaping
Site Location:	26 Johnstone Road, Oaklands Park
Zone:	Residential Zone
Policy Area:	Medium Density Policy Area 12
Application Type:	Category 2/ Consent
Lodgement Date:	17/03/2015
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2015/441
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of the Public Notification section of the Residential Zone of the Marion Council Development Plan, which assigns development that has a wall abutting a side or rear property boundary as Category 2 development.

The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed Dwellings 1, 2 and 3 supporting allotment areas less than the minimum of 210 square metres required for row dwellings within the Medium Density Policy Area 12. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

It is staff's view that the proposed dwellings should be appropriately classified and assessed as row dwellings as, for all intents and purposes, the dwellings comprise four dwellings erected side by side with party walls to form a single building and each occupying a site that has exclusive frontage to a public road, pursuant to the Schedule 1 definition in the Development Regulations, 2008.

BACKGROUND

During the assessment process, Council staff requested modifications to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
Provide 6m separation between the driveways of Residence 3 and 4 to accommodate an on-street vehicle space.	A portion of the existing cross-over on Dwyer Road to be re-instated to provide 6.05m between Residences 3 and 4 to accommodate an additional on-street car park.
Provide 3000L rainwater tanks in lieu of 2000L retention/detention tanks at Council Engineers request to minimise stormwater disposal to the street from the increased roof area.	Plans amended to provide 3000L rainwater tanks for each dwelling.

SUBJECT LAND & LOCALITY

The subject site is located at 26 Johnstone Road, Oaklands Park. The land is a corner allotment also bounded by Dwyer Road. The allotment is irregular in shape, with the southern and western boundaries meeting at a 74 degree angle and the eastern and northern boundaries has a 90 degree trajectory with a corner cut-off. The site has a frontage to Johnstone Road of 19.8m and the depth of the site varies between 25.8m on the northern (secondary street) boundary and 38.4m on the southern boundary. The total site area is 806m².

The allotment contains a single storey detached dwelling and a domestic outbuilding. The site maintains no discernable slope and none of the trees on the site are deemed to be Regulated or Significant pursuant to the Development Act and Regulations. The site has one existing access point at the western end of Dwyer Road.

The locality comprises a mixture of dwelling types including original detached dwellings on large allotments; detached, semi-detached, group and row dwellings on smaller redeveloped allotments; and older established units and row dwellings further to the west of the site. A small group of shops within a Local Centre Zone is located on the opposite north-eastern corner, however, the locality is predominantly residential.

The site is located approximately 650m away from both the Westfield Marion Shopping Centre and the Oaklands Railway Station.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The applicant seeks to construct a two storey building comprising four dwellings, which when subdivided would form row dwellings. All four dwellings will have presentation to Dwyer Road. The dwellings are made up of a similar floor plan which includes a lounge, an open plan kitchen/family/meals area, laundry and WC downstairs and three bedrooms (one with ensuite) and a bathroom upstairs. Residence 1 differs slightly in that an upper living area replaces a family room downstairs.

Each dwelling incorporates a single garage. Residences 2, 3 and 4 will maintain an access from Dwyer Road and Residence 1 will achieve its access from Johnstone Road. Each dwelling is afforded with two car parking spaces.

The dwellings are to be constructed using a combination of face brick with a rendered finish to the lower storey and Sycon 'Linea' Cladding to the upper level. The roof is proposed to be constructed of Colorbond with a 25 degree pitch.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	11 properties were notified during the Category 2 public notification process.
Representations:	There were no representations were received by Council.

INTERNAL DEPARTMENT COMMENTS

Engineering:	It is preferred that 3000L rainwater tanks be installed in lieu of 2000L retention/detention combination tanks and plumbed into toilet/laundry and hot water service and be connected to at least 80% roof area.
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ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Medium Density Policy Area 12 are listed in the following table and discussed in further detail below:

Residential Zone

Objectives

- 1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.
- 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.

Medium Density Policy Area 12

Objectives

- 1 A residential policy area comprising a range of medium-density dwellings designed to integrate with areas of open space, neighbouring centres or public transport nodes.
- 2 Development that minimises the potential impact of garaging of vehicles on the character of the area.
- 3 Development that supports the viability of community services and infrastructure and reflects good residential design principles.
- 4 Development that contributes to the desired character of the policy area.

Desired Character

The desired character of the policy area is of an attractive residential environment containing low to medium density dwellings of a variety of architectural styles at a higher density compared to that typical of the original dwelling stock in the area. Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles such as buildings of up to two storeys subject to the impact of the additional height and bulk not adversely impacting upon the amenity of existing neighbouring development. Buildings with two storeys plus attic additions are appropriate provided the building is located centrally within a large site as part of an integrated development. Where housing is adjacent to zones or policy areas that are designed to accommodate dwellings at lower densities, consideration needs to be given to incorporate transitional built form, scale and design elements to ensure greater compatibility with that adjacent housing.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Through the gradual redevelopment of properties (particularly those containing lower valued improvements), a wider range of dwelling types will be provided to meet a variety of accommodation needs.

Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points requires removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

Where access to parking areas servicing dwellings is via laneways, space needs to be designed to facilitate attractive landscaping and tree planting in order to present an attractive appearance from adjoining roads and to protect the amenity for adjacent dwellings.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building (buildings between one and three storeys) ▪ row dwelling ▪ semi-detached dwelling ▪ supported accommodation. 	Complies
PDC 4	<p>Medium density development that achieves gross densities of between 23 and 45 dwellings per hectare (which translates to net densities of between 40 and 67 dwellings per hectare) should be in the form of 2 to 3 storey buildings.</p> <p>(i.e. Site areas between 149.3 and 250 m²)</p>	<p>Complies Site areas are between 179m² and 250m²</p>
PDC 7	Minimum Site Area:210m ²	<p>Does Not Comply Residence 1 – 194m² Residence 2 – 179m² Residence 3 – 183m²</p> <p>Complies Residence 4 – 250m²</p>
	Minimum Frontage:7m	<p>Complies Residence 1 – 8.5m Residence 2 – 7.5m Residence 3 – 7.5m</p> <p>Does Not Comply Residence 4 – 5.28m</p>
	Minimum Depth:20m	<p>Complies Residence 1 – 23m Residence 2 – 24m Residence 3 – 24m Residence 4 – 24.7m</p>

Assessment

The development application proposes to replace one dwelling and construct four two storey dwellings in its place. The Policy Area seeks for a variety of architectural styles at higher densities compared to the traditional housing stock and to this end, the proposal achieves this.

It is noted that three out of the four allotments support a site area below the 210 square metre minimum sought in Policy Area 12. Residence 1 is 16 square metres (7%) below the requirement, Residence 2 is 31 square metres (15%) below and Residence 3 falls short 27 square metres (13%) of the minimum.

However, I consider that the proposal still displays sufficient merit for the following reasons:

- 1) The site is located in close proximity to good public transport being 650m away from the Oaklands Station which services the Seaford-Adelaide Railway line as well as being the same distance away from the Regional Centre which takes in Westfield Marion. The Objectives of the Residential Zone and Policy Area seek for increased

densities in close proximity to Centres and public transport routes and the subject site is suitably located to achieve this Objective. It is widely known that higher densities in close proximity to services and infrastructure improve the viability of services which would satisfy Objective 3 of the Policy Area.

- 2) The distribution of site areas between the allotments is disproportionate due to the irregular shape of the allotment. It should be noted that Residence 4 is well above the minimum allotment size by 40 square metres and over the entire site, the allotments maintain an average of 201.5 square metres, which is much closer to the minimum and only an 8.5 square metre (4%) shortfall.
- 3) The allotments proposed are still within the gross densities that are sought within Policy Area 12 as identified in Principle 4.
- 4) The undersized allotments each maintain a frontage width greater than the minimum requirement of 7m. Therefore, the undersized nature of each of the allotments will not be apparent when viewed from the street.
- 5) The proximity of the site to the Residential Regeneration Policy Area 16, being only some 80m away, means that the size and nature of the proposed development is not severely at odds with development that has already occurred and could occur in future within the locality.
- 6) It will be shown in the assessment throughout this report that each of the dwellings achieve relative compliance when assessed against the remaining provisions of the Development Plan and in my view, will not adversely affect the amenity of the existing neighbouring properties.

Notwithstanding that Residence 4 exceeds the minimum site area, the site's frontage width is below the minimum requirement of 7m at 5.28m. However, I am of the view that this will not result in implications with the dwelling's appearance on the street or the dwelling's ability to function. The allotment widens towards the rear of the allotment and achieves a 7m width after a setback of 5m. The dwelling is setback a sufficient distance to include all the substantial façade elements of a dwelling, namely dwelling entrance, habitable front room and the garage. The dwelling still achieves an adequate area of landscaping in front to provide relief from the driveway and because the adjoining property has its driveway on the other side of its allotment, that landscaping will appear more generous. Accordingly, I do not see this shortfall in substantially affecting the merits of the application.

The proposed development will not require the removal of any existing street trees for access points or Regulated/Significant trees.

To this end, despite the undersized nature of three out of the four allotments, I am of the view that the proposal still displays consistency with the Objectives, Desired Character and Principles of the Medium Density Policy Area 12.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Site Coverage	
<p>Maximum site coverage:</p> <p>Site area greater than 375 m²: 40%</p> <p>Site area between 270 and 375 m²: 130 m² or 40% (whichever is the greater)</p> <p>Site area less than 270 m²: 100 m² or 40% (whichever is the greater)</p> <p>(100m² is relevant)</p> <p><i>Medium Density Policy Area 12: PDC 8</i></p>	<p>Complies</p> <p>Residence 1 – 98.53m²</p> <p>Does Not Comply</p> <p>Residence 2 – 104.75m²</p> <p>Residence 3 – 104.1m²</p> <p>Residence 4 – 130.01m²</p>
<p>Site coverage for Residences 2 and 3 only marginally exceed the 100m² maximum and in my view, being the two 'internal' properties, the additional 4m² to 5m² will not result in negative consequences upon existing dwellings.</p> <p>The ground floor area and alfresco brings the site coverage of Residence 4 to 30m² over the maximum requirement. The removal of the alfresco would reduce site coverage by 16.6m² which would bring the figure closer to the prescribed Development Plan requirement. The inclusion of an alfresco is in my view beneficial to the function of the private open space and provides an undercover area which is located underneath the main roof and matches the form and materials of the associated dwelling. Given that a verandah of the size proposed could be granted approval without Planning Consent under Schedule 1A of the Development Regulations, 2008 with up to 60% site coverage, removing the verandah to achieve greater compliance with the Development Plan, in my view, is of no benefit.</p> <p>Notwithstanding the above, the dwelling's allotment is substantially larger than the other three allotments, and the higher site coverage is relative to the allotment's size. Furthermore, the dwelling complies with its minimum requirements for most setbacks, private open space, floor area ratio and car parking and this, combined with the reasons identified above, in my view, make the site coverage proposed acceptable.</p>	
<p>Maximum floor area ratio:</p> <p>Site area greater than 375 m²: 0.6 (building up to 2 storeys) 0.8 (3 storey building)</p> <p>Site area between 270 and 375 m²: 0.6</p> <p>Site area less than 270 m²: 0.7</p> <p><i>Medium Density Policy Area 12: PDC 8</i></p>	<p>Does Not Comply</p> <p>Residence 1 - 0.72</p> <p>Residence 2 – 0.76</p> <p>Residence 3 – 0.74</p> <p>Complies</p> <p>Residence 4 – 0.6</p>
<p>The floor area ratios (FAR) of Residences 1 to 3 exceed the prescribed requirements by 4.87m², 11.36m² and 8.56m² respectively. Whilst a higher FAR can often represent a bulky development, the nature of row dwellings being boundary to boundary where the upper storey is flush with the lower storey can also trigger a higher FAR. Notwithstanding that in terms of floor area, the additional amounts added to the dwelling are not substantial, they also do not contribute to the dwellings being obtrusive or bulky when viewed from existing adjacent properties. The dwellings are adequately setback from boundaries of existing allotments and where walls are located on boundaries, they have been designed to minimise impacts on each of the proposed dwellings. To this end, the dwellings' FAR are considered acceptable.</p>	
<p>Site coverage should ensure sufficient space is provided for:</p> <p>(a) pedestrian and vehicle access and vehicle parking</p> <p>(b) domestic storage</p> <p>(c) outdoor clothes drying</p> <p>(d) rainwater tanks</p> <p>(e) private open space and landscaping</p> <p>(f) convenient storage of household waste and recycling receptacles</p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>

Private Open Space

Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:

- (a) to be accessed directly from a habitable rooms of the dwelling*
- (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy*
- (c) to take advantage of, but not adversely affect, natural features of the site*
- (d) to minimise overlooking from adjacent buildings*
- (e) to achieve separation from bedroom windows on adjacent sites*
- (f) to have a northerly aspect to provide for comfortable year round use*
- (g) not to be significantly shaded during winter by the associated dwelling or adjacent development*
- (h) to be partly shaded in summer*
- (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality*
- (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.*

General Section: Residential Development: PDC 15

Complies

- a) All POS areas are directly accessible habitable rooms of the associated dwelling
- b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy
- c) The subject land does not maintain natural features which warrant preservation
- d) The POS areas should not be directly overlooked by adjacent buildings
- e) POS areas are not located next to bedrooms of dwellings on adjacent sites
- f) Residence 1 POS will maintain a northerly aspect to provide for comfortable year round use
- g) The POS areas of Residence 1 will not be significantly shade during winter by the associated development or adjacent development
- h) POS areas are capable of being shaded during summer
- i) Traffic, industry or other business activities should not affect the subject land
- j) The POS areas are considered to have sufficient shape and area to be functional.

Does not comply

- (f) and (g) – Residences 2, 3, and 4
- See comments below

The POS of Residences 2 to 4 have their POS have a southerly aspect, meaning that during the winter months the areas will be overshadowed by the building. This is an unfortunate consequence of the site's northerly orientation with the only method of achieving this Principle is by having their POS forward of the main face of the dwellings and this is considered impractical for privacy and streetscape reasons.

Despite this shortfall, the areas provided are still a functional size for the likely needs of the occupants and the inability to achieve this Principle should not, in itself warrant refusal of the development.

Site area less than 250 m²:

*20% of the site area or 35 m², whichever is the greater
Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.
One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.*

General Section: Residential Development: PDC 17

Complies

- Residence 1 – 47m² (24%)
- Residence 2 – 48m² (27%)
- Residence 3 – 53m² (29%)
- Residence 4 – 85m² (34%)

Note that the POS also exceeds 20% of the minimum allotment size of 210m².

Street Setbacks

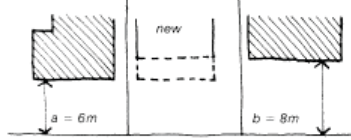
Except in areas where a new character is desired, the setback of buildings from public roads should:

- (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality*
- (b) contribute positively to the function, appearance and/or desired character of the locality.*

General Section: Design and Appearance: PDC 23

Complies

Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjacent allotments	Setback of new building
Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:  When $b \leq 2$, setback of new dwelling = a or b
Greater than 2 metres	At least the average setback of the adjacent buildings

General Section: Design and Appearance: PDC 25

Complies

Residence 1 to 3: 5.2 metres
Residence 4: 6.9m

The dwellings provide an acceptable transition in setback to the dwelling on the adjoining land at 36C Dwyer Road, which maintains a 7m setback.

The setback of 5.2m for Residence 1 is appropriate given that there are no other adjacent properties to the east in which to align the dwelling with and the setback of Residence 4 is essentially in line with the dwelling at 36C Dwyer Road.

Minimum setback from secondary road frontage: 2 metres

Residential Zone: PDC 7

Partially Complies

For the majority of the main dwelling, the setback exceeds the minimum requirement at 2.8m.

The garage is 145mm short of this requirement. Notwithstanding this is a relatively minor shortfall, garages can be placed up to 900mm to the secondary street boundary when assessed against Schedule 4 and Schedule 1A of the Development Regulations, 2008 and therefore the setback of the garage is considered acceptable.

Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.

General Section: Residential Development: PDC 36

Complies

Habitable rooms are adequately separated from pedestrian and vehicle movement.

Side Setbacks

Where the wall height is not greater than 3 metres: 1 metre

Where the wall height is between 3 metres and 6 metres:

- (a) 3 metres if adjacent southern boundary
- (b) 2 metres in all other circumstances.

Where the wall height is greater than 6 metres:

- (a) if not adjacent the southern boundary, 2 metres plus an additional setback equal to the increase in wall height above 6 metres
- (b) if adjacent the southern boundary, 3 metres plus an additional setback equal to the increase in wall height above 6 metres.

Residential Zone: PDC 7

Complies

Residence 2 - 1.2m (eastern boundary)
Residence 3 - 1.2m (western boundary)

Does not comply

Residence 4 – The front portion of the dwelling is located less than 2m for a distance of 2.5m, with a minimum setback of 1m, which increases as the boundary widens.

This shortfall will result in minimal impacts as adjacent dwelling incorporates a garage on the lower floor and an ensuite window on the upper floor and as such will not be in view from any habitable rooms.

<p><i>Dwellings with walls located on the boundary should be designed in accordance with the following:</i></p> <p><i>(a) the walls should not abut more than one side allotment boundary</i></p> <p><i>(b) a wall from an adjacent dwelling already exists on the boundary:</i></p> <p><i>(i) be located immediately abutting the adjacent wall</i></p> <p><i>(ii) be constructed to the same or to a lesser length and height as the adjacent wall</i></p> <p><i>(iii) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(c) no wall exists on the adjacent boundary:</i></p> <p><i>(i) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(ii) not exceed 6 metres in length</i></p> <p><i>(iii) not exceed 3 metres in height</i></p> <p><i>(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>(d) adjoining communal open space or a public reserve, not to exceed</i></p> <p><i>(i) 50 per cent of the length of the boundary</i></p> <p><i>(ii) 4 metres in height.</i></p> <p><i>General Section: Residential Development: PDC 38</i></p>	<p>Complies</p> <p>As one building, the development is not proposed to be constructed boundary to boundary.</p> <p>Residences 2 and 3 are boundary to boundary of their respective allotments, however this is requisite of row dwellings and will be compliant with Principle 38 (b).</p> <p>Does not comply</p> <p>Residences 1 and 4 - two storey wall on boundary</p> <p>Whilst the two storey walls do adjoin the land of proposed new Residences 2 and 3, the dwellings have been purposely designed to minimise visual impacts by incorporating alfrescos to mitigate the views of the upper storey and thus reducing the likely impacts of the wall.</p> <p>Residence 4 garage wall</p> <p>C (i) Partially Complies – Wall is not located behind the main face of the adjacent dwelling but a garage separates the boundary wall and the main face of the adjacent dwelling.</p> <p>C (ii) Does not comply – 6.8m in length</p> <p>C (iii) Complies – 2.7m in height</p> <p>C (iv) Complies – is greater than 2.5m from a habitable room.</p> <p>The length of the garage wall will not create unreasonable impacts due to being adjacent the garage of the dwelling on the adjoining land.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies</p> <p>Although the side setbacks do not comply with quantitative criteria, the height and length of the walls should not impact on adjoining properties as they do not sit adjacent habitable room windows. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>
<h2>Rear Setbacks</h2>	
<p>6 metres for a 2 or more storey dwelling</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Does Not Comply</p> <p>Residence 1 – 3m</p> <p>Although substantially exceeding the rear setback requirement by 3m if a new dwelling were to be built with Johnstone Road as its primary street, a setback of 3m would be required for the southern side.</p> <p>Therefore, in my view, sufficient separation has been provided to the adjacent dwelling. Additionally, the dwelling will lie adjacent the front yard of the adjacent dwelling and will not overshadow the POS area and be reasonably separated from habitable room windows.</p>

