

**DEVELOPMENT ASSESSMENT PANEL  
AGENDA FOR MEETING TO BE HELD ON  
WEDNESDAY 4 MARCH 2015**

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- 3. APPLICATIONS:**
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To construct three, two storey row dwellings with associated car parking and landscaping  
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  - 3.2. 817 MARION ROAD, MITCHELL PARK**  
Ten, two storey row dwellings and three, two storey residential flat buildings each comprising two dwellings with common driveway access, 2m high masonry front fencing on the western boundary, associated car parking and landscaping  
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## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 – 3.1</b>
<b>Originating Officer:</b>	<b>Stephen Both Senior Development Officer - Planning</b>
<b>Applicant:</b>	<b>Mike Sugars</b>
<b>Development Description:</b>	<b>To construct three, two storey row dwellings with associated car parking and landscaping.</b>
<b>Site Location:</b>	<b>1A Winton Avenue, Warradale</b>
<b>Zone:</b>	<b>Local Centre Zone</b>
<b>Application Type:</b>	<b>Category 3 / Non-Complying</b>
<b>Lodgement Date:</b>	<b>18/08/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/1434</b>
<b>Recommendation:</b>	<b>That Development Plan Consent be Granted subject to the concurrence of the Development Assessment Commission.</b>

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### CATEGORISATION & DELEGATION

The subject application constitutes a non-complying form of development by virtue of the Procedural Matters section of the Local Centre Zone, where dwellings are listed as a non-complying kind of development, unless in conjunction with a non-residential development.

The subject application was treated as a Category 3 form of development and was publicly notified pursuant to Section 38(5) of the Development Act 1993. The subject application is required to be assessed by the Development Assessment Panel as representations were received in relation to the application, where some representors have indicated a desire to be heard by the Panel.

Council has delegated decisions which involve making decisions in respect to non-complying development applications and the hearing of unresolved representations to the Panel.

### BACKGROUND

At its meeting held on 3 September 2014, the Panel was advised of the administration's intention to proceed with the processing of the above non-complying application as the proposal demonstrated sufficient merit to warrant a further assessment against the Development Plan. This has now been undertaken. The merits of this development application are now presented to the Panel for consideration and a decision.

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

Amendments Requested	Amendments Made
Applicant to amend plans to reduce exposure of the two storey north facing wall of Dwelling (3) which shows as a blank wall when viewed from the street.	Amended plans have been provided which join the upper storey sections of Dwellings (2) and (3) to provide a consistent streetscape appearance across the front elevation.
The setback of the upper level wall of Dwelling (3) should be no less than 3.0 metres to create a greater level of separation from the property located to the south of the subject land.	The upper level wall of Dwelling (3) has been amended to provide a side setback distance of 3.2 metres from the southern side boundary to help reduce the impacts of overshadowing.
Vehicular access into and out of the garage of Dwelling (2) appears "tight" given the orientation of the driveway and should be reviewed by a traffic engineer.	The driveway of Dwelling (2) has been altered slightly given design changes to the dwelling. The new driveway has been assessed by Council's Engineer as being acceptable.
On-street parking should be increased from one (1) on-road park to two (2) on-road parking spaces for visitors.	The application plans have not been altered to reflect this requested change with only one (1) on-road car parking space to be provided.
The site coverage achieved for the overall development is considered high. It is therefore recommended that the ground floor areas of all three dwellings be reduced accordingly.	The application plans have not been amended as requested with the ground floor footprint of all three dwellings remaining unchanged.
The garages of all dwellings need to be setback a minimum distance of 5.5 metres from the street property boundary.	The plans have been amended to incorporate this requested change with all three garages to be set back a minimum distance of 5.5 metres.
The illustrated wall height of the garages appears to be high along the front and side elevations and should be reduced to no more than 3.0 metres in height to minimise impacts.	Amended plans have been provided showing a reduction in the wall height of the garages from 3.4 metres as initially proposed to no more than 3.0 metres as requested.

## SUBJECT LAND & LOCALITY

The subject land is located on the eastern side of Winton Avenue and comprises an irregular shaped allotment with a 24.38 metre frontage to Winton Avenue and an average depth of 40.28 metres to provide a total site area of 929 square metres. The subject land is relatively flat with a gentle slope falling across the allotment. Whilst the subject land is located within the Local Centre Zone, it is currently developed with an existing single storey detached dwelling (circa 1960s) which has a staggered front setback to the road. The subject land is devoid of any regulated trees, whilst the certificate of title confirms that the land is clear of any easements.

The locality is characterised by a predominance of single storey detached dwellings on regular shaped allotments with a small group of older styled single storey units at medium densities notably situated immediately to the east of the subject land at 43 Addison Road. Some recent "in-fill" development has occurred within the locality as noted immediately to the south of the subject land at 1 Winton Avenue, which has been sub-divided to create a "battle-axe" allotment accommodating a single storey dwelling to the rear at 1B Winton Avenue. The above mentioned dwellings are all notably located within Medium Density Policy Area 12.

The subject land together with the parcel of land located immediately to the north is situated within the Local Centre Zone and is developed with an existing group of shops and offices with associated car parking area fronting directly onto Addison Road. Land located to the west of the subject land on the opposite side of Winton Avenue is located within the City of Holdfast Bay and provides a diverse range of housing types including single storey detached dwellings on medium to large allotments, with some two storey group dwellings at higher densities also noted within the immediate locality, to the south-west of the subject land.

In addition to the adjacent group of shops and offices located immediately to the north of the subject land, other notable features within the locality include the Adelaide to Seaford Railway line situated directly opposite the existing shops on the northern side of Addison Road, and the Warradale Railway Station which is situated approximately 200 metres to the north-east of the subject land. The locality also contains a small Council Reserve which is located some 70 metres to the south-west of the subject land being situated on land under the care and control of the City of Holdfast Bay.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The applicant seeks to demolish the existing single storey dwelling on the land and construct three, two storey row dwellings with associated car parking and landscaping. Each dwelling will be provided with a double garage, with main bedroom en-suite and open plan kitchen/living/dining room all provided on the ground floor. The upper floor level will provide two bedrooms, a bathroom and retreat/lounge room which will overlook the street below.

The dwellings will have a modern appearance and are to be well articulated. Materials and finishes include brick external walls with some exposed wall section to have a rendered finish. The dwellings will each provide a hipped roof design to be clad with Colorbond sheeting which is to be set at a 22.5 degree pitch. Extensive landscaping is also proposed and is to be provided within side and rear yards and to the front of each dwelling.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	The proposed development was advertised in the local newspaper together with 14 properties being notified in writing during the Category 3 public notification process.
<b>Representations:</b>	5 representations were received by Council with one (1) in favour and four (4) against the proposed development.
<b>Persons wishing to be heard:</b>	2 persons have indicated a desire to be heard by the Development Assessment Panel.
<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• Two storey dwellings are considered inappropriate being out of character in the street and should be reduced in height to single storey dwellings.</li> <li>• The site area for the subject land is not big enough to support three (3) units side by side.</li> <li>• The proposed development does not provide adequate on-street car parking for visitors.</li> <li>• Construction noise will be an issue as will overshadowing and overlooking into rear yards of dwelling resulting in the loss of privacy.</li> <li>• If the development is to be approved, all windows overlooking habitable rooms and private open spaces should have screening.</li> </ul> <p><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	The applicant has provided a written response in relation to the concerns raised above together with a set of

	shadow diagrams which illustrate the extent of shadow to be cast by the proposed development and is attached. <i>Refer Attachment V</i>
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## INTERNAL DEPARTMENT COMMENTS

<b>Engineering:</b>	<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>In addition, no concerns have been raised in relation to the location of new access driveway points or in relation to the retention/disposal of stormwater from the land.</p>
<b>Open Space:</b>	<p>An existing Council street tree to the front of the subject land has been assessed by Council's Arborist as being inappropriate for the locality as it poses a potential risk to public safety. This tree is therefore to be removed.</p> <p>Note the plans show a deviation of driveway and that <u>Condition 2</u> seeks for this to be revised to provide a more convenient access point whilst still maintaining a width of 6 metres between the driveways of Dwellings (1) and (2).</p> <p>The costs associated with the removal and replacement of this tree is to be borne by the applicant/developer who has agreed to cover all associated costs.</p> <p>Should this application be approved, a replacement tree considered more suitable to the locality will be planted post construction of the dwellings.</p>

## ZONE & POLICY AREA ASSESSMENT

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

Local Centre Zone		
<p><b>Objectives</b></p> <p>1 A centre accommodating small-scale convenience shopping, office, medical and community facilities to serve the day-to-day needs of the local community.</p> <p>2 A centre characterised by traditional corner stores or small groups of shops located within easy walking distance of the population they serve.</p> <p>3 A centre accommodating residential development in conjunction with non-residential development.</p>		
PDC 1	<p>The following forms of development are envisaged in the zone:</p> <ul style="list-style-type: none"> <li>▪ advertisement</li> <li>▪ community facility</li> <li>▪ consulting room</li> <li>▪ office</li> <li>▪ <u>office and dwelling</u></li> <li>▪ shop</li> <li>▪ <u>shop and dwelling.</u></li> </ul>	<p><b>Partly Complies</b></p> <p>Whilst "dwellings" are listed as a non-complying kind of development within the Local Centre Zone, it is worthy to note that a dwelling is considered appropriate when coupled with either an office and shop use.</p>

<i>PDC 3</i>	<i>Residential development and development comprising a variety of residential and non-residential uses may be undertaken provided such development does not prejudice the operation of existing or future retail activity within the zone.</i>	<b>Partially Complies</b> It is worthy to note that whilst the subject land is located within the Local Centre Zone an existing single storey detached dwelling has occupied the subject land for some 40 years without seemingly compromising the operation of the existing shops located to the north of the subject land.
<i>PDC 4</i>	<i>Dwellings should be located only behind or above non-residential uses on the same allotment.</i>	<b>Does Not Comply.</b>

The existing shops and offices to the north of the subject land appear underutilised with a number of tenancies remaining vacant for a long period of time. With two large shopping precincts within close proximity to the Local Centre Zone, it is not expected the commercial uses will expand to take advantage of the Local Centre zoning of the subject land. The land has been developed and used for residential purposes for the past 50 years and the zoning does not reflect the long held use of the land. The development of the site for medium-density housing is not expected to have a detrimental impact upon the longevity of the Local Centre Zone given the reasons set out above.

As noted above, the proposed development does not achieve a high degree of compliance with the relevant Objectives and Principles of Development Control for the Local Centre Zone. In the absence of any relevant provisions which might otherwise help assist with the assessment of this particular application, it has been decided to assess the merits of the proposed development against the relevant Objectives, Desired Character and Principles of Development Control for Medium Density Policy Area 12, being the nearest Residential Policy Area to the site of the proposed development.

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 are discussed in further detail below:

Residential Zone	
<b>Objectives</b>	
	<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>
Medium Density Policy Area 12	
<b>Objectives</b>	
	<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.</p> <p>2 Development that minimises the potential impact of garaging of vehicles on the character of the area.</p> <p>3 Development that supports the viability of community services and infrastructure and reflects good residential design principles.</p> <p>4 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 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.

<b>PDC 1</b>	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"><li>▪ affordable housing</li><li>▪ detached dwelling</li><li>▪ group dwelling</li><li>▪ residential flat building (buildings between one and three storeys)</li><li>▪ row dwelling</li><li>▪ semi-detached dwelling</li><li>▪ supported accommodation.</li></ul>	<b>Complies</b> As listed opposite, row dwellings are an envisaged form of housing type within Medium Policy Area 12.
<b>PDC 4</b>	<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><b>(i.e. Site areas between 149.3 and 250 m<sup>2</sup>)</b></p>	<b>Complies</b> Dwellings (1 & 3) = 311m <sup>2</sup> Dwelling (2) = 307m <sup>2</sup>  As noted opposite, the proposed development achieves a density which is lower than that envisaged within Policy Area 12.
<b>PDC 7</b>	<p>Minimum Site Area:</p> <p>Row Dwellings: 210 m<sup>2</sup></p>	<b>Complies</b> Dwelling (1) = 311m <sup>2</sup> Dwelling (2) = 307m <sup>2</sup> Dwelling (3) = 311m <sup>2</sup>
	<p>Minimum Frontage:</p> <p>Row Dwellings: 7 metres</p>	<b>Complies</b> Dwellings (1 & 3) = 8.3 metres Dwelling (2) = 7.7 metres
	<p>Minimum Depth:</p> <p>Row Dwellings: 20 metres</p>	<b>Complies</b> Dwellings (1 – 3) = average depth of 40.2 metres.