	<p>Complies Residence 2 – 6.3m Residence 3 – 7m Residence 4 – 6m</p>
<p><i>Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:</i> (a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary</p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p>Does not comply Residence 1 – 3.06m</p> <p>Similarly to the previous point, a single storey building would require a 1m setback from the side boundary if it were to have Johnstone Road as its primary street.</p> <p>Complies Residence 2 – 6.3m Residence 3 – 7m Residence 4 – 11.2m with a 5m incursion</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i> (a) the visual impact of the building as viewed from adjacent properties (b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies Although the rear setback does not comply with quantitative criteria, the separation from the rear boundary is considered sufficient to minimise the visual impact of the building from the adjacent property. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>
Building Height	
<p><i>Maximum building height (from natural ground level):</i> (i) 2 storeys of not more than 9 metres (ii) 2 storeys plus attic of not more than 10 metres</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies The proposed dwellings incorporate a maximum building height of 7.1 metres, which is less than the maximum permitted in the Policy Area.</p>
Garages, Carports and Outbuildings	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage:</i> 8 metres for a freestanding structure. 5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p><i>Minimum setback from secondary road frontage:</i> 5.5 metres for a single-width structure. Not less than the specified setback of the associated dwelling for a double-width structure.</p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies Residences 2 and 3 – 5.815m setback from the primary street and 0.6m behind the main face of the dwelling. Residence 4 – 8.128m setback from the primary street and 0.6m behind the main face of the dwelling.</p> <p>Does Not Comply Residence 1 – 1.87m from the secondary street.</p> <p>The garage of Residence 1 is located forward of the associated dwelling, however, is a single width structure.</p> <p>The setback proposed at 1.87m is deemed to be acceptable as the second car park is located to the side of the garage and therefore does not need to be 5.5m to comply with the standards to accommodate a space in front of the structure.</p> <p>Furthermore, a garage can be constructed within 900mm of the secondary street boundary pursuant to Schedules 1A and 4 of the Development Regulations, 2008.</p>

<p><i>Carports and garages should be setback from road and building frontages so as to:</i> <i>(a) not adversely impact on the safety of road users</i> <i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies The proposed development is considered to adequately foster the safe and convenient entry and exit from the site so as not to adversely impact on the safety of road users.</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p>Complies The proposed garages are located underneath and integrated with the main roof of the dwelling and therefore incorporate a roof form, materials and detailing which complement the associated dwelling.</p>
<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies Residences 1 to 3 - The proposed garages are less than 50% of their respective allotment frontage width.</p> <p>Does not comply Residence 4 – The garage is greater than 50% of the site frontage width however is less than 50% of the building's frontage due to the site's width increasing further back into the allotment. As such, the garage does not form a dominant element on the dwelling and regardless, maintains an upper storey to 'draw the eyes' away from the garage.</p>
<h2>Car Parking</h2>	
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i> <i>2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</i> <i>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</i> <i>1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies Each is provided with two car parks, one of which is undercover.</p>
<p><i>On-site vehicle parking should be provided having regard to:</i> <i>(a) the number, nature and size of proposed dwellings</i> <i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i> <i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i> <i>(d) availability of on-street car parking</i> <i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></p> <p><i>General Section: Transportation & Access: PDC 43</i></p>	<p>Complies a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7. b) Centre facilities and public transport are located in walking distance of the dwellings. c) The likely occupants are anticipated to have standard mobility and transport requirements. d) e) 2 on-street car parking spaces shall remain available adjacent the subject land, one on Johnstone Road and one on Dwyer Road.</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p>Complies 2 on-street car parking spaces is provided for the proposed allotments, one on Johnstone Road adjacent Residence 1 and the other on Dwyer Road in front of Residences 3 and 4.</p>

Access

The width of driveway crossovers should be minimised and have a maximum width of:

- (a) 3 metres wide for a single driveway*
- (b) 5 metres wide for a double driveway.*

General Section: Residential Development: PDC 39

Complies

Residences 2 to 4 – Driveway width is 3m for a single driveway

Does Not Comply

Residence 1 – Driveway width is 6m for a double driveway.

Although the width is exceeded, only a small amount of driveway is exposed in front of the garage and therefore despite the driveway being wider, it will not form a dominant element on the street.

Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.

General Section: Residential Development: PDC 40

Partially Complies

The new driveways are not located close to any existing infrastructure which would impede access.

Residence 4 will utilise the existing driveway which has already been created less than 1m away from a stobie pole and Telstra Pit.

A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.

General Section: Transportation and Access: PDC 28

Complies

The access points of Residences 2 and 3 on Dwyer Road are located side-by-side to form one access point and is separated by a minimum distance of 6 metres to Residences 4's access point.

Residence 1's access point will be located on Johnstone Road, well separated from the other dwellings' access points.

Design & Appearance

Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:

- (a) building height, mass and proportion*
- (b) external materials, patterns, colours and decorative elements*
- (c) roof form and pitch*
- (d) façade articulation and detailing*
- (e) verandas, eaves, parapets and window screens.*

General Section: Design & Appearance: PDC 1

The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.

General Section: Design & Appearance: PDC 3

Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.

General Section: Design & Appearance: PDC 17

Complies

The proposed dwellings reflect the desired character of the locality, as they incorporate an attractive presentation to the streetscape. The dwelling façades incorporate the following elements to enhance their design and appearance:

- Mixture of brick and render on the lower storey and Hardies Sycon "Linea" cladding to the upper level.
- Protruding portico and balcony with Sycon 'Axon' cladding to balustrade.
- Fenestration to all facades.

The dwellings incorporate a 25 degree roof in Colorbond. These materials should not result in glare to neighbouring properties, drivers or cyclists.

The secondary street elevations of the Residence 1 features a mixture of render and horizontal cladding and fenestration to avoid extensive areas of uninterrupted walling exposed to public view.

On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.

Balconies should:

- (a) be integrated with the overall form and detail of the building*
- (b) include balustrade detailing that enables line of sight to the street*
- (c) be recessed where wind would otherwise make the space unusable.*

General Section: Design & Appearance: PDC 5

Complies

The proposed balconies are integrated into the portico design, and have a 1m high balustrade that enables line of sight to the street.

Overshadowing

The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

General Section: Design & Appearance: PDC 9

Except where specified in a zone, policy area or precinct, development should ensure that:

- (a) north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level open space of existing buildings receives direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:*
 - (i) half of the existing ground level open space*
 - (ii) 35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres)*
- (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.*

General Section: Design & Appearance: PDC 10

Complies

A shadow diagram will be available to Panel members on the night of the meeting for information purposes. Due to the orientation of the dwellings, the majority of overshadowing is likely to occur over the POS of the proposed allotments 2, 3 and 4 during the winter months.

Residences 2 to 4 are compliant in their rear setbacks and with adequate separation along the southern side boundary, is unlikely to unreasonably overshadow the adjoining rear property such that Design and Appearance Principles 9 and 10 will be unable to be achieved.

Residence 1 provides 3m separation to the southern side boundary and will sit adjacent the front yard of the adjoining property. The neighbouring dwelling is also located an additional 4m from the boundary fence, providing a total of 7m separation from the dwelling. As such, I am of the view that any shadow created will not unreasonably impact on the availability of light into the habitable rooms and POS of the adjacent dwelling.

Visual Privacy

Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:

- (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- (b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

General Section: Design & Appearance: PDC 12

Complies

The dwellings incorporate fixed obscure glazing and/or window sill heights to 1.7 metres above floor level for windows on the western side and rear elevations. Upper storey windows on the front and eastern secondary street elevation remain unobscured to provide surveillance to the street, and therefore should not result in overlooking of habitable areas.

The balcony on the front façade is oriented to obtain views of the streetscape.

The dwellings have therefore been designed to minimise direct overlooking of habitable rooms and private open spaces, whilst still providing outlook and passive surveillance to the public realm.

Energy Efficiency

Development should provide for efficient solar access to buildings and open space all year around.

General Section: Energy Efficiency: PDC 1

Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.

General Section: Energy Efficiency: PDC 2

Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.

General Section: Energy Efficiency: PDC 3

Partially Complies

Each dwelling provides a north facing lounge room at the front of the dwelling which makes good use of the northerly aspect. Despite the lack of eaves on the dwellings, a protruding porch/balcony has been provided which will provide some shade to the area in the summer months.

Residence 1 will be able to gain some northern sun over the POS area during the winter months due to the POS being located to the side.

The main shortfall of the development in this regard is that Residences 2 to 4 will have their POS with a southerly aspect, meaning that the area will be shaded during the winter months for the majority of the day.

Residence 1 is considered to comply with the Energy Efficiency Principles whilst Residences 2 to 4 only partially comply by only meeting part of Principles 1 and 2 by having internal activities areas facing north.

Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.

General Section: Energy Efficiency: PDC 4

Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.

General Section: Energy Efficiency: PDC 5

Complies

The dwellings incorporate a hipped roof form set at a 25 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.

Flooding

Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.

General Section: Hazards: PDC 4

Development should not be undertaken in areas liable to inundation by tidal, drainage or flood waters unless the development can achieve all of the following:
(a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event
(b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.

General Section: Hazards: PDC 5

Complies

Council's flood survey has identified that the subject land may be subject to inundation in a 1 in 100 ARI flood event. Council's Development Engineer has confirmed that the proposed finished floor level of 450mm to 500mm above top of kerb will prevent entry of floodwaters in a 1-in-100 year average return interval flood event.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Complies

A landscaping schedule has been provided which incorporates small to medium shrubs that are hardy and suitable to a low maintenance suburban garden.

The planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

Fences and walls, including retaining walls, should:

- (a) not result in damage to neighbouring trees*
- (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality*
- (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance*
- (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street*
- (e) assist in highlighting building entrances*
- (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites*
- (g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land*
- (h) be constructed of non-flammable materials.*

General Section: Landscaping, Fences & Walls: PDC 5

Complies

Fencing will be replaced where necessary however fencing that exceeds the height or is in a location which constitutes 'development' in the Development Regulations, 2008 is not proposed.

ANALYSIS/CONCLUSION

The proposed dwellings, despite their undersized nature, achieve relative compliance with the majority of provisions of the Development Plan as well as the Desired Character and Objectives of the Policy Area, in that they are well situated close to public transport and Centres and will provide additional accommodation needs at higher densities.

It is noted there are still variances in some side setbacks, site coverage, floor area ratio, orientation and energy efficiency of some POS areas and the length and height of the walls on boundaries, however, I am of the view that these are minor departures and I am satisfied that these non-compliances will not unreasonably impact upon existing neighbouring properties or significantly impair the function and livability of the dwellings themselves.

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 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: 100/2015/441 for Four, two storey row dwellings and associated garages at 26 Johnstone Road Oaklands Park be subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/441, being Job Number 89531 and document titled 'Proposed Dwelling for S & M Rusby At Lot No. 322 (No 26) Johnstone Rd, Oaklands Park' prepared by Fairmont Homes, except when varied by the following conditions of consent.
2. Stormwater from the structure approved herein shall be collected and directed into a retention tank (or tanks) which are sized and installed in accordance with the Drainage Plan with Job No. 1503070, Drawing No. CRD/A, prepared by SAF Consulting Engineers and received by Council on 29 March 2015.
3. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
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 to the reasonable satisfaction of the Council.
5. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
6. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
7. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
8. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
9. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

10. All mortar joints on any face brickwork on the property boundary are to be finished in a professional manner, similar to other external brickwork on the subject dwelling.
11. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.

NOTES

1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
2. 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, to the reasonable satisfaction of the Council. (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).
3. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
4. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

Attachment I: Certificate of Title
Attachment II: Aerial Photograph & Site Locality Plan
Attachment III: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.5
Originating Officer:	Dylan O'Brien Development Officer - Planning
Applicant:	City Of Marion
Development Description:	To remove a Regulated Tree (WA Willow Myrtle), due to risk to pedestrians and motorists
Site Location:	5 Cavan Terrace, Clovelly Park
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	18/11/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/2079
Recommendation:	Development Plan Consent and Development Approval (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development pursuant to Schedule 9 of the Development Regulations 2008, which assigns development that comprises a tree-damaging activity in relation to a regulated tree on land owned or occupied by a council where the council is the relevant authority in relation to the development.

SUBJECT TREE & LOCALITY

The subject tree is an *Agonis flexuosa* (WA Willow Myrtle) species.

The subject tree is located directly south of the property at 5 Cavan Street, Clovelly Park (within the road reserve of Australian Avenue) and is defined as a regulated tree, as it maintains a trunk circumference of 2.3 metres.

The Australian Avenue streetscape features irregular street tree plantings, as several properties in the immediate locality including the tennis club to the east do not contain street trees in the adjacent road reserve.

The subject tree is one of the more mature of the street trees in the immediate streetscape.

Refer Attachment I

PROPOSED DEVELOPMENT

To remove a Regulated Tree (WA Willow Myrtle), located on Council land.

Refer Attachment II

PUBLIC NOTIFICATION

Properties notified:	16 properties were notified during the Category 2 public notification process.
Representations:	2 representations were received by Council.
Persons wishing to be heard:	Nil
Summary of representations:	<ul style="list-style-type: none">• The tree is lovely and has been there for many years;• It does not interfere with pedestrians, nor any traffic;• The pavement is in good condition; and,• The tree should be retained as I really love seeing it there... it's beautiful! <p><i>Refer Attachment III</i></p>
Applicant's response: (Heath Reynolds – Coordinator Arboriculture):	The subject tree was found to be structurally unsound... the risk of the tree in regard to supporting the large diameter leader branches is unacceptable in an urban environment. Due to the unsound nature of the tree, removal is recommended. <p><i>Refer Attachment IV</i></p>

INTERNAL DEPARTMENT COMMENTS

Council's Planning Officer - Arboriculture (Gordon Sykes):	Subject tree is developing decay in the trunk and has limited life expectancy of plus or minus 5 years. The tree is over hanging the footpath. The tree cannot be pruned and life expectancy cannot be extended. The risk rating is 9/12 and removal is recommended.
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DEVELOPMENT ASSESSMENT

The relevant provisions of the Marion Council Development Plan are listed and assessed in the following table:

Regulated Trees	
OBJECTIVES 1 The conservation of regulated trees that provide important aesthetic and/or environmental benefit.	<p>The subject tree is not considered to provide an important aesthetic or environmental benefit, given its relatively modest height, poor health and structure as identified by Councils Coordinator Arboriculture and non-indigenous species.</p> <p>It is acknowledged that the tree is visually prominent in the immediate streetscape. However, this visibility does not provide an "important" aesthetic benefit, particularly given that the tree is not visible from the wider locality.</p>

	<p>Notwithstanding the tree is clearly leaning to one side (over the footpath) with a relatively thick canopy, it has been identified as having evidence of trunk decay.</p> <p>Accordingly, the tree does not warrant conservation in accordance with Objective 1.</p>
<p>2 Development in balance with preserving regulated trees that demonstrate one or more of the following attributes:</p> <p>(a) significantly contributes to the character or visual amenity of the locality</p> <p>(b) indigenous to the locality</p> <p>(c) a rare or endangered species</p> <p>(d) an important habitat for native fauna.</p>	<p>a) The tree is not considered to “significantly” contribute to the character or visual amenity of the locality given that the species is not indigenous to the locality, and the height of the tree provides limited visibility beyond the immediate streetscape.</p> <p>b) The tree is not indigenous to the local area.</p> <p>c) The tree is neither classified as a rare or endangered species.</p> <p>d) The tree does not provide an important habitat for native fauna. Whilst the tree may be used occasionally by birds, this habitat value is not considered to be of such significance that it would warrant retention of a tree which is in poor health and structural decline.</p> <p>The tree fails to sufficiently fulfil any of the criteria in Objective 2, which suggests that the subject regulated tree does not warrant preservation.</p>
<p>PRINCIPLES OF DEVELOPMENT CONTROL</p> <p>1 Development should have minimum adverse effects on regulated trees.</p> <p>2 A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:</p> <p>(a) the tree is diseased and its life expectancy is short</p> <p>(b) the tree represents a material risk to public or private safety</p> <p>(c) the tree is causing damage to a building</p> <p>(d) development that is reasonable and expected would not otherwise be possible</p> <p>(e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.</p> <p>3 Tree damaging activity other than removal should seek to maintain the health, aesthetic appearance and structural integrity of the tree.</p>	<p>Council's Planning Officer - Arboriculture (Gordon Sykes) and Coordinator Arboriculture (Heath Reynolds) have assessed the subject tree and provide the following observations:</p> <p>a) The subject tree is:</p> <ul style="list-style-type: none"> structurally unsound with internal decay; This species is susceptible to trunk hollows and spitting which over time cause weak spots and fracturing, rendering the tree unstable and in danger of falling; diseased with large hollows and decaying trunks; and, the failure potential of the tree is deemed severe <p>b) The condition of the tree and risk is unacceptable in an urban area. Heath Reynolds and Gordon Sykes have respectively attributed risk ratings of 10/12 and 9/12, which demonstrates that the tree represents a material risk to public and private safety.</p> <p>c) The tree is currently not causing damage to a building.</p> <p>d) The tree is not preventing reasonable/expected development.</p> <p>e) Not applicable</p> <p>Given that it has been demonstrated that the tree satisfies (a) and (b), PDC 2 anticipates that the tree should be removed.</p>

REPRESENTOR'S CONCERNS

The concern raised by the representors in relation to the value of the tree, have been considered in the body of this report. However, the fact that the tree presents a material risk to safety, in addition to its limited contribution to the character and amenity of the locality, suggests that the tree should be removed.

ANALYSIS/CONCLUSION

The subject regulated tree represents a material risk to safety. As a result of the trees' poor condition, limited visibility within the wider locality, and the non-indigenous nature of the species, the tree is not considered to provide an important aesthetic or environmental benefit.

Removal of the tree is therefore warranted in accordance with the relevant provisions of 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 Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent and Development Approval 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 and Development Approval for Development Application No: 100/2014/2079 to remove a Regulated Tree (WA Willow Myrtle), due to risk to pedestrians and motorists at 5 Cavan Terrace, Clovelly Park be granted subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/2079, except when varied by the following condition of consent.
- 2. Replacement trees shall be planted to compensate for the removal of the regulated tree. One replacement tree shall be planted in the same place as the removed tree, and the remaining trees planted in a nearby Council reserve.

Replacement trees must be planted in a suitable position greater than 10 metres in distance from any existing dwelling or in-ground swimming pool. In the event that the replacement tree within the road reserve is located within 10 metres of an existing dwelling or in-ground swimming pool, an additional replacement tree shall be planted in a nearby Council reserve.

- 3. The replacement tree planting shall occur within twelve months of the tree's removal and shall be maintained in good condition at all times and replaced if necessary.
- 4. The replacement trees must not be exempt species listed under regulation 6A clause (5)(b) of the Development Regulations 2008, or a tree belonging to a class of plant declared by the Minister under section 174 of the Natural Resources Management Act 2004.

NOTES

- 1. The applicant is encouraged to select native tree species of local provenance that are considered suitable replacements for the tree(s) to be removed (i.e. amenity / shade trees, provision of habitat, etc.).

Attachments

Attachment I: Aerial Photograph
Attachment II: Proposal Plan and supporting documentation
Attachment III: Statement of Representations

DEVELOPMENT ASSESSMENT PANEL

Wednesday 1 July 2015

Agenda Ref No:	DAP010715 - 3.6
Originating Officer:	Steve Hooper Manager Development Services
Applicant:	Mr Jack Pete
Development Description:	Land Division Residential Torrens 1 into 4 allotments
Site Location:	23 Carlton Street Oaklands Park
Zone:	Residential Zone
Policy Area:	Medium Density Policy Area 12
Application Type:	Category1/Consent
Lodgement Date:	03/07/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1121
Recommendation:	Development Plan Consent/Land Division Consent & Development Approval (Granted)

BACKGROUND

The subject application is a Category 1 form of development by virtue of Schedule 9 of the Development Regulations 2008, which assigns a land division that does not change the nature or function of an existing road as a Category 1 development.

Council staff did not request modifications to the proposal plans during the assessment process as the proposed division related to a land use application (100/2014/1025) being concurrently assessed by administration and is to be considered by the Panel at the same meeting.

SUBJECT LAND & LOCALITY

The subject land is located on the south-eastern corner of the intersection of Doreen and Carlton Streets, Oaklands Park. The land is irregular shaped, relatively flat and comprises a site area of 768 square metres. An existing single storey dwelling occupies the land with little vegetation of note.

This section of Doreen Street incorporates a landscaped median which serves as a visual buffer from the northern side of Doreen Street.

The locality comprises a mix of older style dwellings, typically single storey in nature on generous sized allotments, interspersed with Housing SA maisonettes and more recently constructed group dwellings.

Refer Attachments II

PROPOSED DEVELOPMENT

The application seeks to divide the existing allotment to create a total of 4 (four) Torrens Title residential allotments. Party wall easements are included on the plan of division, which nominate the use of the land for four row dwellings (100/2014/1025).

A greater level of detail regarding how the land will be developed is detailed in Development Application 100/2014/1025, which is to be considered by the Panel at the same time as the subject application.