### **Assessment**

The proposed development seeks to construct three, two storey row dwellings on land which currently contains a single storey detached dwelling, thereby increasing the number of dwellings on the subject land from one to three. It is worthy to also note that the subject land is situated in close proximity to the Adelaide/Seaford railway line to the north, and within close walking distance to the Warradale Railway Station to the north-east of the subject land. As previously mentioned, the subject land is also located close to a group of existing shops and offices

situated immediately to the north, as well as an existing Council Reserve which is located some 70 metres to the south-west of the subject land. Given the above, it is considered that the subject land is a suitable site for redevelopment as envisaged by Objective 2 of the Residential Zone.

The proposed development seeks to demolish an existing detached dwelling of modest appearance to provide three new two storey row dwellings at a density greater than that currently exhibited on the subject land. In terms of design and appearance, it is considered that the proposed dwellings will make a positive visual impact on the existing streetscape which is to be further enhanced with the provision of additional landscaping to be planted to the front, side and rear yard areas of all three dwellings.

The proposed dwellings will be two storey in height as envisaged within the desired character statement and are to be well articulated to provide a high degree of visual interest when viewed from the street and surrounding land. The proposed dwellings have also been appropriately placed on the land to achieve reasonable separation from side and rear boundaries so as to help preserve the amenity of the owners and occupiers of adjacent land and to assist with minimising the potential to overshadow adjoining land.

It is noted that the construction of the proposed dwellings will not require the removal of any regulated trees on the land nor compromise the health of any existing mature vegetation on adjoining land. Whilst it is acknowledged that the proposed development will result in the removal of one existing Council street tree to the front of the subject land, this street tree has been assessed by Council's Arborist as not being worthy of retention as it poses a potential risk to public safety. This tree is therefore to be removed and replaced with a more suitable tree should the application be approved.

On balance, whilst it is acknowledged that the subject land is located within the Local Centre Zone, it is considered that the Objectives, Desired Character and Principles of Development Control for Medium Density Policy Area 12 are adequately represented by the proposed development.

## 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><b>Maximum site coverage:</b>  Site area between 270 and 375 m<sup>2</sup>: 130 m<sup>2</sup> or 40%  (whichever is the greater)</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p><b>Does Not Comply</b>  Dwellings (1 &amp; 3) = 155m<sup>2</sup> or 49.8%  Dwelling (2) = 155m<sup>2</sup> or 50.4%</p>
<p><b>Maximum floor area ratio:</b>  Site area between 270 and 375 m<sup>2</sup>: 0.6</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p><b>Complies</b>  Dwelling (2) = 0.59</p> <p><b>Does Not Comply</b>  Dwellings (1 &amp; 3) = 0.62  Marginally more than that permitted by Council's Development Plan but not considered excessive in floor area.</p>

<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <li><i>(a) pedestrian and vehicle access and vehicle parking</i></li> <li><i>(b) domestic storage</i></li> <li><i>(c) outdoor clothes drying</i></li> <li><i>(d) rainwater tanks</i></li> <li><i>(e) private open space and landscaping</i></li> <li><i>(f) convenient storage of household waste and recycling receptacles</i></li> </ul> <p><i>General Section: Residential Development: PDC 13</i></p>	<p><b>Complies</b></p> <p>Despite the high site coverage achieved by each of the proposed dwellings it is considered that 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><b>Complies</b></p>
<p><b>Private Open Space</b></p>	
<p><i>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</i></p> <ul style="list-style-type: none"> <li><i>(a) to be accessed directly from a habitable rooms of the dwelling</i></li> <li><i>(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</i></li> <li><i>(c) to take advantage of, but not adversely affect, natural features of the site</i></li> <li><i>(d) to minimise overlooking from adjacent buildings</i></li> <li><i>(e) to achieve separation from bedroom windows on adjacent sites</i></li> <li><i>(f) to have a northerly aspect to provide for comfortable year round use</i></li> <li><i>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</i></li> <li><i>(h) to be partly shaded in summer</i></li> <li><i>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</i></li> <li><i>(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.</i></li> </ul> <p><i>General Section: Residential Development: PDC 15</i></p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) All POS areas are directly accessible from a habitable room of each row dwelling</li> <li>b) All POS is located at ground level to the side/rear of each dwelling and capable of being screened for privacy</li> <li>c) The subject land does not maintain natural features which warrant preservation</li> <li>d) The POS areas of each dwelling cannot be directly overlooked by adjacent buildings</li> <li>e) POS areas are not located next to bedrooms of dwellings on adjacent sites</li> <li>f) The proposed POS areas of each dwelling maintains some northerly aspect to provide for comfortable year round use by the future residents of the dwellings</li> <li>g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>h) POS areas are capable of being shaded during summer</li> <li>j) The POS areas are considered to have sufficient shape and area to be functional.</li> </ul>
<p><b>Site Area 250 m<sup>2</sup> or greater:</b></p> <p><i>Minimum area of POS: 20% of the site area</i></p> <p><i>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.</i></p> <p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <p>Dwelling (1) = 73m<sup>2</sup> or 23.5%</p> <p>Dwelling (2) = 72m<sup>2</sup> or 23.5%</p> <p>Dwelling (3) = 75m<sup>2</sup> or 24.0%</p>

## 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 proposed front setback of the dwellings is to be 5.1 metres from Winton Avenue being setback behind the block of shops located to the north of the subject land and forward of the dwelling situated to the south of the subject land at 1 Winton Avenue.

I am of the opinion that the proposed setback of the dwellings sits comfortably between existing buildings and structures situated either side of the subject land and will contribute positively to the function, appearance and desired character of the locality.

*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

## Side Setbacks

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

### Does Not Comply

Dwelling (1) = 660mm – 887mm from the northern side boundary.

Dwelling (3) = 600mm – 740mm from the southern side boundary.

The proposed side setback achieved from the garage walls of Dwellings (1) and (3) falls between 340mm to 400mm short of the 1 metre distance prescribed by PDC 7.

It is considered that this shortfall should not result in unreasonable impacts to adjacent land. Further, it is noted that the side back of these dwellings increases as the built form extends to the rear of the subject land.

*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

The upper storey sections of Dwellings (1) and (3) achieve a side setback distance which measures 3.0 metres from the northern and southern side boundaries.

*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*

### Complies

Although the side setbacks of the garage walls of Dwellings (1) and (3) do not comply with quantitative criteria, the separation from side boundaries is considered sufficient to minimise the visual impact of the garages from adjacent properties. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.

## Rear Setbacks

*6 metres for a single storey dwelling components*

*Residential Zone: PDC 7*

### **Complies**

Dwelling (1) = 10.3 metres

Dwelling (2) = 10.2 metres

Dwelling (3) = 10.0 metres

*6 metres for a 2 or more storey dwelling*

*Residential Zone: PDC 7*

### **Complies**

Dwelling (1) = 19.6 metres

Dwelling (2) = 23.2 metres

Dwelling (3) = 19.5 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*

### **Complies**

*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*

### **Complies**

## 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 7.4 metres, which is less than the maximum permitted within Medium Density Policy Area 12.

## 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:*

*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**

All garages are to be setback a distance of 5.5 metres from the street property boundary with upper storey sections to be set forward some 5.1 metres from the front property boundary to help reduce the visual dominance of the garages located below.

*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**

The proposed access driveways have been assessed by Council's Engineering Department as being acceptable.

<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><b>Complies</b></p> <p>The double garages of all dwellings are to be incorporated under the main roof thereby complementing the architectural elements of the associated dwellings.</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><b>Partially Complies</b></p> <p>Whilst the garage doors of all dwellings each measure 4.8 metres in width being less than the 6 metre maximum length prescribed opposite, each door exceeds 50 per cent of the width of each individual allotment.</p>
<p><b>Car Parking</b></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><b>Complies</b></p> <p>All dwellings will provide a total of four (4) on-site car parking spaces comprising (2) undercover and two (2) visitor spaces within the driveway area forward of each garage.</p>
<p><i>On-site vehicle parking should be provided having regard to:</i></p> <p><i>(a) the number, nature and size of proposed dwellings</i></p> <p><i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i></p> <p><i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i></p> <p><i>(d) availability of on-street car parking</i></p> <p><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 &amp; Access: PDC 43</i></p>	<p><b>Complies</b></p> <p>a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.</p> <p>b) Centre facilities and public transport are located in walking distance of the dwellings.</p> <p>c) The likely occupants are anticipated to have standard mobility and transport requirements.</p> <p>d) e) One (1) on-street car parking space shall remain available adjacent the subject land between the driveways of Dwellings (1) and (2), however on-site parking exceeds that sought to compensate for the loss of on-street parking.</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><b>Does Not Comply</b></p> <p>Subject to condition of approval 2, only one (1) on-street car parking space is to be provided for the proposed allotments, which fails to satisfy PDC 22.</p> <p>That having been said, the proposed development provides a total of 12 on-site parking spaces, 6 of which are designated for use by visitors to provide sufficient on-site parking for all three dwellings.</p> <p>Overall, the proposed development provides more than the required number of on-site parking spaces required, providing 5 more than that prescribed by Council's Development Plan.</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

Subject to condition of approval 2, the driveway crossover widths of all dwellings will be 5.0 metres in width to comply with PDC 39(b).

*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

*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*

### Does Not Comply

The proposed development provides three (3) vehicle access points to Winton Avenue with the driveway of Dwellings (2) and (3) measuring approximately 2.8 metres apart.

## 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

Whilst the subject land is located within the Local Centre Zone, I am of the opinion that the proposed dwellings reflect the desired character of the locality and adjoining Residential Policy Area, in that each dwelling incorporates an attractive presentation to the street. The dwelling façades incorporate the following elements to enhance their design and appearance:

- Mixture of brick, horizontal cladding and render on the front façade
- Stepping of upper and lower storeys to minimise building height, mass and proportion
- Protruding portico, balcony and cantilevered window awnings
- Eave overhang and pitched roof form at a 22.5 degree slope

The dwellings incorporate a 22.5 degree Colorbond roof in Slate Grey, with rendered facades. The garage of each dwelling features a Paper Bark Colorbond Panel lift door. These materials should not result in glare to neighbouring properties, drivers or cyclists.

The side elevations of the dwellings feature a mixture of rendered and horizontal brick cladding, fenestration and stepping 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.

*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*

### Complies

All three dwellings are designed so that their main facade faces the primary street

<p><i>which they are situated.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 15</i></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 &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p>	<p>frontage, presenting an entrance door, portico and habitable windows to the street.</p> <p><b>Complies</b></p> <p>The front doors of all three dwellings are clearly visible from the street as are the individual garages associated with each dwelling.</p> <p><b>Complies</b></p> <p>All three dwellings provide living areas which look out onto private rear yard areas.</p>
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## Overshadowing

<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> <p><i>(a) windows of habitable rooms</i></p> <p><i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i></p> <p><i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p><i>General Section: Design &amp; Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <p><i>(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</i></p> <p><i>(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></p> <p><i>(i) half of the existing ground level open space</i></p> <p><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></p> <p><i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 10</i></p>	<p><b>Partially Complies</b></p> <p>The applicant has provided shadow diagrams (enclosed in Attachment V) which illustrate the projected extent of overshadowing on 21 June (winter solstice). These diagrams illustrate that:</p> <p>a) North-facing windows to habitable rooms of the dwelling located to the south of the subject land at 1 Winton Avenue will receive no sunlight over the extent of the day on the 21<sup>st</sup> of June.</p> <p>b) Given that west forms the street boundary a majority of the winter shadow will be cast over the front yards of the proposed dwellings at 9:00am with the front of the dwellings experiencing increased sunlight between 12:00 noon and 3:00pm.</p> <p>The shadow plan indicates that the rear yard area of the dwelling at 1 Winton Avenue will experience sufficient sunlight between 9:00am and 12:00noon on the 21<sup>st</sup> of June but this will begin to diminish from 3:00pm onwards in the afternoon.</p> <p>It is considered that the rear yard areas of the dwelling at 1 Winton will receive sufficient sunlight on the 21<sup>st</sup> of June for a period of at least 3 hours during the day.</p> <p>The shadow plans would indicate that the northern side of the dwelling located at 1 Winton Avenue will be cast in shadow for the whole of the day on the 21<sup>st</sup> of June which does not comply with PDC 10.</p> <p>That having been said, the side setback of the upper storey of Dwelling (3) has been setback the required distance of 3 metres to help minimise overshadowing in accordance with Council's Development Plan.</p> <p>I am of the opinion that the extent of overshadowing to occur is not considered sufficient enough to jeopardise the merits of the overall proposal, as the maximum extent of shadow will only be cast for a portion of the day, and will be significantly less at other times of the year.</p>
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## 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

All three dwellings incorporate fixed obscure glazing to 1.7 metres above floor level for windows on the side and rear elevations.