Refer Attachment III

ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Medium Density Policy Area 12 are listed in the following table and discussed in further detail below:

Residential Zone	
Objectives	
<i>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</i>	
Medium Density Policy Area 12	
Objectives	
1	<i>A residential policy area comprising a range of medium-density dwellings designed to integrate with areas of open space, neighbouring centres or public transport nodes.</i>
2	<i>Development that minimises the potential impact of garaging of vehicles on the character of the area.</i>
3	<i>Development that supports the viability of community services and infrastructure and reflects good residential design principles.</i>
4	<i>Development that contributes to the desired character of the policy area.</i>
Desired Character	
<i>The desired character of the policy area is of an attractive residential environment containing low to medium density dwellings of a variety of architectural styles at a higher density compared to that typical of the original dwelling stock in the area. Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles such as buildings of up to two storeys subject to the impact of the additional height and bulk not adversely impacting upon the amenity of existing neighbouring development. Buildings with two storeys plus attic additions are appropriate provided the building is located centrally within a large site as part of an integrated development. Where housing is adjacent to zones or policy areas that are designed to accommodate dwellings at lower densities, consideration needs to be given to incorporate transitional built form, scale and design elements to ensure greater compatibility with that adjacent housing.</i>	
<i>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Through the gradual redevelopment of properties (particularly those containing lower valued improvements), a wider range of dwelling types will be provided to meet a variety of accommodation needs.</i>	
<i>Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points requires removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</i>	

Where access to parking areas servicing dwellings is via laneways, space needs to be designed to facilitate attractive landscaping and tree planting in order to present an attractive appearance from adjoining roads and to protect the amenity for adjacent dwellings.

PDC 7	Minimum Site Area: 210m ²	Does Not Comply 197 m ² (Allotment 1) 187 m ² (Allotment 2) 192 m ² (Allotment 3) 192 m ² (Allotment 4)
	Minimum Frontage: 7m	Complies 12m 9.5m 9.5m 7.5m
	Minimum Depth: 20m	Complies 20m (Residence 2) 20.5m (Residence 3) 20.6m (Residence 4) Does Not Comply 16-19.9m (Residence 1)

Assessment

The subject division seeks to create allotments for residential purposes, and to this end, the nature of the division is consistent with the zoning of the land.

Despite the shortfall in site area, in the report for the proposed land-use application, it was considered that the site areas were of suitable dimension, shape and size to accommodate four row dwellings as proposed in the associated land use application 100/2014/1025.

To this end, the proposal is considered to satisfy the Desired Character for Medium Density Policy Area 12, as the allotments will enable the construction of medium density dwellings at a higher density compared to that typical of the original dwelling stock in the area.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Land Division	
OBJECTIVES <i>1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.</i>	Complies
<i>2 Land division that creates allotments appropriate for the intended use.</i>	Partially Complies Despite the shortfall in site area, the proposed site areas are appropriate for the dwellings proposed in Development Application 100/2014/1025

<p><i>3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.</i></p>	<p>Complies The land division is likely to be supported by the necessary infrastructure, and is located within walking distance of bus routes.</p>
<p>PRINCIPLES OF DEVELOPMENT CONTROL</p> <p><i>1 When land is divided:</i> <i>(a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner</i> <i>(b) a sufficient water supply should be made available for each allotment</i> <i>(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</i> <i>(d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.</i></p>	<p>Complies The proposed development is likely to result in stormwater being drained safely from the land. Water and sewer supply will be available.</p>
<p><i>2 Land should not be divided if any of the following apply:</i> <i>(a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use</i> <i>(b) any allotment will not have a frontage to one of the following:</i> <i>(i) an existing road</i> <i>(ii) a proposed public road</i> <i>(iii) access to a public road via an internal roadway in a plan of Torrens division</i> <i>(c) the intended use of the land is likely to require excessive cut and/or fill</i> <i>(d) it is likely to lead to undue erosion of the subject land or land within the locality</i> <i>(e) the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development</i> <i>(f) the intended use of the land would be contrary to the zone objectives</i> <i>(g) any allotments will straddle more than one zone, policy area or precinct.</i></p>	<p>Complies a) The proposed site areas are appropriate for the intended use of the allotments for dwellings. b) The allotments maintain a frontage to a public road c) Excessive cut/fill is unlikely e) The area is sewerred f) The intended use of the land for row dwellings is consistent with the zone objectives. g) The allotment will not straddle more than one zone, policy area or precinct</p>
<p>Design and Layout</p> <p><i>3 Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.</i></p>	<p>Complies</p>
<p><i>7 The design of a land division should incorporate:</i> <i>(a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and Torrens transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities</i> <i>(b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare</i> <i>(c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones</i> <i>(d) suitable land set aside for useable local open space</i> <i>(e) public utility services within road reserves and where necessary within dedicated easements</i> <i>(f) the preservation of significant natural, cultural or landscape features including State and local heritage places</i> <i>(g) protection for existing vegetation and drainage lines</i> <i>(h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development</i> <i>(i) the preservation of significant trees.</i></p>	<p>Complies</p>

<p>10 Allotments should have an orientation, size and configuration to encourage development that:</p> <p>(a) minimises the need for earthworks and retaining walls</p> <p>(b) maintains natural drainage systems</p> <p>(c) faces abutting streets and open spaces</p> <p>(d) does not require the removal of existing native vegetation to facilitate that development</p> <p>(e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.</p>	<p>Complies</p>
<p>11 The layout of a land division should provide for efficient solar access.</p>	<p>Does Not Comply</p> <p>3 of the 4 rear yard areas will have a southerly orientation.</p>
<p>Roads and Access</p> <p>21 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of:</p> <p>(a) the size of proposed allotments and sites and opportunities for on-site parking</p> <p>(b) the availability and frequency of public and Torrens transport</p> <p>(c) on-street parking demand likely to be generated by nearby uses.</p>	<p>Complies</p> <p>Based upon the land use application (100/2014/1025), no less than two (2) on-street visitor car park spaces are available in front of the subject allotments. An alternative design should also comfortably be able to accommodate the same requirement.</p>
<p>22 A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</p>	<p>Complies</p>

ANALYSIS/CONCLUSION

The subject proposal seeks land division for residential purposes.

Despite the shortfall in site area, it has been demonstrated, by way of the land use application, that the proposal can comfortably accommodate four row dwellings, with appropriate setbacks, private open space and car-parking provisions. Further, the allotment sizes do not compromise the ability for residential development to occur that provides for a positive amenity to the streetscape and acceptable impacts on adjoining properties.

Each of the proposed allotments provide acceptable site frontages and site depths, have appropriate vehicular access, sewer, water and other necessary infrastructure.

The proposal is considered to satisfy the Desired Character for the Medium Density Policy Area 12, as the allotments will enable the construction of medium density dwellings appropriate for the locality.

As such, it is my view that the proposed development is not seriously at variance with the Development Plan in accordance with Section 35(2) of the Development Act, 1993 and the proposed land division warrants Development Plan Consent, Land Division Consent and Development Approval, 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, Land Division Consent and Development Approval for Development Application No: 100/2014/1121 (100/D157/14) for a residential land division (Torrens title) 1 into 4 allotments at 23 Carlton Street, Oaklands Park be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1121 (100/D157/14), except when varied by the following conditions of consent.
- 2. Party/common wall(s) associated with the development proposed to be built on the land shall be accurately identified on the plan of division prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 3. All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 4. The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

LAND DIVISION CONSENT

GRANTED

Conditions of Consent

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. The alteration of internal drains to the satisfaction of SA Water is required. On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
- (2) Payment of \$19464 into the Planning and Development Fund (3 allotments @ \$6488/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide.

- (3) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

Note:The SA Water Corporation will, in due course, correspond directly with the applicant/agent regarding the details of the above condition No 1.

NOTES:

General:

- (1) This approval has been granted on the basis of the suitability of the land for four row dwellings as demonstrated in Development Application No: 100/2014/1025. Existence of party walls should therefore be shown on the plan of division to be lodged with the Land Titles Office. However should the proposed allotments be created and sold without the construction of that development occurring or different dwellings are proposed, new applicants/owners should be aware that new Development Application(s) need to be lodged with and assessed by the Council, noting that the proposed allotments may not meet Council's standard minimum allotment sizes for other forms of dwellings (e.g. the Development Plan requires a larger site area for detached dwellings than it does for semi-detached dwellings or group dwellings) and other dwelling layouts may be difficult to site on the proposed allotments.
- (2) The applicant is reminded to contact the Council when all of the Council's conditions have been complied with and accordingly, the Council will advise the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan</i>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.7
Originating Officer:	Steve Hooper Manager Development Services
Applicant:	Urban Innovations
Development Description:	To construct four 2-storey row dwellings with associated carports and landscaping.
Site Location:	23 Carlton Street, Oaklands Park
Zone:	Residential Zone
Policy Area:	Medium Density Policy Area 12
Application Type:	Category 1 / Consent
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1025
Recommendation:	Development Plan Consent (Granted), subject to the deposit of the Plan of Division for associated Land Division 100/D277/14

CATEGORISATION

In accordance with the interpretation of the ERD Court, following the deposit of the Plan of Division (for the associated land division) with the Lands Title Office, the subject application will comprise row dwellings (and therefore a Category 1 form of development), pursuant to Schedule 9 (Part 1: 2(a)(iii) and 2(a)(iv) of the Development Regulations 2008, which assigns the construction of three or more row dwellings, where no such dwelling is more than two storeys high, as Category 1 development.

The subject application is required to be assessed by the Development Assessment Panel by virtue of the proposed new dwellings supporting allotment areas less than the minimum of 210 square metres required for row dwellings within the Medium Density Policy Area 12. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

During the assessment process, Council staff requested modifications to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
Modification to the private open space and car-parking provision for Proposed Dwelling 1 to improve POS provision.	Car-parking brought forward to enable adequate private open space with useable dimensions.
Modification to the kitchen/meals living areas of Dwellings 2 & 3 to improve private open dimensions for these dwellings.	Modifications made to kitchen/meals area to improve POS.
Modification to the upper level western wall of Dwelling 1 to avoid 'blank walls exposed to public view'.	Upper level boundary wall modified to improve articulation.
Deletion of balcony to Dwelling 1 to minimise overlooking of adjoining properties	Balcony deleted.
Increase in front setbacks of Dwellings 2 & 4 to 5 metre minimum requirement	Setbacks for each dwelling increased to minimum 5 metre setback.
Modifications to Dwelling 4 to demonstrate that it is clearly a 3-bedroom dwelling and is not capable of being modified to four bedrooms.	Upper level study removed.
Modifications to the upper level of Dwelling 4 to provide articulation and visual interest in the upper level elevation.	Articulation provided by including stepping in the design.

SUBJECT LAND & LOCALITY

The subject land is located on the south-eastern corner of the intersection of Doreen and Carlton Streets, Oaklands Park. The land is irregular shaped, relatively flat and maintains a site area of 768 square metres. An existing single storey dwelling occupies the land with little vegetation of note.

This section of Doreen Street incorporates a landscaped median which serves as a visual buffer from the northern side of Doreen Street.

The locality comprises a mix of older style dwellings, typically single storey in nature on generous sized allotments, interspersed with Housing SA maisonettes and more recently constructed group dwellings.

Refer Attachment I

PROPOSED DEVELOPMENT

The application proposes to construct four (4) two-storey row dwellings fronting Doreen Street. Dwellings 2-4 will include an enclosed garage accommodating one car space with one visitor parking space in front. Dwelling 1 is situated on the corner of Carlton Street and whilst the

dwelling fronts Doreen Street, the off-street parking will comprise a double carport, setback approximately 1.5 metres from Carlton Street.

Each of the dwellings incorporate three bedrooms, typically located on the upper level, excepting the main bedrooms for Dwellings 2 & 3. Living/meals areas will be situated at ground level. Landscaping is proposed on both the front and rear yards including native feature trees. Dwellings One & Four include small outdoor covered patios.

Details of the proposal are more particularly outlined in Appendix II.

Refer Attachment II

INTERNAL DEPARTMENT COMMENTS

Engineering:	Council's Development Engineer raises no concerns with the proposal.
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ZONE AND POLICY AREA ASSESSMENT

The Objectives of the Residential Zone, and the relevant Objectives, Principles and Desired Character of the Medium Density Policy Area 12 are as follows:

Residential Zone
<p>Objectives</p> <p><i>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</i></p> <p><i>2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</i></p>
Medium Density Policy Area 12
<p>Objectives</p> <p><i>1 A residential policy area comprising a range of medium-density dwellings designed to integrate with areas of open space, neighbouring centres or public transport nodes.</i></p> <p><i>2 Development that minimises the potential impact of garaging of vehicles on the character of the area.</i></p> <p><i>3 Development that supports the viability of community services and infrastructure and reflects good residential design principles.</i></p> <p><i>4 Development that contributes to the desired character of the policy area.</i></p>
<p>Desired Character</p> <p><i>The desired character of the policy area is of an attractive residential environment containing low to medium density dwellings of a variety of architectural styles at a higher density compared to that typical of the original dwelling stock in the area. Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles such as buildings of up to two storeys subject to the impact of the additional height and bulk not adversely impacting upon the amenity of existing neighbouring development. Buildings with two storeys plus attic additions are appropriate provided the building is located centrally within a large site as part of an integrated development. Where housing is adjacent to zones or policy areas that are designed to accommodate dwellings at lower densities, consideration needs to be given to incorporate transitional built form, scale and design elements to ensure greater compatibility with that adjacent housing.</i></p> <p><i>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Through the gradual redevelopment of properties (particularly those containing lower valued improvements), a wider range of dwelling types will be provided to meet a variety of accommodation needs.</i></p>

Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points requires removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

Where access to parking areas servicing dwellings is via laneways, space needs to be designed to facilitate attractive landscaping and tree planting in order to present an attractive appearance from adjoining roads and to protect the amenity for adjacent dwellings.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building (buildings between one and three storeys) ▪ row dwelling ▪ semi-detached dwelling ▪ supported accommodation. 	Complies
PDC 7	<p>Minimum Site Area:</p> <p>Row dwelling: 210 m²</p>	<p>Does Not Comply</p> <p>196 m² (Residence 1) 187 m² (Residence 2) 191 m² (Residence 3) 191 m² (Residence 4)</p>
	<p>Minimum Frontage:</p> <p>Row dwelling: 7 m</p>	<p>Complies</p> <p>12 m (Residence 1) 9.5 m (Residence 2) 9.5 m (Residence 3) 7.5 m (Residence 4)</p>
	<p>Minimum Depth:</p> <p>Row dwelling: 20 m</p>	<p>Complies</p> <p>20.0 m (Residence 2) 20.5 m (Residence 3) 20.6 m (Residence 4)</p> <p>Does Not Comply</p> <p>16.0-19.9 m (Residence 1)</p>

Assessment

The proposal provides for medium density residential development within a policy area which expressly encourages this form of development.

The proposal plans have been amended to reduce the bulk and scale and improve the visual amenity of the development. It is not considered that the proposal will adversely impact on the amenity of adjoining development.

The subject land is situated on a corner site, conducive for row dwellings which will maintain a pleasant streetscape and will improve the overall visual amenity of the locality.

A minimum site area of 210 square metres is prescribed for row dwellings in the Medium Density Policy Area 12, which equates to a shortfall of approximately 20 square metres per dwelling.

In my view, the shortfall in site areas is not necessarily fundamental to the merits of the application, in that it does not represent a substantial disparity against the provisions which, in itself, would warrant refusal of the application. This is reinforced by the ability of the application to maintain a high level of compliance with other applicable design criteria, with a majority of

identified shortfalls deemed to be minor departures from the Development Plan (as discussed further in the Table Discussion of this report).

Fundamentally, the ability of the dwellings to accord with a majority of other Development Plan criteria demonstrates that the shortfall in site areas would not jeopardise the underlying merit of the proposal. The proposed development is considered to appropriately satisfy the Objectives, Principles and Desired Character of the Medium Density Policy Area 12.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Site Coverage	
<p>Maximum site coverage: Site area less than 270 m²: 100 m² or 40% (whichever is the greater)</p> <p>[100 m² is the greater in this instance]</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p>Does Not Comply 105.0 m² (53.5%) (Residence 1)</p> <p>Complies 84.0 m² (44.9%) (Residence 2) 84.0 m² (44.0%) (Residence 3) 78.0 m² (40.8%) (Residence 4)</p>
<p>Maximum floor area ratio: Site area less than 270 m²: 0.7</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p>Complies 0.65 (Residence 1) 0.55 (Residence 2) 0.54 (Residence 3) 0.54 (Residence 4)</p>
<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles <p>General Section: Residential Development: PDC 13</p>	<p>Complies The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>
Private Open Space	
<p>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</p> <ul style="list-style-type: none"> (a) to be accessed directly from a habitable rooms of the dwelling (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy (c) to take advantage of, but not adversely affect, natural features of the site (d) to minimise overlooking from adjacent buildings (e) to achieve separation from bedroom windows on adjacent sites (f) to have a northerly aspect to provide for comfortable year round use (g) not to be significantly shaded during winter by the associated dwelling or adjacent development 	<p>Partially Complies</p> <p>Private open space areas do not have a northerly aspect and will be partially shaded during winter.</p>

(h) to be partly shaded in summer
 (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality
 (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.

General Section: Residential Development: PDC 15

Site area less than 250 m²:

20% of the site area or 35 m², whichever is the greater
 Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.

One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.

General Section: Residential Development: PDC 17

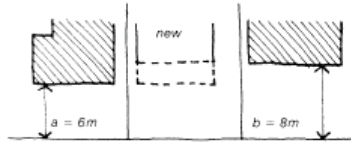
Complies

27%
 26%
 29%
 35%

Complies

Street Setbacks

Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjacent allotments	Setback of new building
Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:  When $b \leq 2$, setback of new dwelling = a or b
Greater than 2 metres	At least the average setback of the adjacent buildings

General Section: Design and Appearance: PDC 25

Partially Complies

Setbacks range between 4.3 metres (Res 1) and 5.5 metres (Res 4)

Minimum setback from secondary road frontage: 2 metres

Residential Zone: PDC 7

Complies

3.7m (Res 1)

Side Setbacks

Where the wall height is not greater than 3 metres: 1 metre

Where the wall height is between 3 metres and 6 metres:

- (a) 3 metres if adjacent southern boundary
- (b) 2 metres in all other circumstances.

Residential Zone: PDC 7

Does Not Comply

600m (Res 4)

Complies

2 metres minimum

Rear Setbacks

Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:

- (a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary

General Section: Residential Development: PDC 37

Complies

3.3 metres at closest point (Res 2)

<p>6 metres for a 2 or more storey dwelling</p> <p>Residential Zone: PDC 7</p>	<p>Complies (Res 1-3)</p> <p>Does not Comply (Res 4) - 5.4m</p>
Building Height	
<p>Maximum building height (from natural ground level): (i) 2 storeys of not more than 9 metres (ii) 2 storeys plus attic of not more than 10 metres</p> <p>Residential Zone: PDC 7</p>	<p>Complies</p>
Garages, Carports and Outbuildings	
<p>Minimum setback from primary road frontage: 8 metres for a freestanding structure. 5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p>Minimum setback from secondary road frontage: 5.5 metres for a single-width structure. Not less than the specified setback of the associated dwelling for a double-width structure.</p> <p>Residential Zone: PDC 8</p>	<p>Complies</p> <p>The double carport proposed for Residence 1 is considered satisfactory having regard to the applicable provisions. The other garages are integrated into the design of the dwellings and sufficiently setback behind the main face of the associated dwelling.</p>
<p>Carports and garages should be setback from road and building frontages so as to: (a) not adversely impact on the safety of road users (b) provide safe entry and exit.</p> <p>General Section: Residential Development: PDC 12</p>	
<p>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</p> <p>General Section: Residential Development: PDC8</p>	
<p>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</p> <p>Residential Zone: PDC 6</p>	
Car Parking	
<p>Minimum number of on site car parking spaces (one of which should be covered) : 2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</p> <p>Residential Zone: PDC 7</p>	<p>Complies</p>

Access

The width of driveway crossovers should be minimised and have a maximum width of:

- (a) 3 metres wide for a single driveway*
- (b) 5 metres wide for a double driveway.*

General Section: Residential Development: PDC 39

Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.

General Section: Residential Development: PDC 40

A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.

General Section: Transportation and Access: PDC 28

Complies

The proposal satisfies the relevant provisions. All proposed driveway crossovers are at least one metre from existing street trees, of appropriate dimensions, and maintain on-street parking.