Upper storey windows on the front elevation remain unobscured to provide surveillance to the street, and therefore should not result in overlooking of habitable areas.

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

### Complies

The dwellings are oriented in an east-west direction however, some portion of the open space and main activity areas associated with these dwellings face north for exposure to winter sun, thereby providing some level of solar access to open space areas all year around.

As identified in the Overshadowing section of this table, the proposed dwellings are designed and sited to ensure adequate winter sunlight remains available to the main activity areas of the adjacent dwellings at 1 and 1B Winton Avenue up until 3:00pm on the 21<sup>st</sup> of June.

*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 22.5 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 that the amended finished floor levels of the dwellings and finished paving levels and setbacks from boundaries should prevent the 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 development includes the provision of additional landscaping comprising vegetated strips within the front, side and rear yards of each dwelling and adjacent driveway areas.

Such landscaping comprises a combination of trees and medium to low level forms of vegetation including the retention of existing vegetation as indicated.

It is considered that once established, the landscaping will complement the built form and greatly enhance the appearance of the subject land when viewed from the street.

*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

Whilst the subject land is relatively flat, the site works plan submitted with the application indicates that some minor retaining walls are proposed along the side and rear boundaries of the subject land.

The installation of these minor retaining walls is considered necessary to direct stormwater to the front of the subject land. It is unlikely to expect that these walls will have a detrimental impact on the amenity of the adjoining owners and occupiers of land.

## REPRESENTOR'S CONCERNS

The concerns raised by the representors regarding the suitability of the subject land for dwelling development, the impact of two storey dwellings on the character of the locality and other amenity related impacts such as loss of privacy from overlooking and overshadowing concerns have all been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The concern raised by one representor regarding construction noise and other related noise issues is acknowledged however, a planning assessment under the Development Act 1993 does not allow consideration of this particular matter and hence is outside the scope of this assessment. That having been said, the applicant has provided a response in relation to this particular issue as part of the response to representations which is attached.

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## ANALYSIS/CONCLUSION

Whilst the site of the development is located within a Local Centre Zone, the preceding assessment has demonstrated that the proposed development reflects a form and density of housing development that comfortably complies with most of the relevant Objectives, Desired Character and Principles of Development Control for Medium Density Policy Area 12.

It is unlikely to expect that the existing group of shops and offices located to the north of the subject land will expand further beyond its current location. The existing shops and offices to the north of the subject land appear underutilised with a number of tenancies remaining vacant for a long period of time. With two large shopping precincts within close proximity to the Local Centre Zone, it is not expected the commercial uses will expand to take advantage of the Local Centre zoning of the subject land.

The land has been developed and used for residential purposes for the past 50 years and the zoning does not reflect the long held use of the land. The development of the site for medium-density housing is not expected to have a detrimental impact upon the longevity of the Local Centre Zone given the reasons set out above. As such, I am of the opinion that the proposed use of the subject land for residential purposes to be a more efficient and economic use of land despite being listed as a non-complying kind of development within the Local Centre Zone.

Despite being non-complying in nature, it is my view that the proposed development is not seriously at variance to the Development Plan. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan and therefore warrants the support of the Panel subject to the imposition of certain conditions being attached to the approval.

As previously identified during the assessment of this application, the subject land is ideally situated in close proximity to an existing Council Reserve to the south west and to public transport links and shopping opportunities to the north and north-east. As such, the subject land is considered to be an appropriate site for medium density development in accordance with Objective 2 of the Residential Zone.

It is considered that the proposal complies with a majority of the quantitative and qualitative provisions of the Development Plan with all three dwellings providing adequate building setbacks from adjoining properties, suitable areas of private open space and sufficient provision for at least three to four on-site car parking spaces per dwelling. Where shortfalls have been identified, they have been found to have minor repercussions without having a detrimental impact on the function of the proposed or existing dwellings within the locality.

In terms of design and appearance, the proposed dwellings will be well articulated incorporating various design elements along external walls to provide a high degree of visual interest. The proposed dwellings generally accord with the desired character of the policy area and are considered to be in keeping with the design and density of development that is envisaged within the adjoining Residential Policy Area - Medium Density Policy Area 12.

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 the support of the Development Assessment Panel and the Development Assessment Commission subject to conditions.

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## 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: 100/2014/1434 to construct three, two storey row dwellings with associated car parking and landscaping at 1A Winton Avenue Warradale 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 Site and Elevation plans stamped dated received 12 September 2014, the Statement of Effect prepared by Urban Innovations stamped dated received 12 September 2014 and the Engineered Siteworks and Drainage Plan prepared by RCI Consulting Engineers stamped dated received 22 December 2014 all submitted with and forming part of Development Application No. 100/2014/1434 except where varied by the following conditions of consent.
2. Amended plans shall be provided to Council, for consideration and approval, detailing the following;
  - a. The northern side of the driveway of Dwelling (2) shall be straighten to provide convenient access into this driveway with the removal of the Council street tree to the front of the subject land;
  - b. The southern side of the driveway of Dwelling (1) shall be tapered to provide a minimum distance of 6.0 metres to the driveway of Dwelling (2), to allow for the creation of an on-street parking space between these two driveways;
3. 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](http://www.marion.sa.gov.au/page.aspx?u=181)*

4. 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.
5. 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.
6. 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.

7. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
8. 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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; 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>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 – 3.2</b>
<b>Originating Officer:</b>	<b>Joanne Reid Development Officer - Planning</b>
<b>Applicant:</b>	<b>Bonython Developments Pty Ltd</b>
<b>Development Description:</b>	<b>Ten, two storey row dwellings and three, two storey residential flat buildings each comprising two dwellings with common driveway access, 2m high masonry front fencing on the western boundary, associated car parking and landscaping</b>
<b>Site Location:</b>	<b>817 Marion Road, Mitchell Park</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Medium Density Policy Area 12</b>
<b>Application Type:</b>	<b>Category 3 / Consent</b>
<b>Lodgement Date:</b>	<b>12/11/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/2043</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### CATEGORISATION & DELEGATION

The subject application is a Category 3 form of development pursuant to Section 38 (2)(c) of the Development Act, which prescribes that any development that is not assigned to a category under the Development Regulations 2008 or the Marion Council Development Plan will be taken to be a Category 3 development.

The development incorporates three buildings comprising dwellings that are two storey in height, and the categorisation has been adopted in accordance with His Honour Judge Costello's observation in *Cheesman v Town of Walkerville* [2012] SAERDC 59, where a development cannot be described as "a building of two storeys comprising dwellings" if it contains two [or more] buildings, and therefore cannot comprise a Category 2 Development in accordance with Clause 18 of Schedule 9.

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

Additionally, the application is required to be determined by the Development Assessment Panel given that the development has received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans.

## BACKGROUND

As some Members are likely to be aware, a similar proposal, which comprised two storey row dwellings and single storey group dwellings and residential flat buildings was previously determined by the Panel at its meeting of 4 June 2014. The decision to refuse Development Plan Consent was appealed by the applicant, which has been adjourned pending the outcome of this application.

The subject application has been lodged as a new application to be assessed on its merits in its own right, however it should be acknowledged that the application was lodged to address a number of concerns raised by the DAP for the previous application.

For Members' benefit, the most pronounced differences between the first proposal and this application is as follows:

- Changing Dwellings 1 to 6 from single storey to two-storey to reduce the footprint of the building and create a greater sense of space around the driveway and carparking areas as well as providing improved opportunities for passive surveillance over the common areas of the site.
- Gate access provided for Dwellings 7 to 10 from common driveway with transparent material to provide views into common driveway.
- A small balcony incorporated into Dwellings 8, 9, 11 and 12 for additional passive surveillance opportunities over common areas.
- Removing the pin access gates along the walkway to reduce entrapment spots on the site.
- Greater number of on-site car parks with only visitor carparks separated from dwellings.
- Driveway behind Dwellings 11 to 16 designed to provide secondary use as a communal courtyard with gate access to slow vehicle traffic to the area and edible landscaping and seated areas provided.

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

Amendments Requested	Amendments Made
Move the upper storey built form of Dwellings 1 to 6 forward (southwards) closer to the front of the lower storey.	Applicant felt that moving the upper storey forward would create additional issues (such as overlooking) and felt that the upper storey proposed and the large ground floor entry window would provide adequate passive surveillance over the common areas and the walkway.
Reduce the number of bedrooms from three to two for Dwellings 13 and 15 given only one on-site car park has been provided.	No change made to the proposal.
Ensure vehicle associated with Dwellings 10 and 16 can adequately enter and exit the site in a forward direction.	Vehicle manoeuvring on the site reviewed and amended accordingly with assistance from Phil Weaver, Traffic Engineer.
Provide an additional 2 car parking spaces to total 8 spaces (1 per 2 dwellings) to compensate for lack of on-street car parking around site.	No amendments made – On-site car parking provided exceeds the rate prescribed by the Development Plan.

Increase finished floor level of Dwellings 10, 11 and 12 by 50mm to 100.15	Engineering plan amended to provide finished floor levels as requested.
Provide edible landscaping in 'Community Court' to improve the usability of the area and provide reason for occupants to frequent area.	Landscape plan shows raised planter boxes to be incorporated in area for planting vegetables and dwarf fruit trees added to area.
Remove Canary Island Date Palm from the middle of the central plaza to minimise the potential for conflict with vehicles.	Feature Canary Island Date Palm moved into garden bed adjacent visitor car park area.

## SUBJECT LAND & LOCALITY

The subject land is located at 817 Marion Road in Mitchell Park. The site is a large, rectangular shaped allotment comprising a total site area of 3750 square metres and maintaining a frontage width of 50.29m to Marion Road and a depth of 74.58m. A frontage width of 11.88m is also provided to Sampson Road, at the south-east corner of the land. A 3.66m wide easement belonging to the Minister for Infrastructure is located along the southern boundary of the site.

The site contains a large hall or community building which has existing use rights as a place of worship. The area surrounding the building is predominantly bitumen or gravel for the use of car parking, with line markings for this purpose on the eastern side of the site. A 3.6m wide easement belonging to the Minister for Infrastructure is located along the southern side boundary.

There are three existing access points to the site, one located off Sampson Road on the eastern side of the site and two located on Marion Road; one approximately 24m from the northern boundary and another approximately 18m further south. The area of Marion Road adjacent the land contains a bicycle lane and is a Clearway between the hours of 4.30pm and 6pm Monday to Friday. A restriction on street car parking is sign-posted along Sampson Road between Waterman Terrace and the bend adjacent the subject land.

The land maintains a slight gradient of approximately no more than a 300mm fall from the south to north. The trees on or adjacent the land are not regulated or significant, despite a large Lemon Scented Gum being located on the south eastern corner of the site on account of the tree being sited less than 10m from a dwelling. A willow myrtle is also situated on the adjoining land to the east, however this tree exhibits a trunk circumference of less than 2m.

The adjacent land uses to the south, east and across Marion Road to the west and predominantly residential in nature, comprising mainly single storey detached dwelling sites with new and existing development in the form of group dwellings or residential flat buildings more common on the western side of Marion Road. Adjoining the site to the north is a secondary school (Hamilton Secondary School).

The subject site is located approximately 550m from the Marion Train Station, approximately 600m to the Mitchell Park Sports Club Reserve on Waterman Terrace and approximately 800m from the Park Holme Shopping Centre on the corner of Marion and Oaklands Roads.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The application comprises the construction of 10, two storey row dwellings fronting Marion Road and 6 two storey dwellings located to the rear in the form of 3 residential flat buildings each comprising two dwellings. A single access point is proposed on Sampson Road, from which all vehicles associated with the 16 dwellings enter and exit the site to their associated car parking spaces.

Six of the two storey row dwellings contain one bedroom (with ensuite) and an open plan kitchen/living/dining area located on the ground floor and two bedrooms, bathroom and laundry located upstairs. Four of the row dwellings include the same floor plan downstairs, with only one other bedroom upstairs as well as a bathroom, laundry and study with balcony access.

The two storey residential flat dwellings will each include a bedroom, separate bathroom, laundry and an open plan kitchen/living/dining on the ground floor. The upper floor incorporates two bedrooms and a separate bathroom.

Each of the two storey residential flat dwellings (Lots 1 to 6) and row dwellings on lots 7, 10, 14 and 16 are afforded with two car parking spaces, these being in the form of one undercover space and one tandem space for Lots 1 to 6 and a double carport for the row dwellings. Dwellings 8, 9, 11, 13 and 15 maintain a single-width carport only, this being the only allocated car parking space available to the dwellings. Six unallocated visitor spaces are provided close to the entrance along the southern boundary.

A masonry front fence is proposed along the front (western) boundary of each of the row dwellings which provides some level of protection from the impacts of Marion Road but also allows for the provision of a secondary POS/service yard in front of the dwelling.

Both the row dwellings and the residential flat buildings have a similar theme in the use of materials, textures and colours which comprise a combination of brick, render and timber feature walls, powder coated aluminium frame windows and panel lift garage doors.

The row dwellings display a variety of facades but are symmetrical in their presentation. The last three dwellings on each end exhibit a similar appearance with a skillion pitched roof, whilst the middle four dwellings maintain a flat roof pitch. The residential flat dwellings incorporate a pitched roof, although this is hidden behind the parapet façade when viewed from the front of the dwelling.

Vehicular access to the site is proposed from Sampson Road. The driveway forms an 'L' shape, with the driveway travelling in a westerly then northerly direction which facilitates rear loading access for the row dwellings.

A pedestrian walkway is proposed along the southern boundary providing unimpeded access from Sampson Road to Marion Road and vice versa.

Landscaping has been distributed throughout the site with 1m wide landscaping strips provided along the southern boundary, alongside the walkway and along the northern and eastern boundaries of the common driveway. In front of the residential flat dwellings, a combination of trees and shrubs will be placed in between the driveway areas. Garden beds are proposed on each end of the visitor car parks incorporating a variety of small shrubs and sedges as well as a large Canary Island Date Palm to be a feature of the 'Central Plaza'.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	21 properties were notified during the Category 3 public notification process.
<b>Representations:</b>	2 representations were received by Council Mr G Zimmermann – 10 Sampson Road, Mitchell Park Mr Y Kokubun – 819 Marion Road, Mitchell Park
<b>Persons wishing to be heard:</b>	Both representors have indicated a desire to be heard by the Development Assessment Panel.

<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• Insufficient car park spaces at the development.</li> <li>• Increased frequency of cars parked on Marion Road.</li> <li>• There is restricted parking on Sampson Road (bend in road) at the development's entrance.</li> <li>• Parking options around site are a hazard.</li> <li>• The public right of way needs to be retained both during and after the development – consider this during fencing of construction site.</li> <li>• Concern raised regarding overshadowing.</li> <li>• Concern raised regarding noise during construction.</li> </ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	<ul style="list-style-type: none"> <li>• The proposed number of car parks exceeds that required by the Development Plan.</li> <li>• An expert traffic engineer has undertaken an extensive review of the proposed development and was of the opinion that 5 visitor parking bays were sufficient for the entire development and noted that Marion Road offered significant visitor parking during the hours not a clearway.</li> <li>• No legal right of way exists for third parties or the general public over the site.</li> <li>• The site has been open during its use as a place of worship without any formal permission and no legal obligation exists to permit this thoroughfare to continue in any form.</li> <li>• The proposed development does allow and plan for the public thoroughfare to continue, designed to be a clear, uninterrupted, with high levels of surveillance and well lit walk-way.</li> <li>• Access would not be allowed during construction for reasons of public safety.</li> <li>• All relevant noise and related laws will be adhered to during the construction phase of the development.</li> <li>• It is not anticipated that any more interruptions will be experienced than that which currently occurs.</li> <li>• Happy to cooperate as much as is practically possible to minimise impacts on property at 819 Marion Road.</li> <li>• Overshadowing will be an improvement to that currently experienced from existing building.</li> <li>• The development maintains a wide side setback at 3.7m way from the common boundary with 819 Marion Road.</li> <li>• There is approximately 6m separation between the proposed house and the dwelling at 819 Marion Road thus allowing natural light to reach the dwelling all year round.</li> </ul> <p style="text-align: right;"><i>Refer Attachment V</i></p>

## GOVERNMENT AGENCY REFERRAL

<p><b>Department of Transport, Energy and Infrastructure (DPTI):</b></p> <p><i>Refer Attachment VI</i></p>	<ul style="list-style-type: none"> <li>• It is DPTI's Policy to minimise access points on arterial roads, therefore DPTI supports all access to the dwellings via Sampson Road.</li> <li>• Council should be satisfied that an appropriate amount of car parks has been provided to service the dwellings and that all parking is consistent with AS/NZS 2890.1:2004.</li> <li>• It should be noted that on-street car parking along Marion Road is prohibited and that any overflow from the proposed car parking will need to be accommodated along the nearby road network.</li> <li>• DPTI does not object in principle to the development and recommends a number of conditions.</li> </ul>
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## INTERNAL DEPARTMENT COMMENTS

<p><b>Engineering:</b></p>	<ul style="list-style-type: none"> <li>• Finished floor levels for Residences 10, 11 and 12 need to be at least 150mm above adjacent finished paving levels, therefore the floor levels need to be raised to 100.15.</li> <li>• Review vehicle access out of Dwelling 16. Landscaping should be restricted to ground covers only.</li> </ul>
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## DEVELOPMENT ASSESSMENT

The relevant objectives, desired character and principles of development control from the Marion Council Development Plan are listed in the following table and discussed in further detail below:

Medium Density Policy Area 12	
<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2 Development that minimises the potential impact of garaging of vehicles on the character of the area.</li> <li>3 Development that supports the viability of community services and infrastructure and reflects good residential design principles.</li> <li>4 Development that contributes to the desired character of the policy area.</li> </ol>	
<p><b>Desired Character</b></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	The following forms of development are envisaged in the policy area: ▪ group dwelling ▪ residential flat building (buildings between one and three storeys) ▪ row dwelling	<b>Complies</b>
PDC 4	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.	<b>Complies</b> 42.6 dwellings per hectare all in the form of 2-storey buildings  Net density equates to 54.6 dwellings per hectare.
PDC 6	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.	<b>Complies</b>
PDC 7	Minimum Site Area:  Residential Flat Dwellings – 250m <sup>2</sup> average Row Dwellings – 210m <sup>2</sup>	<b>Does Not Comply</b>  <i>Residential Flat Buildings</i> Lots 1 to 6 – 175m <sup>2</sup> average  <i>Row Dwellings</i> Lot 7 – 192.5m <sup>2</sup> Lot 8 – 145.8m <sup>2</sup> Lot 9 – 145.8 m <sup>2</sup> Lot 10 – 160 m <sup>2</sup> Lot 11 – 145.3 m <sup>2</sup> Lot 12 – 144 m <sup>2</sup> Lot 13 - 144 m <sup>2</sup> Lot 14 – 155.8 m <sup>2</sup> Lot 15 – 144.3m <sup>2</sup> Lot 16 – 200.8 m <sup>2</sup>  Average site area over the whole of land equates to 234m <sup>2</sup>
	Minimum Frontage:  Residential Flat Building – 18m (Driveway 6m) Row Dwellings – 7m	<b>Partially Complies</b> <i>Residential Flat Buildings</i> Total site frontage – 12.04m (Sampson Road frontage) Driveway entry - 8.2m  <b>Does Not Comply</b> <i>Row Dwellings</i> Lot 7 – 5.555m Lot 8 – 4.51m Lot 9 – 4.51 m Lot 10 – 4.51 m Lot 11 – 4.51 m Lot 12 – 4.51 m Lot 13 - 4.51 m Lot 14 – 4.51 m Lot 15 – 4.51 m Lot 16 – 5.915m

	<p><i>Minimum Depth:</i></p> <p><i>Residential Flat Buildings – 45m</i> <i>Row Dwellings – 20m</i></p>	<p><b>Complies</b> <i>Residential Flat Buildings</i> Lots 1 to 6 – 50.29m <i>Row Dwellings</i> Lots 7 to 16 – 32.94m</p>
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## Assessment

The proposed development satisfies a number of the Objectives and Principles specified in the Medium Density Policy Area 12.

The location of the site is conveniently located within walking distance to public transport nodes including Marion Train station approximately 500m away and bus stops on Marion Road. Park Holme Shopping Centre is in the order of approximately 500m north of the site, whilst the Mitchell Park reserve is located approximately 600m away which supports a wide range of recreational and sporting facilities. Additionally, the Tonsley site is located approximately 1.5km south-east 'as the crow flies', and the proposed dwellings are low maintenance in their design and suitable for a range of household and demographic types. The buildings comprise both two and three bedroom dwelling types to provide a variety of accommodation options suited to address different needs.

The proposal is generally considered to display consistency with Objectives 1 and 3 where it is a widely held view that higher densities close to key infrastructure elements enhances the viability of these services.

The layout of the design which provides rear loading to Dwellings 10 to 16 via the common access off Sampson Road, achieves Objective 2 which seeks to minimise the impact of garaging on an area as any views of the garages from the public road will be eliminated.

The subject land is in excess of 3500 square metres, equivalent in size to the amalgamation of 4 to 5 'undeveloped' residential allotments. Large scale development such as that proposed enables the opportunity to provide cohesive streetscapes, as sought within the Desired Character; creating dwellings that are somewhat uniform in appearance and where achievable, ensuring the design of dwellings minimises impacts on future occupants by locating walls and windows appropriately. The larger site area and the availability of two road frontages provides a unique opportunity to provide single access to the site, with the added benefit of removing access from a main arterial road.

The proposed development also adds to the diversity of dwellings in the wider locality where detached dwellings on medium to large allotments are the predominant form. The proposal will not result in the removal of any regulated or significant trees and there are no street trees obstructing any proposed access points. Landscaping is provided within the site to soften the hard standing areas, enhance the appearance of the site when viewed from the street and within the site as well as encourage and facilitate communal interaction within the site.

It is noted that the residential flat buildings represent a 75 square metre or 30% shortfall in site area and for the row dwellings, between a 9 square metre (4%) and 66 square metre (31%) shortfall in the required minimum site area.

There is however substantial merit in considering densities higher than the Policy Area envisages with regard being had for the following:

- The site is in close proximity to key infrastructure including public transport, a centre zone, secondary and tertiary education facilities and public open space.
- The proposal complies with the gross and net densities envisaged within Principle 4 of the Policy Area 12.
- The overall site area provides an opportunity to develop the land in a deliberate and coordinated fashion, where each dwelling is proposed to be built to a similar scale and

integrated with one another, whilst minimising impacts on existing adjoining residential properties.