Design & Appearance

Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:

- (a) building height, mass and proportion*
- (b) external materials, patterns, colours and decorative elements*
- (c) roof form and pitch*
- (d) façade articulation and detailing*
- (e) verandas, eaves, parapets and window screens.*

General Section: Design & Appearance: PDC 1

The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.

General Section: Design & Appearance: PDC 3

Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.

General Section: Design & Appearance: PDC 17

Complies

The proposal is considered to present positively to the streetscape and is well articulated, particularly at the upper level where visual bulk can be of a concern. The proposal is considered to satisfy the applicable design and appearance provisions.

Overshadowing

The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

General Section: Design & Appearance: PDC 9

Except where specified in a zone, policy area or precinct, development should ensure that:

- (a) north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level open space of existing buildings receives direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21*

Complies

Whilst there will be some overshadowing of adjacent properties to the south and west in midwinter at certain times during the day, both adjacent dwellings will receive adequate sunlight for a majority of the day during midwinter and at other times of the year, and as such the proposal finds compliance with Principles 9 & 10.

<p><i>June to at least the smaller of the following:</i></p> <ul style="list-style-type: none"> <i>(i) half of the existing ground level open space</i> <i>(ii) 35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres)</i> <i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i> <p><i>General Section: Design & Appearance: PDC 10</i></p>	
Visual Privacy	
<p><i>Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:</i></p> <ul style="list-style-type: none"> <i>(a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct</i> <i>(b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms</i> <i>(c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.</i> <p><i>General Section: Design & Appearance: PDC 12</i></p>	<p>Complies</p> <p>The proposed upper floor windows facing south and west into adjacent properties have appropriate privacy treatment consistent with the above-mentioned requirements.</p>
Energy Efficiency	
<p><i>Development should provide for efficient solar access to buildings and open space all year around.</i></p> <p><i>General Section: Energy Efficiency: PDC 1</i></p> <p><i>Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.</i></p> <p><i>General Section: Energy Efficiency: PDC 2</i></p> <p><i>Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.</i></p> <p><i>General Section: Energy Efficiency: PDC 3</i></p> <p><i>Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.</i></p> <p><i>General Section: Energy Efficiency: PDC 4</i></p> <p><i>Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.</i></p> <p><i>General Section: Energy Efficiency: PDC 5</i></p>	<p>Partially Complies</p> <p>Whilst all dwellings incorporate roof pitches that will facilitate photovoltaic cells, Dwellings 2 & 3 will be deficient with respect to solar access for primary living areas and private open space areas. Although this is a deficiency in the proposal, it is not considered fatal to the application as outlined elsewhere within the report.</p>

Flooding

Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.

General Section: Hazards: PDC 4

Development should not be undertaken in areas liable to inundation by tidal, drainage or flood waters unless the development can achieve all of the following:
(a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event
(b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.

General Section: Hazards: PDC 5

Complies

Council's flood survey has identified that the subject land may be subject to inundation in a 1 in 100 ARI flood event. Council's Development Engineer has confirmed that the proposed dwellings are designed appropriately to minimise the risk of entry of floodwaters in a 1-in-100 year average return interval flood event.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Complies

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

Fences and walls, including retaining walls, should:

- (a) not result in damage to neighbouring trees*
- (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality*
- (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance*
- (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street*
- (e) assist in highlighting building entrances*
- (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites*
- (g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land*
- (h) be constructed of non-flammable materials.*

General Section: Landscaping, Fences & Walls: PDC 5

Complies

The application proposes retaining walls varying in height to a maximum 300 millimetres. If a standard 1.8 metre high fence is constructed atop these walls, this will result in a maximum structure height of 2.1 metres. This fencing/retaining height is considered sufficient to maintain privacy and security, without unreasonably affecting the visual amenity or access to sunlight of adjoining land.

TABLE DISCUSSION

The proposal satisfies a number of the applicable quantitative criteria contained within the Marion Council Development Plan. However, the proposal fails to comply with the following provisions:

- Site areas;
- Site coverage (Res 1);
- Private open space not having northern orientation;
- Street setback
- Rear Upper Level Setback (Res 4)
- Side Setback (Res 4)
- Site depth (Res 1)

The proposal provides for allotments which are under on site area by between 23 square metres and 14 square metres.

In my opinion, a development which provides for allotments which are deficient in site area needs to be considered with caution having regard as to whether the density of the development will be inconsistent with the desired character for the area and with respect to whether the development by virtue of its deficient site area presents as an overdevelopment of the site.

I have formed the view that the form of development proposed will contribute positively to the character of the area and, in being located within the Medium Density Policy Area 12, is a form of development expressly contemplated. I therefore cannot support a position that the density of the development is fundamentally at odds with the Policy Area such as to warrant refusal. Furthermore, as demonstrated further within the report, the proposal is able to function with respect to private open space, car parking, and appropriate setbacks and amenity for future residents and adjacent properties, such that the site area shortfall is not symptomatic of an overdevelopment of the site.

It is noted that the proposal has some minor non-compliances with respect to side and rear setbacks and site depth. These deficiencies are generally minor and apply to only a small portion of the proposed development, such that the majority of the development meets relevant prescriptive criteria. I cannot find any adverse design consequences as a result of these non-compliances.

The proposal is within a locality exhibiting mixed and varied setbacks from the street. This proposal has been modified to increase the setback from Doreen Street. Whilst the development will protrude forward of the adjacent dwelling to the west, other development in the street is setback similar distances as the proposal.

Residence 1 provides for a site coverage of 105 square metres, which exceeds criteria by 5 square metres. This site coverage includes the proposed alfresco area to the east of the dwelling, which provides for functional indoor and outdoor living areas, with the advantage of being east-facing. The dwelling also provides generous setbacks and useable private open space, well in excess of the provisions of the Development Plan. There are therefore no adverse design consequences resulting from the excess site coverage.

One area where the proposed development is deficient is with respect to the proposed private open space for Dwellings 2-4 being situated on the southern side of the proposed dwellings. It is acknowledged that this is not ideal. Residences 2 & 3 in particular will receive little sunlight into private open space and primary living areas during midwinter, as demonstrated on the

shadow plans. Although this is a failing of the development, sunlight will be available at other times of the year to these areas and when residents are more likely to be outdoors. I do not consider this to be fatal to the application when assessed as a whole.

ANALYSIS/CONCLUSION

The applicant has modified the plans at the request of administration and in a number of ways to achieve a better design outcome and greater compliance with the Development Plan.

The proposal provides for a form of development expressly anticipated within the zone and policy area and by virtue of the design, articulation, and streetscape presentation will contribute positively to the streetscape. Furthermore, all existing street trees are maintained.

All four dwellings are provided with adequate private open space, and off-street car-parking areas. Whilst it is acknowledged that there are some areas where the proposal does not meet prescriptive guidelines, these do not manifest in the form of amenity impacts on adjoining properties.

A key failing of the proposal is the lack of sunlight into primary living areas and private open space areas of proposed Dwellings 2 & 3. This is a common design outcome where residential development is proposed on the southern side of existing streets and is often unavoidable. In this instance living areas facing north for Dwellings 2 & 3 could be achieved with modifications to the proposal, but they would then be spatially removed from primary open space areas. Whilst I acknowledge this as the key failing of the application, it is not in my opinion sufficient to warrant refusal of the application.

It is my view that the proposed development is not seriously at variance to the Development Plan, in accordance with Section 35(2) of the Development Act, 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan in accordance with Section 35(2) of the Development Act, 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1025 for the construction of four 2-storey row dwellings with associated carports and landscaping at 23 Carlton Street, Oaklands Park be GRANTED subject to the deposit of the Plan of Division for associated Land Division 100/D277/14 and the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1025, being drawing number(s) WD00 – WD08 (inclusive), received by Council on 21 April 2015 and Siteworks Plan C17415, drawn by RCI Consulting Engineers, received by Council on 5 May 2015, except when varied by the following conditions of consent.
- 2. Stormwater from all structures approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's Information Sheet "Stormwater Detention" to the reasonable satisfaction of the Council (copies of relevant documents are attached).
- 3. 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 to the reasonable satisfaction of the Council.
- 4. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
- 5. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

NOTES

- 1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
- 2. 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, to the reasonable satisfaction of the Council. (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).

3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
4. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.
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.
6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

Attachment I: Certificate of Title
Attachment II: Aerial Photograph/Site Locality Plan
Attachment II: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 - 3.8
Originating Officer:	Stephen Both Senior Development Officer – Planning Kristen Schutte Development Officer-Planning
Applicant:	Zaina Stacey Development Consultants
Development Description:	Residential Land Division (Torrens Title) – 1 into 4 allotments
Site Location:	1 White Crescent, Seacombe Gardens
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 1 / Consent
Lodgement Date:	29/09/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1731 (DAC Ref 100/D216/14)
Recommendation:	Development Plan Consent and Land Division Consent and Development Approval (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development by virtue of Schedule 9 of the Development Regulations 2008, which assigns a land division that does not change the nature or function of an existing road as a Category 1 development.

The proposed land division relates to an associated land use application (100/1725/2014), which has been assessed concurrently. This associated land use application is to be considered by the Panel at the same meeting as the subject land division.

SUBJECT LAND & LOCALITY

The subject site is located at 1 White Crescent, Seacombe Gardens (Lot: 709 CT: 5680/753). The land comprises a corner allotment, of irregular shape, with an eastern primary street frontage to Miller Street of 33.43 metres, a southern secondary street frontage to White Crescent of 16.76 metres, and a total site area of 926 square metres.

The subject land previously accommodated a single-storey detached dwelling (Fibro Cement) in poor condition with vehicular access to a freestanding garage from Miller Street. Several trees were also located on the subject land, none of which were classified as regulated pursuant to the current legislation. The dwelling and all associated structures have recently been demolished and the site cleared of all vegetation, as per approved demolition application 100/180/2015. A small slope exists, from the south-east to the north-west corner, falling approximately 1.4 metres over a distance of some 48 metres.

The locality consists of predominantly redeveloped/sub-divided properties, which typically take the form of single-storey detached and semi-detached dwellings, as well as single storey row dwellings. A number of single storey detached dwellings at low densities, which are representative of the original dwelling stock, are also evident in the locality.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application seeks to divide the existing allotment to create 4 (four) Torrens Title residential allotments. Party wall easements are included on the plan of division, which indicate that the allotments shall accommodate row dwellings, as demonstrated in Development Application 100/1725/2014.

Refer Attachment III

ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Northern Policy Area 13 are listed in the following table and discussed in further detail below:

Residential Zone
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>
Northern Policy Area 13
<p>Objectives</p> <p>1 A policy area primarily accommodating low scale, low to medium density housing. 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities. 3 Development that contributes to the desired character of the policy area.</p>
<p>Desired Character</p> <p>The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.</p> <p>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</p>

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building ▪ <u>row dwellings</u> ▪ semi-detached dwelling ▪ supported accommodation. 	<p>Complies</p> <p>As listed opposite, row dwellings are an envisaged form of housing type within Northern Policy Area 13.</p>
PDC 3	<p>Minimum Site Area: Row Dwellings 250 m²</p>	<p>Complies</p> <p>Res 4: 250 m²</p> <p>Does Not Comply</p> <p>Res 1: 230 m² Res 2: 227 m² Res 3: 220 m²</p>
	<p>Minimum Frontage: Row Dwellings 7 metres</p>	<p>Complies</p> <p>Res 1: 7.37 metres Res 2: 9.52 metres Res 3: 8.52 metres Res 4: 8.01 metres</p>
	<p>Minimum Depth: Row Dwellings 20 metres</p>	<p>Complies</p> <p>Res 2: 22.47m Res 3: 24.84m Res 4: 26.82m</p> <p>Does Not Comply</p> <p>Res 1: 16.76m</p>

Assessment

The application proposes to replace an existing single storey detached dwelling in poor condition, with four two-storey row dwellings, which is a form of development anticipated by PDC 1. The proposal complements the Desired Character of the Policy Area which seeks for redevelopment of properties at greater densities than that of the original housing stock.

A minimum site area of 250 square metres is prescribed for row dwellings in the Northern Policy Area 13, which equates to a shortfall of 20 square metres (8%) for Res 1, 23 square metres (9.2%) for Res 2 and 30 square metres (12%) for Res 3. This results in a 7.3% discrepancy for the total site area. In my view, the shortfall in site areas is not necessarily fundamental to the merits of the application, in that it does not represent a substantial disparity against the provisions which, in itself, would warrant refusal of the application. This is reinforced by the ability of the application to maintain a high level of compliance with other applicable design criteria, with a majority of identified shortfalls deemed to be minor departures from the Development Plan (as discussed further in the Table Discussion of this report).

The depth of the proposed allotment for Res 1, at 16.76 metres, falls short of the prescribed minimum of 20 metres. However this measurement is taken upon the southern boundary only, and does not include the corner cut off of the allotment. The depth of the site along the southern façade of the dwelling is 19.6 metres, and exceeds 20 metres shortly thereafter. The shortfall in depth for a portion of the allotment is considered to be relatively minor. This is reinforced by the dwellings ability to maintain appropriate front, side and rear setbacks.

Fundamentally, the ability of the dwellings to accord with a majority of other Development Plan criteria demonstrates that the shortfalls in site area and depth do not jeopardise the underlying merit of the proposal. The proposed development is considered to appropriately satisfy the Objectives, Principles and Desired Character of the Northern Policy Area 13.

Land Division

OBJECTIVES

1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.

Complies

2 Land division that creates allotments appropriate for the intended use.

Complies

The proposed site areas are appropriate for the dwellings proposed in Development Application 100/1725/2014

3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.

Complies

The land division is likely to be supported by the necessary infrastructure, and is located within walking distance of bus routes.

PRINCIPLES OF DEVELOPMENT CONTROL

1 When land is divided:

- (a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner*
- (b) a sufficient water supply should be made available for each allotment*
- (c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health*
- (d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.*

Complies

The proposed development is likely to result in stormwater being drained safely from the land. Water supply will be available.

2 Land should not be divided if any of the following apply:

- (a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use*
- (b) any allotment will not have a frontage to one of the following:*
 - (i) an existing road*
 - (ii) a proposed public road*
 - (iii) access to a public road via an internal roadway in a plan of community division*
- (c) the intended use of the land is likely to require excessive cut and/or fill*
- (d) it is likely to lead to undue erosion of the subject land or land within the locality*
- (e) the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development*
- (f) the intended use of the land would be contrary to the zone objectives*
- (g) any allotments will straddle more than one zone, policy area or precinct.*

Complies

- a) The proposed site areas are less than that required for the intended use of the allotments for row dwellings. However the associated land use application (100/1725/2014) demonstrates that the proposed site areas remain suitable for the intended use.
- b) The allotments maintain a frontage to a public road
- c) Excessive cut/fill is unlikely
- e) The area is sewerred
- f) Despite being undersized, it has been identified above the allotments are complementary to the zone objectives
- g) The allotment will not straddle more than one zone, policy area or precinct

Design and Layout

3 Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.

Complies

<p>7 The design of a land division should incorporate:</p> <p>(a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities</p> <p>(b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare</p> <p>(c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones</p> <p>(d) suitable land set aside for useable local open space</p> <p>(e) public utility services within road reserves and where necessary within dedicated easements</p> <p>(f) the preservation of significant natural, cultural or landscape features including State and local heritage places</p> <p>(g) protection for existing vegetation and drainage lines</p> <p>(h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development</p> <p>(i) the preservation of significant trees.</p>	<p>Complies</p>
<p>10 Allotments should have an orientation, size and configuration to encourage development that:</p> <p>(a) minimises the need for earthworks and retaining walls</p> <p>(b) maintains natural drainage systems</p> <p>(c) faces abutting streets and open spaces</p> <p>(d) does not require the removal of existing native vegetation to facilitate that development</p> <p>(e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.</p>	<p>Complies</p>
<p>11 The layout of a land division should provide for efficient solar access.</p>	<p>Complies The main activity areas of the dwellings are oriented west, which should nonetheless receive some northern winter sunlight.</p>
<p>Roads and Access</p> <p>21 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of:</p> <p>(a) the size of proposed allotments and sites and opportunities for on-site parking</p> <p>(b) the availability and frequency of public and community transport</p> <p>(c) on-street parking demand likely to be generated by nearby uses.</p>	<p>Complies Based upon the land use application (100/1725/2014), three (3) on-street visitor car park spaces are available in front of the subject allotments.</p>
<p>22 A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</p>	<p>Complies</p>

ANALYSIS/CONCLUSION

The subject proposal seeks land division for residential purposes. Given the site is situated within the Residential Zone, has access to sewer and potable water and will not result in substantial earthworks, the proposal finds support in Council's Development Plan.

Despite the shortfall in site area allocated to Lots 1, 2 and 3, the total site area of the land (927 square metres) falls 7.3% short of the 1000 square metres required for four row dwellings. The associated land use application (100/1725/2014) demonstrates that this discrepancy does not make the land unsuitable for the intended use.

To this end, the proposal is considered to satisfy the Desired Character for the Northern Policy Area 13, as the allotments will enable the construction of "*low-to-medium density dwellings of a variety of architectural styles*" as well as the redevelopment of property "*at greater densities than that of the original housing.*"

It is therefore 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 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, Land Division Consent and Development Approval for Development Application No: 100/2014/1731 for Residential land division (Torrens Title) 1 into 4 allotments at 1 White Crescent, Seacombe Gardens be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1731, except when varied by the following conditions of consent.
- 2. Party/common wall(s) associated with the development proposed to be built on the land shall be accurately identified on the plan of division prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 3. All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 4. The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

LAND DIVISION CONSENT

- 1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. (SA Water H0024834). The internal drains shall be altered to the satisfaction of the SA Water Corporation.
- 2. On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
- 3. Payment of \$19464 into the Planning and Development Fund (3 allotments @ \$6488/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide.

4. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

Note: The SA Water Corporation will, in due course, correspond directly with the applicant/agent regarding the details of the above condition No 1.

Attachments

Attachment I: Aerial Photograph/Site Locality Plan

Attachment II: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.9
Originating Officer:	Stephen Both Senior Development Officer – Planning Kristen Schutte Development Officer-Planning
Applicant:	Lauren Squillace
Development Description:	To construct four two storey row dwellings with associated car parking and landscaping.
Site Location:	1 White Crescent, Seacombe Gardens
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 1 / Consent
Lodgement Date:	26/09/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1725
Recommendation:	That Development Plan Consent be Granted following the deposit of the plan of division for Land Division Application 100/D216/14.

CATEGORISATION & DELEGATION

Following the judgement of Judge Cole in *Paor v City of Marion*, the determination of the nature of the development cannot occur until such time as the Plan of Division has been deposited with the Lands Titles Office. As such, the recommended decision reflects the sequence of events to maintain the Category 1 status of the application.

As the associated land division identified allotments with exclusive frontage and party wall attachments, consistent with the dwelling plans proposed as part of this application, Council administration are of the view that the subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: 2(a)(iv)) of the Development Regulations 2008, which assigns the construction of 3 or more row dwellings (provided that no such dwelling is more than 2 storeys high) as Category 1 development.

The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed Residences 1, 2 and 3 supporting allotment areas less than the minimum of 250 square metres required for row dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

BACKGROUND

During the assessment process, the following amendments to the proposal plans were made:

Amendments Made
Site areas of Res 3 & 4 changed from 225 and 245 square metres to 220 and 250 square metres respectively.
Dimension of POS for Res 1 increased to meet the 4x4 metre minimum.
Internal layout of Res 1 altered to provide direct access from internal living areas to greatest dimension of POS.
A portion of the upper level cantilevered over the lower level of each dwelling to improve articulation and provide visual interest.
Windows to the front façade of each dwelling altered in design, providing horizontal elements in order to reduce vertical bulk and scale.
Rainwater tank capacity for each dwelling increased from 2 kilolitre combination detention/retention tanks to 3 kilolitre rainwater tanks plumbed to at least a WC, water heater or the laundry.

SUBJECT LAND & LOCALITY

The subject site is located at 1 White Crescent, Seacombe Gardens. The land comprises a corner allotment, of irregular shape, with an eastern primary street frontage to Miller Street of 33.43 metres, a southern secondary street frontage to White Crescent of 16.76 metres, and a total site area of 926 square metres.