- As identified by the applicant's traffic engineer, there will be negligible traffic impact on the adjoining road network as the majority of traffic movements will occur to and from the west via Waterman Terrace. The peak vehicle movements of approximately 100 per day during peak hours will be less than that associated with the peak traffic generation of the previous use of the land as a place of worship.
- The site areas of the proposed dwellings have been calculated excluding the common driveway and visitor parking areas, in accordance with the approach adopted in *Sauer & Ors v City of Charles Sturt & Anor [2011] SAERDC 18*. Despite the undersized nature of the allotments, the site, at 3750m<sup>2</sup>, is larger than the minimum sought to accommodate 10 row dwellings and six group/residential flat dwellings (10 x 210m<sup>2</sup> = 2100m<sup>2</sup> + 6 x 250m<sup>2</sup> = 1500m<sup>2</sup> : (2100m<sup>2</sup> + 1500m<sup>2</sup> = 3600). This suggests that the gross density of the subject land remains in accordance with that anticipated to occur within the Medium Density Policy Area 12.
- The proposal is considered to be functional in its design to provide adequate private open space, car parking, vehicle manoeuvrability, and setbacks which generally accord with the provisions of the Development Plan (as discussed in further detail below in this report).

All 10 row dwellings are deficient in their site frontage, providing a width of 4.5m for Dwellings 8 to 15 and 5.7m and 5.9m for Dwellings 7 and 16 respectively. In this instance, the garages do not present to the Marion Road frontage, therefore, the need for the additional width to allow for access is unnecessary. To this end, the frontage widths of the row dwelling allotments are acceptable.

The proposal, in my view, is considered to display consistency with the Objectives, Desired Character and Principles of the Residential Medium Density Policy Area 12.

## Principles of Development Control

## Assessment

Site Coverage	
<p><b>Maximum site coverage:</b> Site area less than 270 m<sup>2</sup>: 100 m<sup>2</sup> or 40% (whichever is the greater)</p> <p><b>100m<sup>2</sup> is relevant</b></p> <p style="text-align: right;"><i>Medium Density Policy Area 12: PDC 8</i></p>	<p><b>Does Not Comply</b> Dwelling 1 – 112.3m<sup>2</sup> Dwelling 2 – 111.2m<sup>2</sup> Dwellings 3 to 6 – 110.9m<sup>2</sup> Dwelling 16 – 107m<sup>2</sup></p> <p><b>Complies</b> Dwelling 7 – 98m<sup>2</sup> Dwelling 8 and 9 – 83.6m<sup>2</sup> Dwelling 10 – 98.3m<sup>2</sup> Dwelling 11 and 12 – 91m<sup>2</sup> Dwelling 13 – 87m<sup>2</sup> Dwelling 14 – 99m<sup>2</sup> Dwelling 15 – 87m<sup>2</sup></p>
<p>Site coverage for Dwellings 1 to 6 and 16 exceeds the minimum building footprint of 100m<sup>2</sup> by between 7m<sup>2</sup> and 12m<sup>2</sup>. Whilst in my view, the increased floor area is not by any means a significant departure, the increased site coverage for these dwellings is compensated by the other dwellings being below the site coverage requirements. When site coverage is calculated inclusive of the driveway, the total footprint represented by the buildings is 36%.</p> <p>Notwithstanding this, stormwater management on the site has been designed to redirect water away from the hardstanding areas by providing each dwelling with a 3000 litre rainwater tank and an appropriately sized detention tank to minimise the impact of the additional stormwater on Council's existing infrastructure, providing landscaping in areas not required for vehicle manoeuvring and directing stormwater into the landscaped areas through paving design and the use of swales.</p> <p>Accordingly, I am of the view that the site coverage on the site is acceptable.</p>	

<p><b>Maximum floor area ratio:</b> Site area less than 270 m<sup>2</sup>: 0.7</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p><b>Complies</b> Dwelling 7 - 0.68 Dwelling 16 - 0.65</p> <p><b>Does Not Comply</b> Dwelling 1 – 0.78 Dwelling 2 – 0.82 Dwelling 3 – 0.83 Dwelling 4 – 0.84 Dwelling 5 – 0.84 Dwelling 6 – 0.84 Dwelling 8 – 0.86 Dwelling 9 – 0.86 Dwelling 10 – 0.78 Dwelling 11 – 0.9 Dwelling 12 – 0.9 Dwelling 13 – 0.87 Dwelling 14 – 0.87 Dwelling 15 – 0.87</p>
<p>The floor area ratio of Dwellings 1 to 6 and 8 to 15 represents a substantial increase in the upper storey level of the dwellings than is desired by the Development Plan. The upper storey level for the dwellings, do generally sit flush with the lower storey as opposed to being recessed in, and whilst a high floor area ratio can represent a bulkier development that is potentially visually imposing on neighbouring dwellings, this is not deemed to be the case for this proposal.</p> <p>The setback incursions affect the 'internal boundaries' of the site, with the impacts less likely to be felt by the future occupants of the subject dwellings than if it were adjacent existing established dwellings. The nature of row dwellings being boundary to boundary often results in higher site coverage and/or floor area ratio, however, the proposed dwellings, in my view, do not have a bulk and scale that would adversely impact on existing neighbouring properties, nor the future occupants within the subject site.</p>	
<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> <li>(a) pedestrian and vehicle access and vehicle parking</li> <li>(b) domestic storage</li> <li>(c) outdoor clothes drying</li> <li>(d) rainwater tanks</li> <li>(e) private open space and landscaping</li> <li>(f) convenient storage of household waste and recycling receptacles</li> </ul> <p>General Section: Residential Development: PDC 13</p>	<p><b>Complies</b> Sufficient space is considered to have been provided for the purposes of storage, clothes drying, POS and landscaping, the details of which are discussed in other sections of the report.</p>
<p><b>Private Open Space</b></p>	
<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"> <li>(a) to be accessed directly from a habitable rooms of the dwelling</li> <li>(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</li> <li>(c) to take advantage of, but not adversely affect, natural features of the site</li> <li>(d) to minimise overlooking from adjacent buildings</li> <li>(e) to achieve separation from bedroom windows on adjacent sites</li> <li>(f) to have a northerly aspect to provide for comfortable year round use</li> <li>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>(h) to be partly shaded in summer</li> <li>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</li> <li>(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.</li> </ul> <p>General Section: Residential Development: PDC 15</p>	<p><b>Partially Complies</b> Dwellings 1 to 6 have north facing POS areas, are at ground level and accessible directly from habitable rooms.</p> <p>Dwellings 7 to 16 maintain POS with a northern aspect, a ground level area directly accessible from a living area to the rear.</p> <p>A 'secondary' POS area has been provided in front of the dwelling. Whilst this is generally not an accepted outcome, some regard must be given to the fact that the area will be screened with a masonry front fence for the purposes of minimising the noise impacts of being sited on an arterial road. The masonry fencing ensures that the area, whilst adjacent the highly trafficked Marion Road, will assist in</p>

	<p>complying with part (i) of Principle 15, whilst allowing a secondary area that can comprise waste bins, detention tanks and the like.</p>
<p><b>Site area less than 250 m<sup>2</sup>:</b>  20% of the site area or 35 m<sup>2</sup>, 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.</p> <p><b>20% is relevant for Lots 1 to 7 and Lot 16</b>  <b>35m<sup>2</sup> is relevant for Lots 8 to 15</b></p>	<p><b>Complies</b>  Dwelling 1 – 46m<sup>2</sup> (26%)  Dwelling 2 – 46.5m<sup>2</sup> (26%)  Dwellings 3 and 4 – 46.5m<sup>2</sup> (26.7%)  Dwelling 5 – 46m<sup>2</sup> (26%)  Dwelling 6 – 44m<sup>2</sup> (25%)</p> <p><b>Does Not Comply</b>  Dwelling 7 – 32m<sup>2</sup> rear POS (16.6%)  Dwelling 8 – 25.5m<sup>2</sup> rear POS (17.4%)  Dwelling 9 – 25.5m<sup>2</sup> rear POS (17.4%)  Dwelling 10 – 25.5m<sup>2</sup> rear POS (16%)  Dwelling 11 – 25m<sup>2</sup> rear POS (17.2%)  Dwelling 12 – 26m<sup>2</sup> rear POS (18%)  Dwelling 13 – 25.5m<sup>2</sup> rear POS (17.7%)  Dwelling 14 – 25.5m<sup>2</sup> rear POS (16.3%)  Dwelling 15 – 25.5m<sup>2</sup> rear POS (17.6%)  Dwelling 16 – 33.5m<sup>2</sup> rear POS (16.7%)</p> <p>The POS areas for Dwellings 7 to 16 have the rear POS areas fall up to 8.5m<sup>2</sup> short of the required 20% or 35m<sup>2</sup>. However, as mentioned in the previous point, I have had regard to the front yard of the dwellings being included as POS as it is acceptable for masonry screening to be provided as a noise attenuation measure on main arterial roads. This area provides an additional area of between 25m<sup>2</sup> and 35m<sup>2</sup> POS.</p> <p>The area provides additional space for the storage of bins, goods and chattels and will leave the rear POS area free of clutter for the enjoyment of the occupant(s).</p>
<p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b>  Each dwelling provides an area of POS that has a minimum area of 16m<sup>2</sup> and a minimum dimension of 4m with a gradient no less than 1-in-10</p>
<b>Street Setbacks</b>	
<p><i>Minimum setback from primary road frontage where no established streetscape exists: 8 metres from arterial roads</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Does Not Comply</b>  6.48m</p> <p>The 1.5m shortfall in setback is unlikely to have negative streetscape implications. The site does not have any neighbouring residential properties to the north and there is approximately 7.5m separation between the proposed development and the existing dwelling to the south, masking any apparent variance in setback between the two properties.</p> <p>It is assumed that part of the intent of the 8m setback requirement is to provide a level of separation to minimise noise impacts from main road. However, the front masonry fences will</p>

	<p>provide a sufficient level of noise attenuation, the windows on the western elevation are double glazed, and there is adequate space to provide additional landscaping for further screening.</p> <p>As such, I am satisfied that the setback proposed is acceptable.</p>
<p><i>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</i></p> <p><i>General Section: Residential Development: PDC 36</i></p>	<b>Complies</b>
<b>Side Setbacks</b>	
<p><i>Where the wall height is not greater than 3 metres: 1 metre</i></p>	<p><b>Does not comply</b></p> <p>Dwelling 1 – 940mm (eastern boundary)  Dwelling 2 – 900mm (western boundary)  Dwelling 3 – 900mm (eastern boundary)  Dwelling 4 – 900mm (western boundary)  Dwelling 5 – 900mm (eastern boundary)  Dwelling 6 – 900mm (western boundary)</p> <p>This is a minor variation that will have negligible impacts on the neighbouring properties and meets the requirements of the BCA for fire separation.</p>
<p><i>Where the wall height is greater than 6 metres:</i>  (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.</p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>Dwelling 1 – 2m (eastern side)  Dwelling 7 – 3.66m (southern side)</p> <p><b>Does not comply</b></p> <p>Dwelling 2 – 900mm (western side)  Dwelling 3 – 900mm (eastern side)  Dwelling 4 – 900mm (western side)  Dwelling 5 – 900mm (eastern side)  Dwelling 6 – 90mm (western side)  Dwelling 16 – 1.28m (2.45m required)</p> <p>The 900mm setback for Dwellings 2 to 6 in this instance is considered acceptable.</p> <p>As a larger scale integrated development, the internal layouts of the dwellings have been designed to place rooms and windows to minimise the visual impact of the lesser setbacks. Additionally, as the buildings are located a similar distance from each other, all future occupants will experience more or less the same impacts.</p> <p>In relation to Dwelling 16, the adjoining land to the north is a car park of a non-residential property and, as such the lesser setback is unlikely to result in unreasonable visual or amenity impacts to occupiers of this land.</p>