The subject land previously accommodated a single-storey detached dwelling (Fibro Cement) in poor condition with vehicular access to a freestanding garage from Miller Street. Several trees were also located on the subject land, none of which were classified as regulated pursuant to the current legislation. The dwelling and all associated structures have recently been demolished and the site cleared of all vegetation, as per approved demolition application 100/180/2015. A small slope exists, from the south-east to the north-west corner, falling approximately 1.4 metres over a distance of some 48 metres.

The locality consists of predominantly redeveloped/sub-divided properties, which typically take the form of single-storey detached and semi-detached dwellings, as well as single storey row dwellings. A number of single storey detached dwellings at low densities, which are representative of the original dwelling stock, are also evident in the locality.

The site is situated upon a public transport route; with bus stop 31b located 20 metres diagonally across Miller Street with services to Adelaide City. The subject land is also located approximately 120 metres north of the Neighbourhood Centre Zone, whilst the Regional Centre Zone is situated some 1.1 kilometre walking distance to the north of the site.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The applicant seeks to demolish the existing single storey detached dwelling on the land and construct four, two storey row dwellings with associated car parking and landscaping; all incorporating a primary frontage to Miller Street. It is also proposed as part of the application to remove a street tree on White Crescent to provide access to Res 1.

The ground floor proposal for each dwelling features a main bedroom with WIR and ensuite, separate WC, laundry and open-plan kitchen, living and dining areas; while the second floor of each dwelling comprises two bedrooms, a bathroom and a retreat or study nook.

The dwellings will have a modern appearance and are to be well articulated. Materials and finishes include Hebel panel external walls with a range of rendered finishes. The dwellings will each provide a hipped roof design to be clad with Colorbond sheeting which is to be set at a 25 degree pitch. Landscaping is also proposed and is to be provided within side and rear yards and to the front of each dwelling.

It is noted that Land Division application 100/D216/14 has been received by Council, which proposes to create four Torrens Title allotments, which reflects the subject dwelling application. This application is also to be determined by the Panel at this meeting.

Refer Attachment III

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>The site works plan has been assessed by Council's Engineer who has advised that the finished floor levels for the new dwellings are considered appropriate.</p> <p>Concerns were raised in relation to the proposed crossover for Res 4, in that it was not perpendicular to the kerb. Furthermore, it was noted that each dwelling should provide a 3000 litre rainwater retention tank (rather than 2000 litre retention/detention tanks) which are to be fully plumbed into the toilet/laundry/hot water service and connected to at least 80% of the roof area.</p> <p>The application has been amended accordingly.</p>
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ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Northern Policy Area 13 are listed in the following table and discussed in further detail below:

Residential Zone
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</p> <p>2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>
Northern Policy Area 13
<p>Objectives</p> <p>1 A policy area primarily accommodating low scale, low to medium density housing.</p> <p>2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.</p> <p>3 Development that contributes to the desired character of the policy area.</p>

Desired Character

The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

PDC 1	<i>The following forms of development are envisaged in the policy area:</i> <ul style="list-style-type: none">▪ affordable housing▪ detached dwelling▪ group dwelling▪ residential flat building▪ row dwellings▪ semi-detached dwelling▪ supported accommodation.	Complies As listed opposite, row dwellings are an envisaged form of housing type within Northern Policy Area 13.
PDC 3	<i>Minimum Site Area:</i> <i>Row Dwellings 250 m²</i>	Complies Res 4: 250m ² Does Not Comply Res 1: 230m ² Res 2: 22 m ² Res 3: 220m ² <i>The site area for Res 3 is noted as 220m² in order to maintain consistency with surveyed plan of division (land division application 100/D216/14).</i>
	<i>Minimum Frontage:</i> <i>Row Dwellings 7 metres</i>	Complies Res 1: 7.37 metres Res 2: 9.52 metres Res 3: 8.52 metres Res 4: 8.01 metres
	<i>Minimum Depth:</i> <i>Row Dwellings 20 metres</i>	Complies Res 2: 22.47m Res 3: 24.84m Res 4: 26.82m Does Not Comply Res 1: 16.76m

Assessment

The application proposes to replace an existing single storey detached dwelling in poor condition, with four two-storey row dwellings, which is a form of development anticipated by PDC 1. The proposal complements the Desired Character of the Policy Area which seeks for redevelopment of properties at greater densities than that of the original housing stock.

A minimum site area of 250 square metres is prescribed for row dwellings in the Northern Policy Area 13, which equates to a shortfall of 20 square metres (8%) for Res 1, 23 square metres (9.2%) for Res 2 and 30 square metres (12%) for Res 3. This results in a 7.3% discrepancy for the total site area. In my view, the shortfall in site areas is not necessarily fundamental to the

merits of the application, in that it does not represent a substantial disparity against the provisions which, in itself, would warrant refusal of the application. This is reinforced by the ability of the application to maintain a high level of compliance with other applicable design criteria, with a majority of identified shortfalls deemed to be minor departures from the Development Plan (as discussed further in the Table Discussion of this report).

The depth of the proposed allotment for Res 1, at 16.76 metres, falls short of the prescribed minimum of 20 metres. However this measurement is taken upon the southern boundary only, and does not include the corner cut off of the allotment. The depth of the site along the southern façade of the dwelling is 19.6 metres, and exceeds 20 metres shortly thereafter. The shortfall in depth for a portion of the allotment is considered to be relatively minor. This is reinforced by the dwelling's ability to maintain appropriate front, side and rear setbacks.

Fundamentally, the ability of the dwellings to accord with a majority of other Development Plan criteria demonstrates that the shortfalls in site area and depth do not jeopardise the underlying merit of the proposal. The proposed development is considered to appropriately satisfy the Objectives, Principles and Desired Character of the Northern Policy Area 13.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Does Not Comply</p> <p>Res 1: 41.7%</p> <p>Res 2: 46.3%</p> <p>Res 3: 48%</p> <p>Res 4: 42.3%</p>
<p><i>Maximum floor area ratio: 0.6</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Complies</p> <p>Res 1: 0.58</p> <p>Res 2: 0.58</p> <p>Res 4: 0.56</p> <p>Does Not Comply</p> <p>Res 3: 0.63</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <p><i>(a) pedestrian and vehicle access and vehicle parking</i></p> <p><i>(b) domestic storage</i></p> <p><i>(c) outdoor clothes drying</i></p> <p><i>(d) rainwater tanks</i></p> <p><i>(e) private open space and landscaping</i></p> <p><i>(f) convenient storage of household waste and recycling receptacles</i></p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>
<p><i>A minimum of 20 per cent of the total site area should be pervious and remain undeveloped including driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>	<p>Complies</p>

Private Open Space

Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:

- (a) to be accessed directly from a habitable rooms of the dwelling*
- (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy*
- (c) to take advantage of, but not adversely affect, natural features of the site*
- (d) to minimise overlooking from adjacent buildings*
- (e) to achieve separation from bedroom windows on adjacent sites*
- (f) to have a northerly aspect to provide for comfortable year round use*
- (g) not to be significantly shaded during winter by the associated dwelling or adjacent development*
- (h) to be partly shaded in summer*
- (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality*
- (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.*

General Section: Residential Development: PDC 15

Complies

- a) All POS areas are directly accessible from a habitable room of the associated dwelling.
- b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy.
- c) The subject land does not maintain natural features which warrant preservation.
- d) The POS areas should not be directly overlooked by adjacent buildings.
- g) The POS areas of Res 2,3 & 4 should not be significantly shaded during winter by the associated dwelling or adjacent development.
- e) The POS areas of Res 1, 3 & 4 are not located next to bedrooms of dwellings on adjacent sites.
- h) POS areas are capable of being shaded during summer.
- i) Traffic, industry or other business activities should not affect the subject land.
- j) The POS areas are considered to have sufficient shape and area to be functional.

Does Not Comply

- e) The private open space of Residence 2 is located directly adjacent Bedroom 2 of the adjoining dwelling to the west. While this is undesirable, it is unavoidable where the rear boundary of a property forms the side boundary of another. It is further noted that the private open space of the existing dwelling is also located adjacent this bedroom window, and as such this shortfall should not impact upon the merits of this proposal.
- g) The POS areas of Res 1 will be significantly shaded during winter by the associated dwelling.

Partially Complies

- f) The proposed POS areas maintain a westerly aspect.

Site Area 250 m² or greater: Res 4

*Minimum area of POS: 20% of the site area
Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.
One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.*

Site area less than 250 m²: Res 1, 2 & 3

*20% of the site area or 35 m², whichever is the greater
Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.
One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.*

General Section: Residential Development: PDC 17

Complies

Res 4: 34.4% (86m²)
Minimum dimension of 5x5 metres provided.

Complies

Res 1: 24.8% (57m²)
Res 2: 27.8% (63m²)
Res 3: 27.4% (60m²)
Minimum dimension of 4x4 metres provided.

Street Setbacks

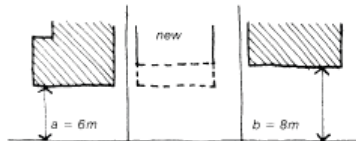
Except in areas where a new character is desired, the setback of buildings from public roads should:
(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
(b) contribute positively to the function, appearance and/or desired character of the locality.

General Section: Design and Appearance: PDC 23

Complies

The subject locality is one where a new character is desired, and therefore the setback of the proposed buildings from the public road need not necessarily be similar to or compatible with the setbacks of buildings on adjoining land and other buildings in the locality. Nonetheless, the proposed front setbacks are similar to that of new dwellings in the locality. As such, the proposed front setbacks are considered to contribute positively to the function, appearance and desired character of the locality.

Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjacent allotments	Setback of new building
Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p>  <p>When $b > a: 2$, setback of new dwelling = a or b</p>
Greater than 2 metres	At least the average setback of the adjacent buildings

General Section: Design and Appearance: PDC 25

Does Not Comply

Res 1

Lower: 4.6m increasing to 4.9m

Upper: 4.2m increasing to 4.5m

Res 2

Lower: 5.2m increasing to 5.5m

Upper: 4.8m increasing to 5.1m

Res 3

Lower: 5m increasing to 5.3m

Upper: 4.6m increasing to 4.9m

Res 4

Lower: 5.7m increasing to 6m

Upper: 5.3m increasing to 5.6m

(Dwellings on adjoining land set back approximately 6.5 and 8.5 metres, which equals an average setback of 7.5 metres)

However, PDC 23 outlines that setbacks of buildings from the public road do not need to be similar/compatible with buildings on adjoining land when located in an area "where a new character is desired". Given that the Northern Policy Area 13 anticipates redevelopment of the existing dwelling stock at higher densities, PDC 25 has limited weight in this instance.

Minimum setback from secondary road frontage: 3 metres

Residential Zone: PDC 7

Does Not Comply

Res 1: 2.5m increasing to 3m.

Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.

General Section: Residential Development: PDC 36

Partially Complies

Habitable rooms on both the lower and upper levels of each dwelling face Miller Street. Miller Street is classified as a secondary road which also accommodates public transport. As such, traffic flows and pedestrian movement are higher than ordinarily expected. The shortfalls in front setback may reduce the privacy afforded to the occupants of the proposed dwellings when utilizing these bedrooms. However the internal living areas of each dwelling are adequately separated from pedestrian and vehicle movement as they are located towards the rear of the dwelling.

Side Setbacks

Where the wall height is not greater than 3 metres: 1 metre

Where the wall height is between 3 metres and 6 metres:

(a) 3 metres if adjacent southern boundary

(b) 2 metres in all other circumstances.

Residential Zone: PDC 7

Complies

Rear Setbacks

6 metres for a single storey dwelling

8 metres for a 2 or more storey dwelling

Residential Zone: PDC 7

Partially Complies

Res 1

Carport located on rear boundary.

Lower: 5.8m increasing to 7m

Upper: 8m increasing to 9.2m

Res 2

Lower: 5.8m increasing to 7m

Upper: 8.8m increasing to 10.2m

Res 3

Lower: 5.6m increasing to 7m

Upper: 9.6m increasing to 11m

Res 4

Lower: 6.6m increasing to 8m

Upper: 10.4m increasing to 10.8m

Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:

(a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary

(b) a minimum of 8 metres for two storey components of dwellings

General Section: Residential Development: PDC 37

Complies

Building Height

Maximum building height (from natural ground level):

2 storeys of not more than 9 metres

Residential Zone: PDC 7

Complies

The proposed dwellings incorporate a maximum building height of 7.2 metres, which is less than the maximum permitted in the Policy Area.

Garages, Carports and Outbuildings

Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:

*Minimum setback from primary road frontage:
8 metres for a freestanding structure.
5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.*

*Minimum setback from secondary road frontage:
5.5 metres for a single-width structure.
Not less than the specified setback of the associated dwelling for a double-width structure.*

Residential Zone: PDC 8

Complies

Res 2, 3 & 4:

The garage/carport of each dwelling is set back at least 5.5 metres from the primary road frontage and 0.5 metres behind the main face of the associated dwelling.

Complies

Res 1:

The proposed carport is set back 5.5 metres from the secondary road frontage.

Carports and garages should be setback from road and building frontages so as to:

- (a) not adversely impact on the safety of road users*
- (b) provide safe entry and exit.*

General Section: Residential Development: PDC 12

Complies

In the Residential Zone, garages, carports, pergolas, outbuildings and other similar domestic structures should be sited and designed in accordance with the following:

- (a) when located on side or rear allotment boundaries:*
 - (i) be constructed at least 6 metres from any existing structure on the same site and the same boundary*
 - (ii) ensure the total length of existing and proposed walls located within 0.6 metres of the same boundary does not exceed any of the following:*
 - (A) 7 metres for structures with enclosed side walls*
 - (B) 8 metres for structures with open side walls*
 - (C) 7 metres where there are both enclosed and open sided structures*
 - (iii) have a maximum wall height of no more than 2.4 metres and a maximum gable height of no more than 3.5 metres*

General Section: Residential Development: PDC11

Complies

Res 1:

- i) Carport on boundary is not located within 6 metres of any existing structure on the same site and same boundary
- ii) Open structure length of 5.9 metres on the boundary

Res 4:

- i) Carport on boundary is not located within 6 metres of any existing structure on the same site and same boundary
- ii) Open structure length of 6.2 metres on the boundary

Does Not Comply

Res 1 & 4:

- iii) Wall height of 2.8 metres

Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.

General Section: Residential Development: PDC8

Complies

The proposed garages and carports incorporate a roof form, materials and detailing which complement the associated dwelling.

Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.

Residential Zone: PDC 6

Complies

Car Parking

Minimum number of on site car parking spaces (one of which should be covered) :
2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.
3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.
1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.

Residential Zone: PDC 7

Complies

All dwellings feature three bedrooms and two on-site car parking spaces (one of which is covered).

On-site vehicle parking should be provided having regard to:
(a) the number, nature and size of proposed dwellings
(b) proximity to centre facilities, public and community transport within walking distance of the dwellings
(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons
(d) availability of on-street car parking
(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).

General Section: Transportation & Access: PDC 43

Complies

a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.
b) Centre facilities and public transport are located in walking distance of the dwellings
c) The likely occupants are anticipated to have standard mobility and transport requirements.
d) e) 3 on-street car parking spaces shall remain available adjacent the subject land.

A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).

General Section: Land Division: PDC 22

Complies

3 on-street car parking spaces are provided for the proposed allotments, which satisfies PDC 22.

Access

The width of driveway crossovers should be minimised and have a maximum width of:
(a) 3 metres wide for a single driveway
(b) 5 metres wide for a double driveway.

General Section: Residential Development: PDC 39

Complies

Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.

General Section: Residential Development: PDC 40

Complies

Council's Arborist has confirmed that a street tree located on White Crescent may be removed to provide access to Res 1. The proposed crossovers are set back a minimum of 1 metre from other existing street trees and street infrastructure.

A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.

General Section: Transportation and Access: PDC 28

Complies

Vehicle access points are separated by a minimum distance of 6 metres.

Design & Appearance

Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:

- (a) building height, mass and proportion*
- (b) external materials, patterns, colours and decorative elements*
- (c) roof form and pitch*
- (d) façade articulation and detailing*
- (e) verandas, eaves, parapets and window screens.*

General Section: Design & Appearance: PDC 1

The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.

General Section: Design & Appearance: PDC 3

Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.

General Section: Design & Appearance: PDC 17

Complies

The proposed dwellings reflect the desired character of the locality, as they incorporate an attractive presentation to the streetscape through a reasonable level of articulation and generous glazing to the front facade.

The dwelling façades incorporate the following elements to enhance their design and appearance:

- A range of rendered finishes.
- Stepping of upper and lower storeys to minimise building height, mass and proportion
- Protruding portico, and cantilevered upper levels
- Eave overhang and pitched roof form at 25 degree slope
- Fenestration

The dwellings feature rendered facades in Solver 'Mourne Grey', 'Charcoal' and 'Kanga'. Garages feature 'Woodland Grey' panel glide doors. The roof of each dwelling is clad in Colorbond 'Woodland Grey' corrugated iron roof at 25 degree pitch.

These materials are appropriate within the locality and will not result in unreasonable glare to nearby persons and properties. On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.

Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.

General Section: Design & Appearance: PDC 15

Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.

General Section: Design & Appearance: PDC 18

Residential development should be designed to ensure living rooms have an external outlook.

General Section: Residential Development: PDC 6

Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings and entrance foyers.

General Section: Residential Development: PDC 6

Complies

The dwellings are designed so that their main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

In addition Res 1 includes a 'wrap around' window which provides appropriate casual surveillance of White Crescent as well as presentation to the corner cut off of the allotment.

Overshadowing

The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

General Section: Design & Appearance: PDC 9

Except where specified in a zone, policy area or precinct, development should ensure that:

- (a) north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level open space of existing buildings receives direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:*
 - (i) half of the existing ground level open space*
 - (ii) 35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres)*
- (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.*

General Section: Design & Appearance: PDC 10

Complies

The applicant has provided shadow diagrams (enclosed in Attachment III) which illustrate the projected extent of overshadowing on 21 June (winter solstice). These diagrams illustrate that:

a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June

b) Given that south forms the secondary street boundary, a majority of winter shadow will be cast within the private open space of Res 1 as well as White Crescent. However, some shadow will be cast into the western adjoining property in morning hours and within the front yards of the proposed dwellings in the afternoon.

Shadow cast into the western adjoining property will subside throughout the morning, such that all areas of private open space and habitable windows will be free from shadow by 11am. Consequently, the extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 10 and 11.

(It is noted that the aerial photograph used by the applicant for the shadow diagrams is out-dated. Please also refer to Attachment II- aerial photograph- for location of adjacent dwelling to the west).

Visual Privacy

Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:

- (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- (b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

General Section: Design & Appearance: PDC 12

Complies

The dwellings incorporate high level windows with sill heights of 1.69 metres above floor level, as well as obscured glazing to wet area windows, for upper storey windows on the rear elevations. Upper storey windows on the front elevation remain unobscured to provide surveillance to the street, and should not result in direct overlooking of habitable areas of adjacent properties. The southern elevation of Res 1 overlooks the secondary street and will not compromise the privacy of adjacent land.

The dwellings have therefore been designed to minimise direct overlooking of habitable rooms and private open spaces, whilst still providing outlook and passive surveillance to the public realm.

Energy Efficiency

Development should provide for efficient solar access to buildings and open space all year around.

General Section: Energy Efficiency: PDC 1

Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.

General Section: Energy Efficiency: PDC 2

Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.

General Section: Energy Efficiency: PDC 3

Partially Complies

The main activity areas of the dwellings are oriented west, which should nonetheless receive some northern winter sunlight.

The private open space of Res 1 will experience significant overshadowing in winter months from Res 2, 3 & 4 as well as the carport structure located on the rear boundary of Res 1.

Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.

General Section: Energy Efficiency: PDC 4

Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.