<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>General Section: Residential Development: PDC 38</i></p>	<p><b>Complies</b> No walls to be built on the existing property boundaries.</p> <p><b>Does not comply</b> Residences 8 to 15 abut both side boundaries, however this configuration is a requisite of row dwellings.</p> <p><b>Complies</b> Dwellings 1 to 6 and 7 to 16</p> <p>All walls are located immediately abutting the adjacent wall and constructed to the same length.</p>
<b>Rear Setbacks</b>	
<p><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b> Lots 1 to 6 – 10.5m Lots 7 to 16 – 11.5m</p>
<p><i>6 metres for a 2 or more storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b> Lots 1 to 6 – 11.9m Lots 7 to 16 – 13.275m</p>
<b>Building Height</b>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>(i) 2 storeys of not more than 9 metres</i></p> <p><i>(ii) 2 storeys plus attic of not more than 10 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b> 2 storeys of 8.2m</p>
<b>Garages, Carports and Outbuildings</b>	
<p><i>Carports and garages should be setback from road and building frontages so as to:</i></p> <p><i>(a) not adversely impact on the safety of road users</i></p> <p><i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p><b>Complies</b> The proposed development results in access being eliminated from Marion Road and all carports associated with the dwellings being accessed via Sampson Road. This will minimise vehicle conflict on Marion Road and is supported by DPTI.</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><b>Complies</b> The undercover car parking associated with Dwellings 1 to 6 are integrated into the façade of the dwelling using materials that complement the building with a consistent theme. The carports do take up greater than 50% of the lower storey and are slightly dominant given that the upper storey is set back substantially from the lower storey, however views of the buildings from the street will be limited.</p> <p>The carports associated with Dwellings 7 to 16 are detached from the building with its presentation incorporating a rendered frame in colours matching the theme of the development to conceal the lightweight nature of the structures.</p>

	The structures will present to the common driveway and have limited vision from the street.
<b>Car Parking</b>	
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i></p> <p><i>Row dwellings : 2 spaces per dwelling one of which is undercover</i></p> <p><i>Group dwellings/Residential Flat Dwellings: 1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.</i>  <i>Residential Zone: PDC 7</i></p>	<p><b>Does not comply</b>  Row Dwellings 8, 9, 11, 12, 13 and 15 – one undercover car parking space</p> <p><b>Complies</b>  Dwellings 1 to 6 – 2 car parking spaces per dwelling, one of which is undercover</p> <p>Dwellings 7 to 14 and 16 – 2 undercover spaces.</p> <p>6 visitor spaces</p>
<p>The proposed development does not comply with the Development Plan as row dwellings 8, 9, 11, 12 and 15 are only provided with one car parking space when it ought to be two.</p> <p>However, as the dwellings are intrinsically connected by a common access, the proposal more appropriately reflects a multi-dwelling site and applied car parking rate should be that of a group dwelling/residential flat building development. In this case the following calculations would apply:</p> <p><b>Resident car parks</b>  1.5 car parks x 16 dwellings = 24  26 car parks provided</p> <p><b>Visitor car parks</b>  16/3 = 5.3 car parks  6 car parks provided</p> <p>32 car parks provided, exceeds total required parks by 2.</p> <p>Notwithstanding that the proposed car parking rate is equal to that applied in the table above, the proposal provides surplus car parking when the (more applicable) group dwelling/residential flat building rate is applied to the development as a whole.</p> <p>Having said this, in my view, it would be ideal for Dwellings 13 and 15 to be a 2-bedroom dwelling given that only one car park has been provided and additional visitor car parks provided given the lack of on-street car parking close to the vicinity of the site. However, I do not consider this to be a basis on which the proposal warrants refusal as there are other factors, such as the proximity to public transport that could be regarded as justification for the number of car parks provided, as outlined in the following point.</p>	
<p><i>On-site vehicle parking should be provided having regard to:</i></p> <p><i>(a) the number, nature and size of proposed dwellings</i></p> <p><i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i></p> <p><i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i></p> <p><i>(d) availability of on-street car parking</i></p> <p><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 &amp; Access: PDC 43</i></p>	<p><b>Complies</b></p> <p>See below</p>

The site is located in close proximity to public transport nodes and shopping facilities and the provision of one or two car parks per dwelling is considered to meet the likely car parking demand.

Whilst on-street car parking in close proximity to the site is limited, the proposal includes 2 allocated car parking spaces surplus to the requirement plus 6 on-site visitor spaces which will assist in minimising instances of vehicles parking in nearby side streets.

The applicant's traffic consultant also considers that sufficient car parking has been provided to meet the likely demand.

The consultant's view is that a significant proportion are likely to park on Marion Road, which still offers parking opportunities outside the peak hour times of 4.30pm and 6pm, Monday to Friday. It should be noted however that DPTI have advised that Marion Road should not be relied upon for on-street parking, and as such, I have had little regard to the consultant's view on this point.

Whilst visitors to Dwellings 7 to 16 may park on Marion Road outside peak times, the on-site visitor car parks are nonetheless available for all dwellings. In the event that on-street parking is prevented on Marion Road, I am of the view that adequate on-site car parking has been provided to avoid the excessive and/or unsafe parking of vehicles on nearby roads

Accordingly, I agree with the traffic consultant that the number of on-site car parks will not result surplus vehicles parking well beyond the vicinity of the site.

<p><i>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</i></p> <p><i>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</i></p> <p><i>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</i></p> <p><i>(c) reinforce or contribute to attractive streetscapes.</i></p> <p><i>General Section: Transportation &amp; Access: PDC 44</i></p>	<p><b>Partially Complies</b></p> <p>The applicant has engaged a traffic engineer who has determined that the layout, dimensions and number of car parks both meet the Australian Standard and is likely to meet the car parking demand of the development.</p> <p>Whilst initial concerns were raised regarding vehicle manoeuvring out of the car parks servicing Dwellings 10 and 16, the plans have been amended to ensure this now complies with the Australian Standards for vehicle manoeuvring for a B85 design vehicle entering and exiting the site.</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 &amp; Access: PDC 45</i></p>	<p><b>Partially Complies</b></p> <p>All vehicle parking is accessed via a single common driveway, does not face the primary street and for Dwellings 7 to 16, located to the rear of the buildings.</p> <p>The proposal fails to meet Principle 45 (c) for Dwellings 1 to 6 with the under main roof carports located in line with the entrance. This shortfall does not, in my view, impair the visual appearance of the dwellings and will have limited exposure to the primary street.</p>
<p><b>Access</b></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><b>Complies</b></p> <p>Access to the site is via an existing crossover. The current access is located a sufficient distance from stobie poles and street trees.</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:					<b>Complies</b> The width of the driveway is a minimum of 6m at the crossover, widens to 8.2m at the entrance and reduces to 6.2m aisle widths. The access and vehicle manoeuvring within the site has been reviewed by a traffic consultant who has determined that compliance with AS2890.1:2004 has been achieved. Landscaping will be discussed further in the relevant section below.
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)	
8+	6	5	-	1.0	
General Section: Residential Development: PDC 41					<b>Complies</b>  See below
<i>Development should be provided with safe and convenient access which:</i> <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>					
General Section: Transportation and Access: PDC 23					
Access to and from the site is achieved from an existing access point off Sampson Road, and removes all access from Marion Road, achieving the desired outcome as sought by DPTI.					
The applicant's traffic engineer approximates that 100 vehicle movements per day with 10 trips per hour in peak periods are likely to be generated on the site, less than that associated with the peak traffic generation of the existing use of the Church.					
The consultant ascertains that the number of vehicle movements is able to be absorbed by the adjoining road network and there will be negligible impact on both Marion Road and Sampson Road.					
The provision of an external car space for Dwellings 1 to 6 behind the carport provide transitional space around the entrances to ensure residents and visitors are not in close proximity to passing vehicles when entering/exiting the dwellings.					
Further, this setback provides additional space for occupants to assess the vehicle visibility prior to exiting onto the driveway and allows space for vehicles exiting the carport/visitor space to sit idle and consider the area safe before entering on to the driveway.					

## 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) verandahs, eaves, parapets and window screens.*

*General Section: Design & Appearance: PDC 1*

*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*

*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 (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*

*Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.*

*General Section: Design & Appearance: PDC 16*

*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*

*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*

*Dwellings and accommodation at ground floor level should contribute to the character of the locality and create active, safe streets by incorporating one or more of the following:*

- (a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for occupants*
- (b) individual entries for ground floor accommodation*
- (c) opportunities to overlook adjacent public space.*

*General Section: Residential Development: PDC 4*

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

*General Section: Residential Development: PDC 6*

**Complies**

See below

The row dwellings presenting to Marion Road have been designed using a variety of materials and textures with both horizontal and vertical elements, use of different materials, colours and textures in the façade, protruding canopies and varying aluminium framed windows.

The buildings comprise a mix of built forms including parapets, skillion roof, protruding upper storey, brick veneer, stone and timber feature walls which results in a well-articulated building that provides visual interest to the street.

The building has a symmetrical appearance, with Dwellings 7, 8 and 9 and 14, 15 and 16 in the same style, Dwellings 10 and 13 presenting similarly and Dwellings 11 and 12 in the middle to be built in the same form. The variation in the design style of the various dwellings minimises the monotony of built form over the expanse of the development whilst the symmetry of the build maintains a coordinated appearance that is also sought in Principle 16.

The side walls of the two storey dwellings which are exposed, avoid any blankness by incorporating windows, vertical banding and use of different materials, finishes and textures.

The infill cladding below the skillion roof is shown to be colorbond in Woodland Grey. This is a standard roof material that is unlikely to create any glare that will cause distraction to motorists on Marion Road.

Dwellings 1 to 6 has the upper storey element set 5.6m back from the lower storey, which in my view, reduces its role as a distinguishing element and relinquishes the opportunity to enhance the appearance of the dwelling by minimising the dominance of the garages and providing visual interest to the built form. Further, this setback limits views from within the dwelling of the common driveway area directly in front of the buildings.

Nonetheless, the buildings are setback approximately 12m from the entrance and will have limited views from the street, particularly as the entrance of the site is located along the bend in the road. The entrance of the dwellings is in my view, a reasonable attempt to dress up the façade, using design elements such as blade walls, fenestration and timber front doors to offset and contrast the garage doors to provide a relatively appealing façade.

The upper storey provides articulation in its presentation by stepping the building at the corner and using slender windows and timber panelling to reduce the blankness in the wall. From the side and when viewed from adjoining properties, the buildings recess in from the lower storey, with windows and hipped roof form eliminating monotony in the presentation.

Foot access can be achieved to both the row dwellings and the group dwellings from either Marion Road or Sampson Road. An open pedestrian walkway from Marion Road into the site will enable efficient access for occupants and visitors of the residential flat dwellings from Marion Road, particularly when walking northwards such as to/from the Marion Train Station or Park Holme Shopping Centre. Access from Sampson Road will provide effective access for occupants undertaking activities eastward of the site.

The landscaping and paving of the driveway and car park areas has been designed to delineate between vehicular and pedestrian space, with the goal to reduce the apparent width of the driveway to soften the presentation of the hardstanding areas and to endeavour to slow vehicles entering and exiting the site. The use of pavers, in lieu of concrete or bitumen, is an attempt to alter the perception of the space to be not just a driveway, but a useful and attractive communal area.

The driveway area adjacent the western side of Dwellings 6 and the eastern side of Dwellings 11 to 16 proposes to be a dual use area, purposefully landscaped and furnished to provide a communal area for the occupants to gather. The sliding gate both slows traffic into the area and serves as a warning to visitors of the site to not proceed further into the driveway.

Despite the upper storey element of Dwellings 1 to 6 being slightly unorthodox for a two storey building, I am of the view that the proposal meets the majority of the Principles of Development Control within the Design and Appearance section of the Development Plan and is a suitably designed medium density development that will enhance the appearance of the site when viewed from Marion Road.

## 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 two storey built form of the row dwellings provides a good level of separation between the nearest adjacent property to the south and the proposed two storey dwellings to the east.

There is approximately 7.5m distance between Dwelling 7 and the closest habitable room window on the adjacent dwelling at 819 Marion Road.

Overshadowing diagrams show that the habitable room windows and the POS of the adjacent dwelling will not be affected by shadow for the majority of the day on 21 June.

The separation between Dwelling 7 and the adjacent southern property results in the shadow cast falling just short of the windows at 12 midday.

The POS will result in shadow being cast over the POS in the late afternoon and the area being free from shadow for greater than 2 hours of the day in accordance with Principle 10 (b).

Dwellings 1 to 6 will have no overshadowing impact on the site at 6 Sampson Road. The dwellings will create the most shadow over the eastern side property at around 3pm on 21 June. This will mostly be over the side of the dwelling which has an enclosed verandah located on the boundary.

The proposal will therefore not invoke unreasonable overshadowing impacts on existing adjacent dwellings such that Principles 9 and 10 are contravened.

## 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*

### Partially Complies

Dwellings 1 to 6 are not considered to be on battleaxed allotments but may fall in the 'or the like' category on account of the sites being accessible by a common driveway.

However, the dwellings are not located directly to the rear or side of POS of adjoining properties which is generally the case with hammerhead/battleaxed developments.

The proposed dwellings are sited in the same alignment and orientation as the allotments on the northern side of Sampson Road. Therefore, the dwellings are cognisant of development

	<p>that is located side-by-side facing the primary street.</p> <p>To this end, I am of the view that the impacts envisaged by applying this Principle are not relevant in this case as they will be no more unreasonable than a two storey dwelling with a conventional footprint and setback to a primary street.</p>
<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: 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></p> <p><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></p> <p><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> <p style="text-align: right;"><i>General Section: Design &amp; Appearance: PDC 12</i></p> <p><i>Permanently fixed external screening devices should be designed and coloured to complement the associated building's external materials and finishes.</i></p> <p style="text-align: right;"><i>General Section: Design &amp; Appearance: PDC 13</i></p>	<p><b>Complies</b></p> <p>See below</p>
<p>With respect to Dwellings 1 to 6, having the upper storey set well back from the lower storey will provide a 26m buffer between the building and the southern boundary fence. An analysis using a line of sight diagram suggests that any views over the lower storey would not exceed the height of the fence on that boundary.</p> <p>The window of Dwelling 1 on the eastern side is shown to be fixed with obscure glazing. The rear wall of Bedroom 1 on this dwelling extends out further to avoid overlooking towards the eastern side property. All other rear windows of these dwellings would overlook the school and therefore it is not deemed necessary to provide screening to the northern windows.</p> <p>There is approximately 20m separation between the rear upper level windows of the two storey row dwellings to Dwelling 6 on the other side of the common driveway. In my view, it is unnecessary to provide screening to this window as the separation distance combined with the carport roofs should minimise direct overlooking into the habitable rooms and the POS of Dwelling 6.</p> <p>Each of the two storey dwellings have an extended blade wall on the boundaries which will restrict overlooking into the POS areas of the adjoining dwelling. The balconies of Dwellings 8, 9, 11 and 12 are set in and views to the side will be limited.</p> <p>Dwellings 7 and 16 are the only dwellings which have windows facing existing adjoining properties. Dwelling 16 faces a school and it is not considered necessary to provide screening.</p> <p>It is recommended a condition to screen the upper storey southern side windows of Dwelling 7 be included to minimise overlooking to residential properties on this side which should allow for the proposal to sufficiently accord with Design and Appearance Principles 12 and 13.</p>	
<b>Noise</b>	
<p><i>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.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 26</i></p> <p><i>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.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 27</i></p>	<p><b>Complies</b></p> <p>The proposal incorporates masonry front fencing and double glazed windows as noise attenuation measures to minimise noise disturbance from Marion Road.</p> <p>Landscaping is shown to be included behind the front fence as an additional measure which incorporates plantings up to 1.5m in height.</p>

<p><i>External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:</i></p> <p><i>(a) active communal recreation areas, parking areas and vehicle access ways</i></p> <p><i>(b) service equipment areas and fixed noise sources on the same or adjacent sites.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 29</i></p>	<p><b>Complies</b></p> <p>The bedrooms of each of the dwellings are not located directly next to the driveway and have sufficient separation to minimise the impacts of noise.</p>
<b>Site Facilities and Storage</b>	
<p><i>Site facilities for group dwellings, multiple dwellings and residential flat buildings should include:</i></p> <p><i>(a) mail box facilities sited close to the major pedestrian entrance to the site</i></p> <p><i>(b) bicycle parking for residents and visitors (for developments containing more than 6 dwellings)</i></p> <p><i>(c) household waste and recyclable material storage areas away from dwellings.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 30</i></p>	<p><b>Complies</b></p> <p>There is considered to be sufficient space within private open space areas, garages and internal living areas for storage of personal items, waste and clothes drying.</p> <p>Letter boxes are proposed to be installed within the front masonry wall and close to the entrance from Sampson Road.</p> <p>I am therefore satisfied that the proposal is acceptable in this regard.</p>
<b>Energy Efficiency</b>	
<p><i>Development should provide for efficient solar access to buildings and open space all year around.</i></p> <p style="text-align: right;"><i>General Section: Energy Efficiency: PDC 1</i></p>	<p><b>Partially Complies</b></p> <p>Dwellings 1 to 6 and 16 make good use of the northern orientation by facing living areas and private open space in this direction. Dwellings 1 to 6 incorporate alfresco areas which will provide shading to the living area during the summer months.</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 style="text-align: right;"><i>General Section: Energy Efficiency: PDC 2</i></p>	<p>The skillion roofs for Dwellings 7 to 9 and 14 to 16 are orientated to have their slope fall from south to north. This will provide greater capacity to facilitate the installation of photovoltaic cells, albeit, the roof is pitched at 15 degrees and may not completely eliminate the need for framing.</p> <p>Dwellings 7 to 15 are limited in their ability to effectively utilise the northerly aspect to achieve energy efficiency gains within the dwellings themselves due to the nature of row dwellings having walls abutting each other. However, the buildings still have access to natural light through the eastern and western windows and a skylight is incorporated over the upper level bathroom to reduce the need for electronic lighting.</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 style="text-align: right;"><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 style="text-align: right;"><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 style="text-align: right;"><i>General Section: Energy Efficiency: PDC 5</i></p>	

## 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**

See below

*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*

Landscaping is proposed throughout the site, primarily along the walkway, adjacent the visitor car parks and along the edges of the driveway.

Dwellings 1 to 6 incorporate plantings in front of the dwellings comprising trees (Manchurian and Capital Pear trees), small shrubs and grasses. The trees are deciduous, thereby allowing natural light to come through the entrance window in winter. The tree can also reach a height of 10m where the foliage can grow beyond the height of the dwellings whilst maintaining a narrow trunk at window level to enable casual surveillance and satisfying CPTED principles.

There are two larger garden beds at each end of the visitor car park area incorporating a range of trees, shrubs and sedges. The most western bed will include a Canary Island Date Palm as a feature planting. The tree will be a focal point of this section of the communal area with the species of tree chosen for its lack of root growth.

A 1m wide landscaping strip along the southern side boundary adjacent the walkway (which reduces to 800mm adjacent the car park) is to be planted with Capital Pear trees, grasses and shrubs.

The landscaping along the eastern boundary of the common driveway adjacent to what is referred as a 'community court' will incorporate fruit trees and raised garden beds to encourage occupants to utilise the space and to provide opportunities for small scale food generation such as herbs and vegetables.

The landscaping along the southern boundary will be planted within a swale, with excess surface water being diverted from the middle garden bed to the landscape strips to maximise water retention to these areas and minimise the stormwater being directed to the street.

I am satisfied that the landscaping proposed will assist in achieving the outcomes identified in Principle 1.

<p><i>Fences and walls, including retaining walls, should:</i></p> <ul style="list-style-type: none"> <li><i>(a) not result in damage to neighbouring trees</i></li> <li><i>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</i></li> <li><i>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</i></li> <li><i>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</i></li> <li><i>(e) assist in highlighting building entrances</i></li> <li><i>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</i></li> <li><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></li> <li><i>(h) be constructed of non-flammable materials.</i></li> </ul> <p><i>General Section: Landscaping, Fences &amp; Walls: PDC 5</i></p>	<p><b>Complies</b></p> <p>The masonry front fence is shown to be constructed with varying tones of colour and 'broken up' with landscaping and a metal slat gate, which also allows for direct access to the sites from the primary street.</p> <p>The upper storey of the dwellings will 'draw the eyes' away and minimise dominance of this aspect of the building and the upper storey habitable room window will provide some level of casual surveillance over the street.</p> <p>The fence will be located approximately 20m from the closest access point to the south, providing sufficient space to enable clear sight lines for vehicles reversing out of the driveway onto Marion Road from adjoining land.</p> <p>All boundary fencing is proposed to be colorbond fencing up to 2m in height with the fencing along the southern boundary adjacent the visitor park to comprise double sheeting to provide some level of noise attenuation to the neighbouring property.</p> <p>In my view, the fencing proposed adequately complies with Landscaping, Fences and Walls Principle 5.</p>
<h2>Crime Prevention</h2>	
<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><i>General Section: Crime Prevention: PDC 1</i></p> <p><i>Buildings should be designed to overlook public and communal streets and public open space to allow casual surveillance.</i></p> <p><i>General Section: Crime Prevention: PDC 2</i></p> <p><i>Development should provide lighting in frequently used public spaces including those:</i></p> <ul style="list-style-type: none"> <li><i>(a) along dedicated cyclist and pedestrian pathways, laneways and access routes</i></li> <li><i>(b) around public facilities such as toilets, telephones, bus stops, seating, litter bins, automatic teller machines, taxi ranks and car parks.</i></li> </ul> <p><i>General Section: Crime Prevention: PDC 4</i></p>	<p>The inclusion of the second storey above Dwellings 1 to 6 enables opportunities for a greater level of passive surveillance over the common areas, particularly over the walkway and visitor car parking area, whilst the window at the entrance allows views out to the area immediately in front of the dwellings and towards the driveway area.</p> <p>Dwellings 7 to 16 have two upper storey bedroom windows with a window each overlooking on to Marion Road and the common area. Dwellings 8, 9 and 11 also have a balcony for added surveillance, albeit the dimensions do not make it a highly usable area.</p> <p>Dwellings 7 to 10 have a small gate attached to the carport to enable some views into the common area.</p> <p>The lower storey of Dwelling 7 maintains open views into the common walkway with picket style fencing adjacent the windows for surveillance through the walkway.</p> <p>Lighting is provided in the form of sensor lighting along the common</p>

	<p>walkway.</p> <p>The applicant has placed considerable importance on this aspect of the design and feels that there are numerous opportunities for activities over the common areas to be observed.</p>
<p><i>Development should provide a robust environment that is resistant to vandalism and graffiti.</i></p> <p style="text-align: right;"><i>General Section: Crime Prevention: PDC 3</i></p> <p><i>Landscaping should be used to assist in discouraging crime by:</i></p> <p><i>(a) screen planting areas susceptible to vandalism</i></p> <p><i>(b) planting trees or ground covers, rather than shrubs, alongside footpaths</i></p> <p><i>(c) planting vegetation other than ground covers a minimum distance of two metres from footpaths to reduce concealment opportunities.</i></p> <p style="text-align: right;"><i>General Section: Crime Prevention: PDC 6</i></p> <p><i>Site planning, buildings, fences, landscaping and other features should clearly differentiate public, communal and private areas.</i></p> <p style="text-align: right;"><i>General Section: Crime Prevention: PDC 7</i></p>	<p>As outlined in the 'landscaping' section, the species used are generally low level plantings and where trees are proposed, they are ornamental pear trees which have a high canopy and a thin, bare trunk.</p> <p>The landscaping is placed along the edges of fencing, providing separation and screening to minimise opportunities for graffiti and vandalism.</p> <p>The landscaping, in my view, achieves outcomes in deterring damage to common property whilst minimising opportunities for hiding spots or obscuring lines of sight.</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 style="text-align: right;"><i>General Section: Crime Prevention: PDC 10</i></p>	<p>The walkway along the southern side of the site is a key feature of the development, providing short-cut access to Marion Road for the occupants of Dwellings 1 to 6.</p> <p>The access is free and unrestricted, reducing the impact of the area being an entrapment spot. Whilst not completely free of risk, the walkway in that section is considered to be both seen and heard within the vicinity of Dwelling 7 and with 16 dwellings on the site, the entire site will invoke a perception that several people within a small area will respond to any undesirable activities occurring within the site.</p> <p>To this end, it is my view that sufficient consideration has been given to the CPTED principles as much as practicable without compromising other features on the site that are there to provide occupants with convenient walking and cycling opportunities.</p>

## REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to traffic on the adjacent road network and overshadowing have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The representors have also raised concerns over noise and access to the site during construction. 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.

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## ANALYSIS/CONCLUSION

The proposed development displays consistency with the Objectives and Desired Character Statement of the Policy Area, particularly as it explicitly encourages cohesive streetscapes, an increase in the availability of housing types within the locality, higher densities above existing and the siting of garages out of view from the public streetscapes.