General Section: Energy Efficiency: PDC 5

Complies

The dwellings incorporate a hipped roof form set at a 25 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Complies

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

<p><i>Fences and walls, including retaining walls, should:</i></p> <p><i>(a) not result in damage to neighbouring trees</i></p> <p><i>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</i></p> <p><i>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</i></p> <p><i>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</i></p> <p><i>(e) assist in highlighting building entrances</i></p> <p><i>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</i></p> <p><i>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</i></p> <p><i>(h) be constructed of non-flammable materials.</i></p> <p>General Section: Landscaping, Fences & Walls: PDC 5</p>	<p>Complies</p> <p>The application proposes retaining walls varying in height to a maximum 400millimetres. If a standard 1.8 metre high fence is constructed atop these walls, this will result in a maximum structure height of 2.2 metres. This fencing/retaining height is considered necessary to achieve a level development site and maintain privacy and security, without unreasonably affecting the visual amenity or access to sunlight of adjoining land.</p>
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TABLE DISCUSSION

The proposal satisfies a number of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- Site coverage
- Floor area ratio (Res 3)
- Front setbacks
- Secondary street setback (Res 1)
- Rear setbacks
- Carport wall height (Res 1 & 4)
- Overshadowing

Site coverage:

Site coverage should not exceed 40% of the site area; whereas the proposed dwellings comprise site coverage of 41.7%, 46.3%, 48% and 42.3% for Res 1 through 4 respectively. The excess in building footprint is considered relatively minor in its extent and consequence. This is reinforced by the fact that the dwellings nonetheless provide adequate private open space above the required 20% and appropriate setbacks (as discussed further below). Accordingly, the excess in site coverage should not adversely impact upon the amenity of adjoining land, or impair the design and function of the proposed dwellings.

Floor area ratio (Res 3):

Floor area ratio (FAR) should not exceed 0.6 for dwellings within the Northern Policy Area 13; whereas Res 3 has a FAR of 0.63, which equates to an excess of some 7 square metres. Given that Res 3 maintains appropriate setbacks and 27.4% private open space, this shortfall is considered to be of little impact upon the occupants of this dwelling and those of adjoining properties. It is further noted that the average FAR of the four proposed dwellings remains below the maximum prescribed, at 0.59.

Front setbacks:

Where no established streetscape exists, dwellings should maintain a minimum setback from the primary road frontage of 5 metres. Dwellings along Miller Street comprise setbacks ranging between 5 metres and 12 metres. The dwelling located south of the subject site has front setback of approximately 8.5 metres, while the dwelling located directly north of the subject land has a setback of some 6.5 metres.

The proposed dwellings are situated at an angle to Miller Street, with a portion of the upper level of each dwelling cantilevering over the lower level. The setbacks to the primary road frontage are stepped back incrementally from Res 1 through to Res 4 with Res 1, 2 and 3 all having a portion of their front façade (lower and/or upper levels) falling short of the minimum 5 metre requirement. The proposed setbacks remain reflective of that of new dwellings in the locality and nonetheless provide transition to the more generous setback of the adjoining dwelling to the north. As such, the proposed front setbacks are considered to contribute positively to the function, appearance and desired character of the locality.

Secondary street setback (Res 1):

Dwellings within the Northern Policy Area 13 should maintain a minimum setback from the secondary road frontage of 3 metres; whereas Res 1 incorporates a secondary street setback ranging between 2.5 metres and 3 metres. While this does not strictly meet the quantitative requirement, it nonetheless provides sufficient levels of separation from the secondary street as well as a usable area of private open space.

Rear setbacks:

The rear setbacks of three of the four proposed dwellings fail to adhere to Principle 7, which requires the single storey portion of dwellings to comprise a rear setback of 6 metres. The proposed dwellings are situated at an angle to the rear boundary with a small portion of both Res 1 and 2 having a rear setback of 5.8 metres and a portion of Res 3 featuring a rear setback of 5.6 metres. It is noted that the rear setbacks exceed the requirements of Principle 37 (3 metres for 50% and 6 metres for the remainder). Further, despite the shortfall in rear setbacks, the minimum dimensions of POS are adhered to, with an area of 4X4 metres directly accessible from the main living area of each dwelling. As such, the overall level of separation from the rear boundaries, and pattern of POS is considered appropriate.

Given the above, the shortfall in rear setback is considered to be of little to no impact upon the amenity of the proposed dwellings or upon that of the adjoining property to the west.

Carport wall height (Res 1&4):

Carports located on side/rear boundaries should be designed to not exceed a wall height of 2.4 metres. The proposed carports located on the rear boundary (Res 1) and the northern side boundary (Res 4) both have wall heights of 2.8 metres. The 0.4 metre excess in wall height is deemed to be of little to no impact upon the properties adjoining these boundaries. The property located to the west of the subject site features a garage alongside the proposed location of the carport servicing Res 1, while the carport servicing Res 4 will be situated on the southern boundary of the adjoining allotment to the north, hence not causing any significant level of overshadowing.

Further, it is of worth to note that pursuant to Schedule 4 - 2b of the Development Regulations 2008 ("the residential code"), the subject land could accommodate detached dwellings with a wall on the boundary, in each location of the proposed carports, for a length of 8 metres and a height of 3 metres.

ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the proposed development accords with a number of applicable Development Plan criteria, and that the provisions not strictly adhered to result in only minor impacts upon the amenity of the proposed dwellings or upon that of adjoining properties. Redevelopment of the subject land to facilitate higher densities than that of the original housing stock nonetheless complements the Desired Character of the Northern Policy Area 13.

While it is noted that the proposal maintains numerous quantitative shortfalls, a majority of these represent only minor departures from the Development Plan. The shortfalls have been assessed in relation to the extent of departure from Development Plan criteria and the respective consequences, taking into account the characteristics of the subject land and locality. This assessment has demonstrated that the shortfalls are not of such severity so as to jeopardise the functionality of the proposed development, nor to detract from the amenity of adjacent land or the character of the locality.

As such it is my view that the proposed development is not seriously at variance to the Development Plan in accordance with Section 35(2) of the Development Act, 1993. Furthermore, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent subject to the deposit of the Plan of Division for the associated land division application (100/D216/14).

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: 100/2014/1725 to construct four x two storey row dwellings with associated car parking and landscaping. at 1 White Crescent, Seacombe Gardens, be GRANTED following the deposit of the plan of division for Land Division Application 100/D216/14, and subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1725, being drawings titled Revision D, except when varied by the following conditions of consent.
2. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.
Note: A copy of the information guide can be viewed at the City of Marion webpage www.marion.sa.gov.au/page.aspx?u=181
3. 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 to the reasonable satisfaction of the Council.
4. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
5. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
6. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
7. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

NOTES

- 1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.**
- 2. 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, to the reasonable satisfaction of the Council. (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).**
- 3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.**
- 4. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.**
- 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.**
- 6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.**

Attachments

Attachment I: Certificate of Title
Attachment II: Aerial Photograph & Site Locality Plan
Attachment III: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No: DAP010715 – 3.10

Originating Officer: Rhiannon Hardy
Development Officer - Planning

Applicant: Benjamin Harvey Moffatt

Development Description: To construct four (4) single-storey dwellings

Site Location: 17 West Street, Ascot Park

Zone: Residential Zone

Policy Area: Medium Density Policy Area 12

Application Type: Category 1 / Consent

Lodgement Date: 20/02/2015

Development Plan: Consolidated – 13 March 2014

Application No: 100/2015/304

Recommendation: Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: 2(a)(ii)) of the Development Regulations 2008, which assigns the construction of 1 or more single storey dwellings as Category 1 development. The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed Residence 1 supporting an allotment area less than the minimum of 300 square metres required for detached dwellings within the Medium Density Policy Area 12. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

BACKGROUND

During the assessment process, Council staff requested modifications to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
Residences 2-4 should provide 1.5 resident car parking spaces per dwelling, plus a visitor parking space. As such, an additional on-site visitor parking space is required.	Additional visitor parking space provided forward of the carport for Residence 3 by re-orienting the carport/dwelling layout of Residence 4.
Residence 4 should be set back a minimum 2.5 metres from the rear (eastern) boundary. This will enhance compliance with rear	Rear setback maintained at 1.0 metre, but POS areas integrated and carport relocated away from rear boundary.

setback criteria, and also improve connectivity of POS areas.	
The bedroom windows of Residences 2 and 3 should be separated and shielded from the common driveway.	Bedroom 1 set back 0.5 metres from driveway, but landscaping introduced forward of window and double-glazing proposed.
0.5 metre wide landscaping strips should be provided along both sides of the common driveway, for the length of the driveway.	Landscaping increased to provide a consistent landscaping strip along the southern side boundary, but varying in width between 0.3 and 0.5 metres.
Residence 1 should provide a minimum 60 square metres of POS, and Residences 2-3 should provide a minimum 50 square metres of POS (i.e. 20% of the minimum site area for detached and group dwellings).	Residence 1 POS increased from 47.4 to 51.4 square metres. POS of Residences 2 and 3 reduced from 37.5 to 35.0 (in order to facilitate other amendments). POS of Residence 4 decreased from 46.0 to 43.0, but integrated as one area instead of two segregated areas of POS.
The common driveway crossover must be set back a minimum 1.0 metre from the existing Telstra pit and stobie pole.	Quote obtained from Telstra to reinforce the cable pit lid to permit vehicle tracking. Applicant has agreed to pay the required cost, and for works to be completed prior to occupation of the dwellings.
The overall site coverage should not exceed 40%, where it is currently 51.2%.	Overall site coverage reduced to 45.5% of the total site area.
Carports must be 3.0 metres wide.	Carports increased to minimum 3.0 metres width.
The porches of Residences 2 and 3 should be separated from the driveway to maximise clearance from the driveway.	Porches brought back in line with main face of dwellings.
The rear boundary of Residence 1 should be straightened to provide adequate dimensions of POS and provide an orderly allotment configuration.	Angled boundary maintained, but minimum dimension of POS increased from 4.6 to 5.0 metres.
Residence 1 should be "flipped" to separate its driveway from the common driveway and provide a northern aspect to the primary area of POS.	No change, as applicant advised that this would jeopardise vehicle turning areas.

SUBJECT LAND & LOCALITY

The subject land is located at 17 (lot 14) West Street, Ascot Park. The land is rectangular in shape, with a frontage width of 18.3 metres, depth of 55.3 metres, and total site area of 1011.8 square metres.

The land currently accommodates a detached dwelling. The dwelling was constructed in approximately 1960 in the Conventional style. The land also accommodates a carport, verandah and outbuilding on the northern side of the dwelling. A single-width driveway and crossover are located adjacent the northern side boundary of the allotment.

The land maintains a relatively minor gradient, with a rise of approximately 340 millimetres, or 0.6%, from the front to the rear of the allotment.

There are no regulated trees located on the subject land.

The locality features a mixture of dwelling types and densities, with a predominance of medium density dwellings in the form of group dwellings and residential flat buildings. These developments were generally constructed in the late 1980s or early 1990s, and support individual site areas of 150 square metres or less. More recent developments have also occurred in the locality, including a number of semi-detached and group dwellings. This being said, detached dwellings at low densities are still apparent in the local area.

The locality features a train line to the west of the subject land (approximately 300 metres to the west), whilst Daws Road is located approximately 150 metres to the south. It is noted that the Northern Policy Area 13 is located immediately to the rear of the subject land.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application proposes to construct four single storey dwellings on the subject land.

Residence 1 is located at the front of the site with direct frontage to West Street. The dwelling features three bedrooms, ensuite, bathroom, laundry, open-plan family/kitchen/meals area and single-width carport which obtains access from West Street. This dwelling will comprise a detached dwelling (once the new allotment title is deposited with the Land Titles Office) given that it maintains its own independent driveway and is not reliant upon the common land.

Residences 2, 3 and 4 are located behind one another, each obtaining vehicle access from a communal driveway which runs along the southern side of the site. Accordingly, these dwellings will be classified as group dwellings.

Residences 2 and 3 feature two bedrooms, ensuite, WC/laundry, family/kitchen/meals area and a single carport.

Residence 4 features three bedrooms, bathroom, ensuite, laundry, open-plan family/kitchen/meals area and a single carport.

A Community Title land division application (100/C045/15) has been lodged which relates to the proposed allotments. This application is on hold awaiting determination of the subject dwelling application.

Refer Attachment III

INTERNAL DEPARTMENT COMMENTS

Engineering:	Vehicle manoeuvring and car parking are satisfactory.
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ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Medium Density Policy Area 12 are listed in the following table and discussed in further detail below:

Residential Zone		
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
Medium Density Policy Area 12		
<p>Objectives</p> <p>1 A residential policy area comprising a range of medium-density dwellings designed to integrate with areas of open space, neighbouring centres or public transport nodes. 2 Development that minimises the potential impact of garaging of vehicles on the character of the area. 3 Development that supports the viability of community services and infrastructure and reflects good residential design principles. 4 Development that contributes to the desired character of the policy area.</p>		
<p>Desired Character</p> <p>The desired character of the policy area is of an attractive residential environment containing low to medium density dwellings of a variety of architectural styles at a higher density compared to that typical of the original dwelling stock in the area. Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles such as buildings of up to two storeys subject to the impact of the additional height and bulk not adversely impacting upon the amenity of existing neighbouring development. Buildings with two storeys plus attic additions are appropriate provided the building is located centrally within a large site as part of an integrated development. Where housing is adjacent to zones or policy areas that are designed to accommodate dwellings at lower densities, consideration needs to be given to incorporate transitional built form, scale and design elements to ensure greater compatibility with that adjacent housing.</p> <p>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Through the gradual redevelopment of properties (particularly those containing lower valued improvements), a wider range of dwelling types will be provided to meet a variety of accommodation needs.</p> <p>Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points requires removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</p> <p>Where access to parking areas servicing dwellings is via laneways, space needs to be designed to facilitate attractive landscaping and tree planting in order to present an attractive appearance from adjoining roads and to protect the amenity for adjacent dwellings.</p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building (buildings between one and three storeys) ▪ row dwelling ▪ semi-detached dwelling ▪ supported accommodation. 	<p>Complies</p> <p>Application proposes detached and group dwellings</p>

PDC 4	<p><i>Medium density development that achieves gross densities of between 23 and 45 dwellings per hectare (which translates to net densities of between 40 and 67 dwellings per hectare) should be in the form of 2 to 3 storey buildings.</i></p> <p>(i.e. Site areas between 149.3 and 250 m²)</p>	<p>Complies</p> <p>The net density of the site equals 253 square metres per dwelling, and therefore PDC 4 would not require the subject dwellings to be 2 or 3 storey buildings.</p>
PDC 6	<p><i>In the case of multiple dwellings on one site, access to parking and garaging areas from public streets should primarily be via a minimum number of common driveways.</i></p>	<p>Partially Complies</p> <p>2 driveways proposed to provide access to 4 dwellings. Only 1 common driveway proposed.</p>
PDC 7	<p><i>Minimum Site Area:</i></p> <p>Detached: 300 m² Group: 250 m²</p>	<p>Does Not Comply</p> <p>Residence 1: 258.7 m² Residence 2: 179.1 m² Residence 3: 179.1 m² Residence 4: 216.2 m²</p> <p><i>Note: Total site area divided by 4 dwellings equals an average overall site area of 253.0 m² per dwelling</i></p>
	<p><i>Minimum Frontage:</i></p> <p>Detached dwelling: 10 metres Group dwelling development: 18 metres Battleaxe driveway: 4 metres</p>	<p>Complies</p> <p>Residence 1 frontage: 13.9 m Overall frontage: 18.3 m Battleaxe driveway frontage: 4.4 m</p>
	<p><i>Minimum Depth:</i></p> <p>Detached dwelling: 20 metres Group dwelling development: 45 metres</p>	<p>Does Not Comply</p> <p>Residence 1: 18.3 m</p> <p>Complies</p> <p>Residences 2-4: 55.32 m</p>

Assessment

The subject land is located in relatively close proximity to public transport, as the Ascot Park railway station is situated 750 metres walking distance from the subject land, while a bus stop is located approximately 55 metres to the north on West Street. Public open space (Lindsay Philippe Dog Park) is located approximately 250 metres north-west of the subject land on Audrey Street. Daws Road is located approximately 150 metres south of the subject land, which features several shops located within the Local Centre Zone.

Given that the subject land is located in relatively close proximity to centres, public transport routes and public open space, the proposed increase in dwelling density accords with Objective 2 of the Residential Zone and Objective 1 of the Medium Density Policy Area 12.

The proposed single storey detached and group dwellings are a form of development envisaged by Principle 1 of the Policy Area. The proposed increase in densities is specifically encouraged by the Desired Character. The application proposes a combination of both two-bedroom and three-bedroom dwellings, which should contribute toward diversity in housing forms to meet a variety of accommodation needs.

The proposal maintains cohesive streetscapes as a result of the proposed architectural style, street setbacks and front garden landscaping. Although two storey dwellings are encouraged in the Policy Area, the proposed single storey dwellings are deemed appropriate in this instance, as they achieve a transitional built form and scale toward the Northern Policy Area 13 located east of the subject land, which ensures greater compatibility with adjacent housing.

The site area of Residence 1 equals 259 square metres, where a minimum site area of 300 square metres should be provided for a detached dwelling. This represents a considerable shortfall of 41.0 square metres; 13.7% below the minimum guideline. However, it is noted that the allotment maintains a frontage width of 13.9 metres, where a minimum frontage width of 10 metres is prescribed for detached dwellings. Accordingly, the undersized nature of the allotment should not be apparent when viewed from the streetscape, and therefore should not detract from the character of the locality.

The site areas of Residences 2 and 3 equal 179.1 square metres, while Residence 4 equals 216.2 square metres. Given that a minimum site area of 250 square metres applies, this equates to a shortfall of 70.9 square metres (28.4%) for Residences 2 and 3 and 33.8 square metres (13.5%) for Residence 4.

It is noted that these figures exclude the common driveway and manoeuvring areas. This method of calculating site area has been employed in accordance with Principle 8 (General Section: Land Division), which stipulates that:

Allotments in the form of a battleaxe configuration should... have an area, that meet the minimum allotment sizes for the proposed form of dwelling, (excluding the area of the 'handle' of such an allotment)

It is noted that, if the driveway were to be included in site areas, the three group dwellings (Residences 2-4) would maintain an average site area of 251 square metres per dwelling.

Given the considerable size of the individual shortfalls in site area, it is important to consider whether the proposed residential densities are fundamentally contradictory to that anticipated within the Policy Area. The subject land maintains an overall site area of 1011.8 square metres; resulting in an average site area of 253.0 square metres per dwelling. This average site area satisfies the minimum 250 square metres required for group and residential flat buildings in the Medium Density Policy Area 12, and exceeds the minimum of 210 square metres required for row dwellings. As such, the actual site areas and densities proposed are not seriously at variance to that anticipated in the Policy Area.

This observation is further justified by the fact that a number of other group/residential flat building developments in the immediate locality support average site areas similar to that proposed in the subject application. Accordingly, the density of the proposed development remains consistent with the pattern of development in the locality. Furthermore, the proposed site areas are reflective of medium density development, which reflects the level of density desired to occur within the policy area.

These considerations suggest that the shortfall in site areas is not fatal to the merit of the subject application. This is demonstrated by the ability of the dwellings to satisfy a majority of other design criteria (as discussed further in the table below).

Residence 1 maintains a depth of 18.3 metres where 20 metres is prescribed. This 1.7 metre shortfall is relatively minor, and the depth of the allotment is still deemed satisfactory to provide a usable site for the proposed dwelling. This is demonstrated by the fact that the dwelling setbacks and layout on the allotment complies with a majority of applicable design criteria. Moreover, it is noted that if Residence 1 were to share the common land of the other three dwellings, it would technically be classified as a group dwelling, and the overall site depth of 55.3 metres would substantially exceed the recommended 45 metres. The fact that the site of Residence 1 is held exclusively by the dwelling is not considered to create a need for additional site depth.

On balance, the proposal complements the applicable Objectives, Principles and Desired Character of the Residential Zone and Medium Density Policy Area 12.

DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control

Assessment

Site Coverage	
<p>Maximum site coverage:</p> <p>Site area less than 270 m²: 100 m² or 40% (whichever is the greater)</p> <p>Residence 1: 40% applies Residences 2-4: 100 m² applies</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p>Does Not Comply</p> <p>Residence 1: 48.5% Residence 2: 107.9 m² Residence 3: 107.4 m² Residence 4: 119.1 m²</p> <p><i>Note: Overall site coverage equals 459.85 m² or 45.5% of the total site area</i></p>
<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles <p>General Section: Residential Development: PDC 13</p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>
Private Open Space	
<p>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</p> <ul style="list-style-type: none"> (a) to be accessed directly from a habitable rooms of the dwelling (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy (c) to take advantage of, but not adversely affect, natural features of the site (d) to minimise overlooking from adjacent buildings (e) to achieve separation from bedroom windows on adjacent sites (f) to have a northerly aspect to provide for comfortable year round use (g) not to be significantly shaded during winter by the associated dwelling or adjacent development (h) to be partly shaded in summer (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site. <p>General Section: Residential Development: PDC 15</p>	<p>Complies</p> <ul style="list-style-type: none"> a) All POS areas are directly accessible from a habitable room of the associated dwelling b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy c) The subject land does not maintain natural features which warrant preservation d) The POS areas should not be directly overlooked by adjacent buildings e) The primary area of POS for each dwelling is not located next to bedrooms of dwellings on adjacent sites g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development h) POS areas are capable of being shaded during summer i) Traffic, industry or other business activities should not affect the subject land j) The POS areas are considered to have sufficient shape and area to be functional. <p>Partially Complies</p> <p>f) The proposed POS areas of Residences 2-4 maintain a northerly aspect to provide for comfortable year round use. The primary area of POS for Residence 1 maintains a south-eastern aspect.</p>

Site Area 250 m² or greater:

Minimum area of POS: 20% of the site area

One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.

Site area less than 250 m²:

20% of the site area or 35 m², whichever is the greater

One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.

General Section: Residential Development: PDC 17

Complies

Residence 1: 51.4 m² = 20.0%
Minimum dimension 5.0 metres

Complies

Residence 2: 36.4 m² = 20.3%
Minimum dimension: 4.9 x 5.0 metres

Does Not Comply

Residence 3: 35.0 m² = 19.5%

Complies

Minimum dimension: 4.6 x 5.0

Street Setbacks

Except in areas where a new character is desired, the setback of buildings from public roads should:

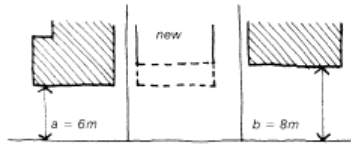
- (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
- (b) contribute positively to the function, appearance and/or desired character of the locality.

General Section: Design and Appearance: PDC 23

Complies

The subject locality is one where a new character is desired, and therefore the setback of the proposed building from the public road need not necessarily be similar to or compatible with the setbacks of buildings on adjoining land and other buildings in the locality. Nonetheless, the proposed front setback of 5.0 metres is similar to that of new dwellings in the locality. As such, the proposed front setback is considered to contribute positively to the function, appearance and desired character of the locality.

Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjacent allotments	Setback of new building
Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:  When $b - a \leq 2$, setback of new dwelling = a or b
Greater than 2 metres	At least the average setback of the adjacent buildings

General Section: Design and Appearance: PDC 25

Partially Complies

Dwelling 1: 5.0 metres

(Dwellings on adjoining land set back approximately 7.5 and 9.0 metres, which equals an average setback of 8.25 metres)

However, PDC 23 outlines that setbacks of buildings from the public road do not need to be similar/compatible with buildings on adjoining land when located in an area "where a new character is desired". Given that the Medium Density Policy Area 12 encourages redevelopment of existing dwelling stock at higher densities, PDC 25 has limited weight.

Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.

General Section: Residential Development: PDC 36

Complies

Habitable rooms are adequately separated from pedestrian and vehicle movement.

Side Setbacks

Where the wall height is not greater than 3 metres: 1 metre

Residential Zone: PDC 7

Does Not Comply

Residences 1 and 4: 0.9 m

The proposed side setback falls 0.1 metres short of that prescribed by PDC 7. The minor shortfall should not result in unreasonable impacts to adjacent land. Further, it is noted that a setback of 0.9 metres complies with the Building Code of Australia.

Rear Setbacks

6 metres for a single storey dwelling

Residential Zone: PDC 7

Does Not Comply

Residence 4: 1.0 – 5.0 metres

Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:

(a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary

General Section: Residential Development: PDC 37

Does Not Comply

Residence 4: 1.0 metre for 48.1% of the rear boundary width, and 5.0 metres remainder.

Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:

(a) the visual impact of the building as viewed from adjacent properties

(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.

General Section: Design & Appearance: PDC 2

Partially Complies

Although the rear setback does not comply with quantitative criteria, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties. Given that the rear boundary maintains an eastern orientation, shadowing would be limited to afternoon hours only, and will affect a relatively small portion of the rear yard of 12 Allambee Avenue.

The single storey nature of the building (with wall height of 2.6 metres) should result in a modest extent of shadowing and visual impact, which is not of such severity to warrant refusal of the application.

It is noted that dwellings on adjoining land north and south of the subject land are both set back approximately 1 metre from the eastern rear boundary. As such, the proposed rear setback remains consistent with the pattern of development in the locality.

Building Height

Maximum building height (from natural ground level):

(i) 2 storeys of not more than 9 metres

(ii) 2 storeys plus attic of not more than 10 metres

Residential Zone: PDC 7

Complies

The proposed dwellings incorporate a maximum building height of 5.0 metres, which is less than the maximum permitted in the Policy Area.

Garages, Carports and Outbuildings

*Minimum setback from primary road frontage:
5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.*

Residential Zone: PDC 8

Complies

Residence 1: 5.5 metre carport setback

Carports and garages should be setback from road and building frontages so as to:

- (a) not adversely impact on the safety of road users*
- (b) provide safe entry and exit.*

General Section: Residential Development: PDC 12

Complies

Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.

General Section: Residential Development: PDC8

Complies

The proposed carports incorporate a roof form, materials and detailing which complement the associated dwelling.

Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.

Residential Zone: PDC 6

Complies

Residence 1: 3.0 metre carport width = 16.4% of building site frontage width

Car Parking

Minimum number of on site car parking spaces (one of which should be covered) :
[Residence 1] = 2 per detached dwelling containing up to 3 bedrooms.
[Residences 2-4] = 1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building. [i.e. total of 5.5 spaces for 3 dwellings]

Residential Zone: PDC 7

Complies

Residence 1: 2 spaces (1 of which is covered)
 Residences 2-4: 6 spaces (3 of which are covered)

On-site vehicle parking should be provided having regard to:
(a) the number, nature and size of proposed dwellings
(b) proximity to centre facilities, public and community transport within walking distance of the dwellings
(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons
(d) availability of on-street car parking
(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).

General Section: Transportation & Access: PDC 43

Complies

- a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.
- b) Centre facilities and public transport are located in walking distance of the dwellings.
- c) The likely occupants are anticipated to have standard mobility and transport requirements.
- d) e) 2 on-street car parking spaces shall remain available adjacent the subject land.

Vehicle parking areas servicing more than one dwelling should be of a size and location to:

- (a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely*
- (b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area*
- (c) reinforce or contribute to attractive streetscapes.*

General Section: Transportation & Access: PDC 44

Complies

(a) (b) The applicant has engaged an independent traffic engineer to review the proposed vehicle turning areas (templates included in Attachment III), which has resulted in amendment of the proposal to facilitate more convenient vehicle movements. Council's Development Engineer has confirmed that the development provides adequate space for vehicles to manoeuvre between the street and

	<p>parking area in an efficient, convenient and safe manner.</p> <p>(c) The proposed vehicle parking areas are located to the rear of the site and therefore should maintain an attractive streetscape.</p>
<p><i>Ground level vehicle parking areas servicing multiple dwellings, including associated garages and carports (other than where located along a rear lane access way), should:</i></p> <p><i>(a) not face the primary street frontage</i></p> <p><i>(b) be located to the rear of buildings with access from a shared internal laneway</i></p> <p><i>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</i></p> <p><i>General Section: Transportation & Access: PDC 45</i></p>	<p>Complies</p> <p>The parking areas for Residences 2-4 are located to the rear of the building with access from a shared internal laneway, and therefore do not face the primary street frontage. Carports are recessed behind the main face of each dwelling.</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p>Complies</p> <p>2 on-street car parking spaces should be retained for the proposed allotments, which satisfies PDC 22, and further exceeds that required by PDC 22 when combined with the 3 visitor car parking spaces on the site.</p>
Access	
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i></p> <p><i>(a) 3 metres wide for a single driveway</i></p> <p><i>(b) 5 metres wide for a double driveway.</i></p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p>Partially Complies</p> <p>Crossover is 6.4 metres wide, however this width is required to provide a 3.0 metre wide crossover to Residence 1, and a 4.0 metre wide driveway for the common driveway.</p>
<p><i>Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.</i></p> <p><i>General Section: Residential Development: PDC 40</i></p>	<p>Complies</p> <p>The proposed crossover is set back a minimum 1 metre from the existing stobie pole. Although the driveways are to be constructed over the existing cable pit, the applicant has obtained a quote from Telstra to reinforce the pit with a trafficable lid, and therefore this pit can be incorporated within the driveway area. The applicant has agreed to pay all costs associated with reinforcement of the cable pit lid.</p>
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Complies</p> <p>One vehicle access point proposed to provide access to 4 dwellings.</p>

Access ways servicing a hammerhead allotment or more than one dwelling should provide for an access onto a public road, with the driveway 'handle' being designed within the following parameters:					Complies Residences 2-4: Minimum 3.0 metre wide driveway Partially Complies Landscaping width varies between 0.3 – 1.0 metres Driveway is 38 metres long, with slight widening provided at the manoeuvring areas for Residence 2.
No. of dwellings served by driveway	Width at front property boundary & for first 6 metres	Width beyond first 6 metres	Widening required for passing	Minimum landscaped strip either side of driveway (metres)	
3	3	3	Only if the driveway length is greater than 30 metres	0.5	
General Section: Residential Development: PDC 41					

Design & Appearance

<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <p>(a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandas, eaves, parapets and window screens.</p> <p>General Section: Design & Appearance: PDC 1</p> <p><i>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</i></p> <p>General Section: Design & Appearance: PDC 3</p> <p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p>General Section: Design & Appearance: PDC 17</p>	Complies The proposed dwellings reflect the desired character of the locality, as they incorporate an attractive presentation to the streetscape. The dwelling façades incorporate the following elements to enhance their design and appearance: <ul style="list-style-type: none"> • Rendered facades • Porticos • Eave overhang and pitched roof form at 25 degree slope • Fenestration <p>The Colorbond roof and rendered facades should not result in glare to neighbouring properties, drivers or cyclists.</p> <p>On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.</p>
<p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p>General Section: Design & Appearance: PDC 15</p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p>General Section: Design & Appearance: PDC 18</p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p>General Section: Residential Development: PDC 6</p> <p><i>Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings and entrance foyers.</i></p> <p>General Section: Residential Development: PDC 6</p>	Complies Residence 1 has been designed so that its main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

Visual Privacy

Buildings on battleaxe allotments or the like should be single storey and be designed to maintain the privacy of adjoining residential properties.

General Section: Design & Appearance: PDC 14

Complies

Residences 2-4 are located on a battleaxe allotments, are single storey and designed to maintain the privacy of adjoining residential properties.

Noise

External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:
(a) active communal recreation areas, parking areas and vehicle access ways
(b) service equipment areas and fixed noise sources on the same or adjacent sites.

General Section: Residential Development: PDC 29

Complies

Residences 2 and 3 feature bedroom windows sited adjacent the common driveway. These windows are separated from the common driveway by a distance of 0.5 metres and incorporate landscaping between the driveway and bedroom window. Although a greater setback to the driveway would be preferable, the applicant has agreed to install double glazing on these bedroom windows to further minimise noise intrusion. This combination of setback, glazing and landscaping is considered to provide sufficient "separating or shielding" to minimise external noise and light intrusion as envisaged by PDC 29.

Window shutter devices, external screening or alternative additional preventative measures could be constructed/installed by future occupants if desired.

Site Facilities and Storage

Site facilities for group dwellings, multiple dwellings and residential flat buildings should include:
(a) mail box facilities sited close to the major pedestrian entrance to the site
(b) bicycle parking for residents and visitors (for developments containing more than 6 dwellings)
(c) household waste and recyclable material storage areas away from dwellings.

General Section: Residential Development: PDC 30

Partially Complies

a) The provision of common letterboxes has been recommended as a condition of consent.
 b) Not applicable, as the development does not contain more than 6 dwellings.
 c) Although common waste storage areas are not provided, this is not considered necessary given that Residences 1 and 4 maintain side gate access to their rear gardens, while Residences 2 and 3 could access their rear gardens through their carports. As such, bins could be efficiently stored in the private utility areas of each dwelling.

Energy Efficiency

Development should provide for efficient solar access to buildings and open space all year around.

General Section: Energy Efficiency: PDC 1

Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.

General Section: Energy Efficiency: PDC 2

Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.

General Section: Energy Efficiency: PDC 3

Complies

Residences 2 and 3 are oriented so that their open spaces and main activity areas face north for exposure to winter sun, and thereby provide for efficient solar access to open space all year around.

Partially Complies

Residences 1 and 4 do not incorporate north-facing habitable windows, but maintain a western aspect to their POS areas, which should enable some exposure to winter sunlight.

Complies

The proposed dwellings are designed and sited to ensure adequate winter sunlight remains available to the main activity areas of adjacent buildings.

Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.

General Section: Energy Efficiency: PDC 4

Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.

General Section: Energy Efficiency: PDC 5

Complies

The dwellings incorporate a hipped roof form set at a 25 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*

General Section: Landscaping, Fences & Walls: PDC 2

Complies

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

ANALYSIS/CONCLUSION

The proposed development complements the Objectives, Principles and Desired Character of the Residential Zone and Medium Density Policy Area 12, as it achieves an increase in dwelling densities and provides further diversity in dwelling types, in an area which is within walking distance of public transport, public open space and centre facilities.

It is acknowledged that the proposal maintains a number of numerical shortfalls, the most significant involving site areas and rear setback of Residence 4. Whilst these shortfalls are not ideal, the proposed site areas and rear setback are similar to other dwellings in the locality, and therefore should not detract from the character of the locality.

The proposal also maintains several other numerical non-compliances in relation to site coverage, site depth of Residence 1, private open space and landscaping strip width. Further assessment and consideration of the potential impacts of these shortfalls suggests that they do not jeopardise the functionality of the proposed development, nor do they result on unreasonable impacts on the amenity of adjacent land or the locality.

There are also several qualitative aspects of the proposal which are not ideal, such as the proximity of bedroom windows to the driveway and the western orientation of Residences 1 and 4's POS and living area windows.

When these shortfalls are considered on balance with the proposal's compliance with the Development Plan, the overall merit of the proposal is considered to outweigh the non-compliances. To this end, it is my view that the various shortfalls are not of such severity to warrant refusal of the application.

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 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: 100/2015/304 to construct four (4) single-storey dwellings at 17 West Street, Ascot Park, be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/304, being Sheets 1 to 7 (inclusive) prepared by Andrew Harper received by Council on 23 June 2015 (amendment No. E dated 18/6/15) and email correspondence from Ben Moffatt dated 17/06/2015, except when varied by the following conditions of consent.
2. The existing cable pit located adjacent the proposed driveway shall be made trafficable by the installation of a heavy duty steel lid, in accordance with the quote by Trenchless Pipelaying Contractors dated 16/6/15. The applicant shall bear all costs associated with the necessary works, as per the email correspondence from Ben Moffatt dated 17/06/2015. All works shall be completed prior to occupation of the dwellings.
3. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
4. Common mail box facilities shall be provided for the dwellings, sited close to the major pedestrian entrance to the site, prior to occupation of the dwellings.
5. The Bed 1 windows of Residences 2 and 3 which face the common driveway shall be double glazed for sound attenuation purposes.
6. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

Note: A copy of the information guide can be viewed at the City of Marion webpage www.marion.sa.gov.au/page.aspx?u=181
7. 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 to the reasonable satisfaction of the Council.

8. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
9. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
10. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
11. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

NOTES

1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
2. 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, to the reasonable satisfaction of the Council. (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).
3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
4. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.
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.
6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

- Attachment I: Certificate of Title*
Attachment II: Aerial Photograph & Site Locality Plan
Attachment III: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.11
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Regent Homes SA Pty Ltd
Development Description:	To vary Development Application 100/2012/309 – three single storey row dwellings and two single storey residential flat dwellings - amendments to floor plan of Dwellings 1, 2, 4 and 5
Site Location:	13 Crozier Terrace, Oaklands Park
Zone:	Residential
Policy Area:	Regeneration Policy Area 16
Application Type:	Category 1 / Consent
Lodgement Date:	03/06/2015
Development Plan:	Consolidated – 19 March 2015
Application No:	100/2015/981
Recommendation:	Development Plan Consent (Granted)

BACKGROUND

Development Application 100/2012/309 was granted Development Plan Consent by the Development Assessment Panel at its meeting of 13 June 2012. Since this time, the applicant has sought to extend the consent (pursuant to Regulation 48) on three occasions. The application is due to lapse on 13 December 2015.

Refer Attachment III

The application is being presented to the Development Assessment Panel as the proposal seeks to vary an application previously determined by the Panel which in the opinion of administration could be considered to compromise or undermine the decision of the Panel.

The applicant has lodged the subject application that seeks to vary the floor plan of Dwellings 1, 2, 4 and 5; outlined below.

Dwelling 1

- Increased from two bedrooms to three bedrooms (building footprint remains consistent);
- Changes to eastern and southern façade reflecting room layout change.

Dwelling 2

- Bedroom 2 moved to northern side of building;

- Courtyard south of laundry removed and replaced with building floor area;
- Changes to northern and southern facades reflecting changes.

Dwelling 3

- Minor amendment to the location of the north-facing window to meals room.

Dwelling 4

- Kitchen/living/dining area to south part of dwelling;
- Bedrooms 1 and 2 and wet areas to north part of building;
- Footprint and facades of dwelling altered to suit.

Dwelling 5

- Kitchen/living/dining area to south part of dwelling;
- Bedrooms 1 and 2 and wet areas to north part of building;
- Footprint and facades of dwelling altered to suit.

Refer Attachment II

DEVELOPMENT ASSESSMENT

For clarity, I will discuss the proposed amendments to each dwelling.

Dwelling 1

In my view, the changes to Dwelling 1 are reasonably inconsequential.

A change in the number of bedrooms from two to three does not increase the required number of on-site parking spaces, and as such, the proposal remains compliant in this regard.

Whilst there may be greater variation in the potential household size and/or demographic by providing three bedrooms, the amount of private open space, at 47.4 square metres (20.3%), exceeds that sought by Council's Development Plan.

The amendments to the façade of the building will not have an unreasonable impact upon adjoining land, nor compromise the energy efficiency of the dwelling.

Dwelling 2

In my view, the changes to Dwelling 2 are reasonably positive, in that Bedroom 2 is no longer abutting the common wall with Dwelling 1. This may improve the amenity of this room via reduced noise impacts.

It is acknowledged that the outlook from this bedroom may be diminished, as there was opportunity for the courtyard (previously proposed) to be landscaped/treated to be aesthetically pleasing. Further, natural light and ventilation to the toilet is no longer available.

In conclusion, the amendments are considered acceptable and do not meaningfully offend any relevant provisions from Council's Development Plan.

Dwelling 3

During the processing of the current application, administration requested a north-facing window to be provided to the meals/living area, as the plans previously approved by the Panel for the 2012 application included such.

The plans before the Panel now differ marginally from that originally approved, however, there are no meaningful consequences in its location.

The energy efficiency of the building remains as previously approved.

Dwelling 4 and Dwelling 5

For Panel Member's reference, the plans for Dwellings 4 and 5 proposed as part of this application are consistent with those plans originally presented to the Panel at its meeting of 16 May 2012.

At that meeting, the Panel deferred the application for the following reason;

"...to enable the applicant to consider re-orientating proposed dwellings 3, 4 and 5 to provide for northern solar access and to retain the existing street tree."

The following is an excerpt from administration's report to the Panel following the submission of amended plans addressing the Panel's reason for deferral:

"The floor plan of Dwellings 4 and 5 have been altered whereby the bedrooms are located to the south of the building and the kitchen/meals/living area is situated to the north; allowing north-facing windows to serve these spaces.

This amendment achieves the intent of the Panel's reason for deferral by improving the energy efficiency of the building and opportunity for solar access, whilst it is also likely to improve the amenity of the residents, by separating the bedrooms from the common driveway area. However, it does to some degree, compromise the relationship between the living room and private open space, as the largest area of POS is no longer directly outside the orientation of the living room. Further, outlook from the windows of the living rooms is now oriented towards boundary fencing/the common driveway, rather than the larger area of private open space; diminishing the amenity previously afforded to these rooms. This is more evident for Dwelling 4 than Dwelling 5.

In my opinion, it is arguable that the improvements made to energy efficiency and solar access outweigh the poor outlook from the living room and its compromised relationship between the primary area of private open space for Dwelling 4. It is respectfully suggested that the Panel may wish to consider whether such an amendment provides a net benefit over that originally presented to the Panel.

...In this regard, it is therefore suggested that the amendments made to Dwellings 3 and 5 demonstrate an improved outcome, however, Dwelling 4, as originally proposed, provides the greater benefit to future residents.

...In relation to the retention of the street tree, the applicant (see Attachment II) has advised that due to design constraints (generally relating to 'garage dominance'), the design of Dwelling 3 cannot avoid removal of the street tree.

Whilst it would be preferable for the street tree to remain, in staff's opinion the locality is characterised by massive Sugar Gums, a majority of which would be over 80 years of age. These trees dominate the locality and provide an attractive, leafy element to the locality. The subject tree, whilst incorporating no discernible faults, does not provide a strong contribution to the landscape character of the locality, and to this end, removal of the tree, in my view, is not in contravention to the Desired Character statement.

As such, in staff's view, amendments to proposal reasonably satisfy the Panel's reasons for deferral."

In my view, the amendments proposed as part of this application do represent a more functional outcome, with improved amenity benefits for residents.

Whilst it is acknowledged the energy efficiency of the dwellings has been reduced, as the living areas are no longer afforded a northerly orientation, the outlook from the living rooms (to the main area of private open space as opposed to a fence or common driveway) and direct access to the primary area of private open space provides a more functional outcome and living environment.

In conclusion, whilst the proposed floor plans are at odds with that sought by the Development Assessment Panel in its deferral of 16 May 2012, in my view, the current plans provide an improved outcome and warrants support of the Panel.

(For Member's reference, removal of the street tree formed part of Development Application 100/2012/309, and as such, the current proposal does not seek to alter this element of the application).

ANALYSIS/CONCLUSION

The proposed plans seek to alter the floor plan layout of four of the five dwellings previously approved in Development Application 100/2012/309.

In my view, the amendments to Dwellings 1 and 2 are relatively minor and inconsequential.

The amendments to Dwellings 4 and 5 are at odds with that sought by the Panel, seeking to revert back to the originally-lodged plans that were amended at the request of the Panel at its meeting in May 2012. However, in my view, the benefits derived from the current floor plan outweigh the improved energy efficiency of north-facing living rooms and therefore respectfully suggest the floor plan proposed is, in some ways, superior to that previously approved.

Accordingly, it is staff's view that the amendments to the proposal result in a functional and appropriate design outcome, the proposal is not seriously at variance to the Development Plan in accordance with Section 35(2) of the Development Act 1993, and therefore suggest that Development Plan Consent is granted, subject to conditions.

RECOMMENDATION

- (a) The Panel note this report, have considered all relevant planning matters and concurs with the findings and reasons for the recommendation;**
- (b) 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 the Development Plan Consent for Development Application 100/2015/981 to vary Development Application 100/2012/309 – three single storey row dwellings and two single storey residential flat dwellings - amendments to floor plan of Dwellings 1, 2, 4 and 5 at 13 Crozier Terrace, Oaklands Park be GRANTED subject to the following conditions:**

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2012/309, except when varied by the following conditions of consent.**
- 2. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.**
- 3. Any walls shared with a garage shall be treated with an appropriate noise acoustic treatment to minimise noise transfer between dwellings.**
- 4. Occupation of Dwelling 1 shall not occur until such time as the stobie pole situated in the road reserve has been removed/relocated and safe and convenient access to this dwelling has been satisfactorily made available.**
- 5. Stormwater from all structures approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's Information Sheet "Stormwater Detention" to the reasonable satisfaction of the Council (copies of relevant documents are attached).**
- 6. 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 to the reasonable satisfaction of the Council.**
- 7. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.**
- 8. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).**

9. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
10. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
11. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
12. All mortar joints on any face brickwork on the property boundary are to be finished in a professional manner, similar to other external brickwork on the subject dwelling.
13. A landscaping plan shall be submitted to Council for consideration and approval, detailing a mix of native medium and low-level plantings throughout the property.

NOTES:

1. Payment of \$300.00+GST for the removal and replacement of the street tree shall be made prior to Development Approval being issued.
2. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
3. 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, to the reasonable satisfaction of the Council. (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).
4. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
5. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.
6. 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.
7. 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.

Attachments

Attachment I: Aerial Photograph
Attachment II: Proposal Plans
Attachment III: Approved Plans – DA 100/2012/309

DEVELOPMENT ASSESSMENT PANEL
Wednesday 1 July 2015

Agenda Ref No:	DAP010715 – 3.12
Originating Officer:	Rhiannon Hardy Development Officer - Planning
Applicant:	Mr David Lam
Development Description:	Change of use from bulky goods outlet to shops, including demolition of existing shed and installation of car parking at the rear of the site
Site Location:	807 Marion Road, Mitchell Park
Zone:	Residential Zone
Policy Area:	Medium Density Policy Area 12
Application Type:	Category 3 / Non-Complying
Lodgement Date:	15/04/2015
Development Plan:	Consolidated – 19 March 2015
Application No:	100/2015/640
Recommendation:	The report be noted

The subject application is a Category 3 Non-Complying form of development pursuant to the Procedural Matters of the Residential Zone, which lists a “shop or group of shops” as a non-complying form of development (given that the site fronts an arterial road, exceptions do not apply).

The applicant seeks to undertake a change of use of the subject land for a group of shops. It also proposes to demolish a storage shed at the rear of the land to provide additional on-site car parking.

The subject land has historically been used as a bulky goods outlet for the business “Discount Laundry Equipment”. This business ceased operation in approximately 2011 and has subsequently been divided into three separate tenancies used as shops, all without development authorisation.

The subject application originally sought to operate a sandwich shop within the centre tenancy “B”. However, Council advised the applicant that the two other tenancies “A” and “C” were currently operating without development authorisation. Subsequently, the application was amended to include all three tenancies in the proposed application for change of use to shops.

The current existing use rights of the land for a bulky goods outlet is of a similar nature to shops, which is demonstrated by the fact that a bulky goods outlet is included within the definition of "shop" under Schedule 1 of the Development Regulations 2008.

As a result of this similarity, it is not anticipated that the proposed shops would result in heightened or unreasonable impacts to adjacent residential properties with respect to noise, hours of operation, visitors, car parking demand or traffic movements.

The proposal may actually result in improved traffic circulation through the site given that the application proposes for car parking at the rear of the premises, where currently the only formal car parking exists at the front of the site, which necessitates vehicle reversing movements onto Marion Road to exit the site.

As a result of the above considerations, it is staff's view the proposed development displays merit. The Manager – Development Services has agreed with staff's position and resolved to proceed to the full assessment of the application.

The applicant has provided a brief statement of support and Statement of Effect, pursuant to Section 39(2)(d) of the Development Act, 1993 and Regulation 17(4) of the Development Regulations, 2008.

Category 3 / Non-Complying public notification has recently been completed, and referral comments from the Commissioner of Highways is pending.

In due course, the application will be presented to the Development Assessment Panel for a decision.

RECOMMENDATION

The Panel note this report and resolve that the determination of the Manager – Development Services to proceed with the further assessment of Non-complying Development Application No: 100/2015/640 for a change of use from bulky goods outlet to shops, including demolition of existing shed and installation of car parking at the rear of the site, at 807 Marion Road, Mitchell Park, be NOTED.

Attachments

Attachment I: Certificate of Title

Attachment II: Aerial Photograph & Site Locality Plan

Attachment III: Proposal Plan and supporting documentation

**DEVELOPMENT ASSESSMENT PANEL
WEDNESDAY 1 JULY 2015**

Agenda Ref No: DAP010715 – 4.1

Originating Officer Steve Hooper
Manager – Development Services

Description: Review of General Operating Procedures

REPORT OBJECTIVE:

This report seeks to provide Development Assessment Panel Members with an opportunity to review the Development Assessment Panel General Operating Procedures in accordance with the Panel's resolution at its meeting on 4 March 2015.

BACKGROUND:

At its meeting on 4 March 2015 the Development Assessment Panel, adopted the current "General Operating Procedures" (GOP) without change.

However, the Panel also resolved to review the General Operating Procedures in 3 months' time where all members are present.

Any review of GOP will include a review of the current practice of excluding the public from attendance during the part of the meeting that consists of its discussion on determination of any application or other matter that falls to be decided by the Panel (Section 56A(12)(b) of the Development Act, 1993).

Further, as the Development Assessment Panel comprises two new members, including a new Presiding Member, it is timely for the new Panel to consider the appointment of a Deputy Presiding Member.

RECOMMENDATION:

- (a) That the General Operating Procedures be adopted subject to the inclusion of the following changes:**

.....

- (b) That be appointed the Deputy Presiding Member.**

GENERAL OPERATING PROCEDURES:

The current General Operating Procedures (GOP) as adopted by the Development Assessment Panel on 4 March 2015 are attached at Appendix I. These procedures have remained unchanged since August 2011.

Whilst many of the clauses are consistent with the requirements of the Development Act, 1993 there is some discretion as to their wording. Nothing prevents the Development Assessment Panel from reviewing any of the following sections of the GOP:

- Section 1: Timing & Notice of Meetings;
- Section 2: Commencement of Meetings & Quorum;
- Section 3: Decision Making;
- Section 4: Minutes;
- Section 5: DAP Procedures and Support.

The key areas where a review might be considered relate to decision-making and voting:

Decision-making

At its meeting on 10 December 2014, whereupon the Development Assessment Panel resolved to review its General Operating Procedures in March 2015, the Panel also resolved as follows:

“This review is to include a review of the current practice of excluding the public from attendance during the part of the meeting that consists of its discussion on determination of any application or other matter that falls to be decided by the Panel (Section 56A(12)(b) of the Development Act, 1993).”

For Member’s information, Section 56A(11) and 12(a) provides that the Development Assessment Panel will deliberate in public generally as a matter of standard practice, only with exceptions where certain criteria are met, such as consideration of legal advice or commercial in confidence.

Section 56A(12)(b) allows the Development Assessment Panel to deliberate at the exclusion of the public during so much of the meeting that consists of its discussion or determination of any application or other matter than falls to be decided by the Panel.

Council at its meeting on 24 February 2015 considered this matter and passed a number of resolutions including the view:

“....that it is preferable that discussions, deliberations & the determination of applications by the DAP take place in public & that it only exclude the public from attendance during so much of a meeting as is necessary to receive, discuss or consider in confidence that information or those matters set out in Section 56A(12)(a) of the Development Act 1993. The Council recommends that the DAP consider adopting such an approach & incorporating this in its procedures when they are reviewed at the next DAP meeting in accordance with the DAP resolution. The Council’s recommendation is in the interests of raising accountability & promoting transparency in local government decision making & is consistent with its submission to the Planning Minister in relation to the Report of the SA Expert Panel on Planning Reform of December 2014 that, in the public interest, any planning authority should adopt procedures that ensure transparency of deliberations & decision making.

This resolution was again resolved by Council at its meeting on 26 May 2015.

An amendment to the GOP to reflect the above position could be worded as follows:

3.1 In the interest of raising accountability & promoting transparency in local government decision making, the DAP will conduct its meetings and undertake all considerations in accordance with Section 56A(11) and 56A(12)(a) of the Development Act, 1993 and will only exclude the public from attendance when one or more of the requirements of Section 56A(12)(a)(i) - (x) are met.

Voting

Clause 3.3 of the GOP provides that all decisions of the DAP shall be made on the basis of a majority decision of the Members present and the minutes shall record that decision only (votes for/against will not be recorded and are not relevant once the majority is determined).

This practice is consistent with the current operations of the Council at its General Council Meetings.

Deputy Presiding Member

Clause 2.6 of the GOP provides that “A Deputy Presiding Member of the DAP must be appointed by resolution of the DAP and will preside at any meeting or part thereof when the Presiding Member is not present.”

Likewise, Clause 2.7 of the GOP provides that “the Presiding Member will preside at all DAP Meetings, however, the absence of the Presiding Member, the Deputy Presiding Member will preside at the meeting (or part thereof).”

As there are two new members of the Panel including a new Presiding Member, it is timely for the Panel to consider formally appointing a nominated member of the Panel as its Deputy Presiding Member.

ANALYSIS/CONCLUSION:

In March 2015, the Development Assessment Panel resolved to review the General Operating Procedures (GOP) in 3 months' time where all members are present.

The Panel is asked to familiarise themselves with the GOP and suggest changes and/or improvements where necessary.

A review of the GOP will necessarily include a review of the current practice of excluding the public from attendance during the part of the meeting that consists of its discussion on determination of any application or other matter that falls to be decided by the Panel (Section 56A(12)(b) of the Development Act, 1993), as outlined in the body the report.

The Panel is also requested to appoint a Deputy Presiding Member pursuant to Clause 2.6 of the GOP.

Appendix I: DAP General Operating Procedures

CITY OF MARION

DEVELOPMENT ASSESSMENT PANEL

General Operating Procedures

(adopted by DAP on 4 March 2015)

1. TIMING & NOTICE OF MEETINGS

- 1.1. DAP meetings will be scheduled by the DAP in the first and third week of every month (except the first week of January), subject to there being business to consider.
 - 1.2. The DAP will meet in the Council Administration Centre at 245 Sturt Road, Sturt or at such other place as the DAP may determine.
 - 1.3. The Executive Officer must provide written notice detailing the date, time and place of a meeting to all DAP members at least three working days before the meeting. The notice shall include the Agenda for the meeting. The Presiding Member may include late items in the Agenda of a meeting with the leave of the meeting.
 - 1.4. Notice of DAP meetings may be given to DAP members by email to an address nominated by a DAP Member, or by personal delivery or post to the usual residence of a DAP Member, or via such other means as authorised in writing by a DAP Member.
 - 1.5. A copy of the Agenda (without attachments) for every meeting of the DAP shall be available for viewing by the public at the Council's Offices and Library and on the Council's web site at least three working days before the meeting of the DAP (*due to copyright restrictions it is not possible to provide copies of building plans for the public agenda*).
 - 1.6. A special meeting of the DAP may be convened by the Presiding Member at any time to consider urgent business by giving not less than forty eight hours written notice to all DAP Members.
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- 1.7. Notice of a Special meeting must be accompanied by an Agenda stating the item(s) of business for which the meeting has been convened. A Special meeting must only deal with the business for which the meeting has been convened.

2. **COMMENCEMENT OF MEETINGS & QUORUM**

- 2.1. DAP Meetings will be conducted in accordance with the *Development Act 1993* ('the Act') and these Operating Procedures.
 - 2.2. Meetings will commence on time and as soon as a quorum is present. If a quorum is not present within thirty minutes of the time for commencement, the Presiding Member may adjourn the meeting to the next scheduled meeting time and date, or to another time and date.
 - 2.3. A quorum for a meeting of the DAP is four (4) DAP Members.
 - 2.4. If the number of apologies received by the Executive Officer in advance of a meeting indicate that a quorum will not be present at a meeting, the Presiding Member may, by notice from the Executive Officer provided to all DAP Members in advance of the meeting, (a copy of which will be placed at the Council Offices and Library and on the Council's website) adjourn the meeting to a future time and date specified in the notice.
 - 2.5. If a meeting is required to be adjourned by the Presiding Member, the reason for the adjournment, and the date and time to which the meeting is adjourned will be recorded in the minutes.
 - 2.6. A Deputy Presiding Member of the DAP must be appointed by resolution of the DAP and will preside at any meeting or part thereof when the Presiding Member is not present.
 - 2.7. The Presiding Member will preside at all DAP meetings, however, in the absence of the Presiding Member, the Deputy Presiding Member will preside at the meeting (or part thereof) .
 - 2.8. If both the Presiding Member and Deputy Presiding Member are absent from a DAP meeting (or part thereof), a DAP Member chosen
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from those present will preside at the meeting and will have all of the powers and duties of the Presiding Member.

- 2.9. Subject to the Act, the Terms of Reference and these Operating Procedure, the Presiding Member will facilitate the meeting in a manner which promotes healthy, orderly, constructive, respectful and expeditious discussion, but not repetitious or irrelevant discussion.
- 2.10. The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a DAP Member, an applicant, a representor or any other person present at the DAP meeting until such time as the disruption or disturbance ceases..
- 2.11. The Presiding Member may ask a member of the public who is present at a meeting of a DAP who is:
 - 2.11.1 behaving in a disorderly manner; or
 - 2.11.2 causing an interruption; or
 - 2.11.3 using audio and video recording devices, without the prior agreement of the Presiding Member;to leave the meeting.

3. **DECISION MAKING**

- 3.1. The DAP will conduct its meetings and undertake all considerations in accordance with section 56A(11) and (12) of the Act.
 - 3.2. Each DAP Member present at a meeting is entitled to one vote on any matter arising for decision and, if the votes are equal, the Member presiding at the meeting is entitled to a second or casting vote.
 - 3.3. All decisions of the DAP shall be made on the basis of a majority decision of the Members present and the minutes shall record that decision only (votes for/against will not be recorded and are not relevant once the majority is determined).
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- 3.4. The DAP must use the Development Plan as the basis for its decisions, having had regard to any written and verbal representations made in accordance with the provisions of the Act.
 - 3.5. The DAP must, for each and every application, determine whether the proposal is seriously at variance with the Development Plan and expressly record its determination on this matter in the minutes. If the DAP determines that the proposal is seriously at variance with the Development Plan, the DAP must provide reasons for its determination and must expressly record those reasons in the minutes.
 - 3.6. A development application that is assessed by the DAP as being seriously at variance with the Development Plan will not be granted approval.
 - 3.7. The DAP must, for each and every application, provide reasons for granting or refusing Development Plan Consent and expressly record those reasons in the minutes.
 - 3.8. Subject to the Act, a person who has lodged a development application or a valid representation in relation to a matter is entitled to appear before the DAP and be heard in support of the application or representation, in person or by an agent. Representors and applicants will be allowed 5 minutes each to address the DAP, unless a longer time is allowed by the Presiding Member.
 - 3.9. At the discretion of the Presiding Member, any new or additional material to be submitted to the DAP by a person who has made a development application or a valid representation in relation to a matter may be accepted and considered by the DAP.
 - 3.10. At the discretion of the Presiding Member, a DAP Member may ask questions of any person appearing before the DAP. The Presiding Member may refuse any such question posed by a DAP Member if in his/her opinion it is not relevant to the subject development application. The Presiding Member's determination in this regard is final.
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4. **MINUTES**

- 4.1. The Executive Officer is responsible for ensuring that accurate minutes are kept of DAP meetings and that they are confirmed by the DAP and signed by the Presiding Member.
 - 4.2. The minutes of the proceedings of a DAP meeting will record:
 - 4.2.1 the names of the DAP Members present;
 - 4.2.2 the name and time that a DAP Member enters or leaves the meeting;
 - 4.2.3 the name of a person who has made a representation to the DAP at the meeting;
 - 4.2.4 the decision of the DAP, including an express opinion on whether the proposed development is seriously at variance with the Development Plan (including reasons as appropriate);
 - 4.2.5 detailed reasons for granting or refusing Development Plan Consent;
 - 4.2.6 in the absence of a decision, the deferral of the application including the reasons for the deferral;
 - 4.2.7 any disclosure of interest made by a DAP Member and the nature of the interest;
 - 4.2.8 a decision to exclude public attendance; and
 - 4.2.9 a notation, describing the confidential nature of the information and matter, in the event that a matter has been excluded from the minutes.
 - 4.3. Minutes shall not be formal minutes of a meeting until adopted by the DAP at its next meeting. This does not, however, preclude the issue of Decision Notification under the Act, advising of the determination of the DAP of Development Applications immediately after a meeting at which the DAP determined the particular application.
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- 4.4. On the confirmation of the Minutes, the Presiding Member will:
 - 4.4.1 initial each page of the Minutes, which pages are to be consecutively numbered; and
 - 4.4.2 place his or her signature and the date of confirmation at the foot of the last page of the Minutes.
- 4.5. The Minutes of a DAP meeting must be forwarded to the Council and must be publicly available within two business days after their confirmation by the DAP.

5. DAP PROCEDURES & SUPPORT

- 5.1. Insofar as the Act, the Terms of Reference and these Operating Procedures do not prescribe the procedure to be followed at a DAP meeting, the DAP may determine the procedure at that time. Any such determination will be added to these Operating Procedures.
 - 5.2. The DAP will permit and encourage the active participation of Council staff in attendance at a meeting in providing advice to the DAP.
 - 5.3. The DAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate. In particular the DAP should consider engaging appropriate professional advice and assistance in relation to the Annual Performance Review it is required to undertake under clause 2.1.3 of the Terms of Reference.
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