The site's location, with its proximity to a Centre Zone, public transport, a tertiary institution and large and useful open space reserves is also a catalyst to suggest increased housing densities are appropriate as anticipated in the Objectives of the Residential Zone and Medium Density Policy Area 12.

The proposed development does fall short in frontage width, exceeds site coverage and floor area ratio and some setbacks. However, none of these non-compliances result in impacts to the existing dwellings around the site and it has been determined that the development is compliant in its setbacks from existing properties and will not result in unreasonable overlooking or overshadowing.

The two storey nature of the development provides smaller footprints for each building, providing opportunities for greater communal space for landscaping as well as for vehicle access, manoeuvring, car parking and pedestrian safety. The built form also lends itself to opportunities for passive surveillance from each building over the communal areas, providing both actual and perceived security over the entire site.

Landscaping on the site has been purposefully placed to enhance the attractiveness of the site, reduce the visual impact of the larger buildings on the site and improve the usability of communal areas.

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.

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## 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: 100/2014/2043 for ten, two storey row dwellings and three, two storey residential flat buildings each comprising two dwellings with common driveway access, 2m high masonry front fencing on the western boundary, associated car parking and landscaping at 817 Marion Road Mitchell 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. 100/2014/389, (being plans with drawing no. 13003-SD02A, titled 'Proposed Residential Development – 817 Marion Road, Mitchell Park', prepared by n.i.c design and received by Council on 12 February 2015) except when varied by the following conditions of consent.
- 2. Greater details of the party wall attachment between Dwellings 7 to 16 shall be provided to Council, for consideration and approval, prior to Development Approval being issued.
- 3. Wheel stop devices shall be placed within each parking bay adjacent the southern boundary so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of Council.
- 4. All vehicles shall enter and exit the property in a forward direction.
- 5. 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.
- 6. Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of the arterial road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.
- 7. 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.

*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](http://www.marion.sa.gov.au/page.aspx?u=181)*

- 8. All approved landscaping as identified in the landscape plan titled 'Proposed Landscape Plan', including planting of all trees, shrubs and ground covers, shall be completed prior to the occupation of the proposed dwelling, to the reasonable satisfaction of the Council.

9. 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.
10. All external car parking spaces shall be linemarked or delineated in a distinctive fashion prior to the occupation of the premises, with the marking maintained in a clear and visible condition at all times.
11. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with the recognised engineering practices prior to the occupation of the premises or the use of the development herein approved.
12. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
13. The portion of the upper floor windows to the southern elevation of Lot/Dwelling 7 less than 1.7m above the internal floor level shall be treated prior to occupation of the building in a manner that permanently restricts views of adjoining properties yards and/or indoor areas being obtained by a person within the room to the reasonable satisfaction of the Council. (Note, suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7m above the internal floor level or a window sill height of 1.7m above the internal floor level).
14. 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.
15. The windows on the western elevation of Lots/Dwellings 7 to 16 shall be double glazed for sound attenuation purposes.
16. Pedestrian walkways on the subject site shall be adequately lit and such lighting shall be maintained at all times, to the reasonable satisfaction of Council.
17. 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.
18. All 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. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time. The Environment Protection Authority has restrictions relating to the control of noise in the urban environment. Further information is available by phoning the Environment Protection Authority on 8204 2000.
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. Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development, to the reasonable satisfaction of the Council. (A suggested measure is to install a gravelled construction exit with wash down facilities).
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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; 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 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 - 3.3</b>
<b>Originating Officer:</b>	<b>Dylan O'Brien Development Officer - Planning</b>
<b>Applicant:</b>	<b>Mr James Manna</b>
<b>Development Description:</b>	<b>To construct five (5) dwellings, including a two storey dwelling to the front of the site and four single storey dwellings to the rear in a hammer head configuration with an associated driveway, on-site parking, gabion wall to the front of the site and landscaping</b>
<b>Site Location:</b>	<b>22 Greenasche Grove, Seacombe Gardens</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Medium Density Policy Area 12</b>
<b>Application Type:</b>	<b>Category 2/Consent</b>
<b>Lodgement Date:</b>	<b>08/07/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/1162</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of Schedule 9 Part 2, clause 18 (b) of the Development Regulations 2008, which assigns development that comprises 2 or more dwellings on the same site, where at least 1 of the those dwellings is two storeys high, as a Category 2 form of development.

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.

### BACKGROUND

The subject application is supported by a concurrent land division application, which indicates separate allotments associated with each dwelling (refer DA 100/C164/14).

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

Amendments Requested	Amendments Made
Number of dwellings on the land exceeds that sought by the Development Plan (excluding the common driveway)	No change to the total number of dwellings. Dwelling 1 has been changed to 2 storeys, and all five dwellings have been adjusted to provide improved Development Plan compliance.
Increase in front setback (Dwelling 1)	Dwelling setback has been increased from 4m to 5.88m.
Increase in private open space (Dwelling 1 and 4)	Private open space areas for Dwellings 1 and 4 have been increased to better accommodate future occupants needs.
Reduction in site coverage	Apart from Dwelling 1 which is now 2 storey, there is no discernible decrease in site coverage levels.
Improve vehicle manoeuvrability to ensure safe and convenient movements	Plans have been amended as per Council's traffic engineer's comments. Vehicle access and a safe and convenient standard of manoeuvrability to and from each dwelling can be achieved.
Increase in on-site visitor parking	Apart from each dwelling providing 2 dedicated on-site parking spaces, the proposal now provides a dedicated on-site visitor parking space.

## SUBJECT LAND & LOCALITY

The subject land is located at 22 Greenasche Grove, Seacombe Gardens; situated on the south/western side of the street at a bend in the road between Greenasche Grove and Sutton Avenue. The subject land comprises a large, irregular shaped allotment with a 12.192 metre frontage to Greenasche Grove and a maximum depth of approximately 58 metres to provide a total site area of 1302 square metres.

The subject land is virtually flat with an existing single storey detached dwelling which is set well back from the street property boundary. The subject land is devoid of any significant or regulated trees, whilst the certificate of title confirms that the land is clear of any easements or encumbrances.

The locality is characterised by a range of housing types comprising mainly original housing stock in the form of single storey detached dwellings and more recent development typically comprising single storey detached and semi-detached dwellings.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The applicant proposes to demolish the existing detached dwelling and other associated structures on the land and construct five (5) dwellings, including a two storey dwelling to the front of the site and four single storey dwellings to the rear. All dwellings will share a common driveway adjacent the eastern side boundary, whilst a dedicated visitor park is situated behind a gabion rock wall to the front of the site.

The driveway will include a 500mm landscaping strip along the eastern side boundary, as well as a number of separate garden beds in front of each dwelling.

Dwelling 1 incorporates all three bedrooms and bathroom on the upper floor, while the lower level features a laundry in the garage, a separate toilet and open plan lounge/kitchen/dining area.

Dwellings 2 and 5 include two bedrooms whilst Dwellings 3 and 4 comprise three bedrooms. All dwellings incorporate bedrooms, typical wet areas and an open plan kitchen/dining/living area directly accessible to/from private yard areas located to the rear of each dwelling.

All dwellings will be provided with a single width garage under the main roof as the only undercover parking space, whilst visitor parking is to be provided to the front of each garage within the individual driveways. A visitor parking space is located directly in front of Dwelling 1, and largely concealed behind a gabian rock wall and landscaping strip at the front of the site.

All dwellings will feature face brick (with Dwelling 1 incorporating some rendered elements) and will include colorbond roofing set at a pitch of 25 degrees.

*Refer Attachment III*

#### PUBLIC NOTIFICATION

<b>Properties notified:</b>	7 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	2 valid representations were received by Council including 1 against and 1 primarily against the proposal.
<b>Persons wishing to be heard:</b>	2 representators desire to be heard by the Panel.
<b>Summary of representations:</b>	<ul style="list-style-type: none"><li>• Loss of privacy;</li><li>• Loss of security;</li><li>• Noise pollution;</li><li>• Proposed density;</li><li>• Over-development of the site;</li><li>• Driveway/vehicle access for the number of dwellings;</li><li>• Insufficient visitor parking;</li><li>• Waste bin collection is going to be problem;</li><li>• Impact of increase noise disturbance levels;</li><li>• The number of dwellings concentrated on the site; and</li><li>• The visual impact of Dwelling 1(two storey).</li></ul> <p><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	The applicant has provided a response addressing above concerns – please refer Attachment V.

#### INTERNAL DEPARTMENT COMMENTS

<b>Engineering:</b>	<p>Council's Development Engineer initially raised concern regarding vehicle access to and from Dwelling 1.</p> <p>The applicant has amended the proposal and all vehicle access/parking and turning areas are considered adequate to provide safe and convenient vehicle movements.</p>
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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><b>Objectives</b></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><b>Objectives</b></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><b>Desired Character</b></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"> <li>▪ affordable housing</li> <li>▪ detached dwelling</li> <li>▪ group dwelling</li> <li>▪ residential flat building (buildings between one and three storeys)</li> <li>▪ row dwelling</li> <li>▪ semi-detached dwelling</li> <li>▪ supported accommodation.</li> </ul>	<p><b>Complies</b></p> <p>Residential flat building comprising 5 x dwellings</p>
PDC 6	<p>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.</p>	<p><b>Complies</b></p> <p>Access to each dwelling is via a single driveway/crossover.</p>

PDC 7	Minimum Site Area: Residential Flat Building (250m <sup>2</sup> average)	<b>Does Not Comply</b> Average of 204m <sup>2</sup> (excluding common driveway area).
	Minimum Frontage: 18m	<b>Does Not Comply</b> 12.192m
	Minimum Depth: 20m	<b>Complies</b>

## Assessment

In relation to the above provisions and desired character statement, the proposed development seeks to construct a residential flat building comprising 5 new dwellings one of which is two storey, on land where one dwelling currently exists to provide an envisaged form of housing at a greater density to that which currently exists on the land.

It is noted that the construction of the proposed dwellings will not require the removal of any regulated or significant trees, nor compromise the health of any existing mature vegetation on adjoining land. In addition, no existing Council street trees are to be removed or compromised to facilitate any new access driveways to/from the land.

It is also worth noting that the subject land is situated in close proximity to public transport links (bus) along both Morphet Road to the west and Sturt Road to the north. The subject land is also located within walking distance (less than 500 metres) to Westfield Marion located on the northern side of Sturt Road within the Regional Centre Zone.

Despite the shortfall in site area, it is noted that these figures excludes the common driveway, visitor car parks 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 dwellings would maintain an average site area of 260.4 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. With an average site area of 260.4 square metres per dwelling, this exceeds that required for five residential flat dwellings in the Medium Density Policy Area 12 (5 x 250m<sup>2</sup> = 1,250 square metres). Hence it is appropriate to conclude that the subject land could feasibly be developed to accommodate five dwellings.

The dwellings will be modern in appearance and display a sufficient degree of visual interest via articulation in the design, variation in the front setback, the use of different materials in the external finishes and an attractive gabian rock wall at the front of the site.

It is considered the proposed dwellings will make a reasonably positive visual impact within the locality, whilst the provision of additional landscaping along the driveway and to the front of the subject land will greatly enhance the appearance of the site once completed. The proposed dwellings therefore sufficiently achieve an attractive residential form of development as envisaged within 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:

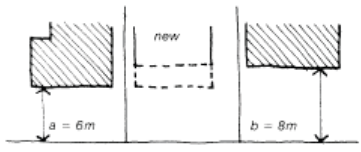
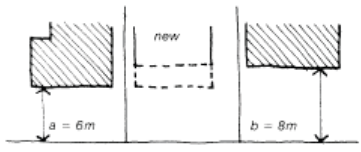
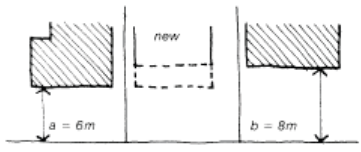
### Principles of Development Control

### Assessment

Site Coverage	
<p><b>Maximum site coverage:</b>  <i>Site area less than 270 m<sup>2</sup>: 100 m<sup>2</sup> or 40% (whichever is the greater)</i></p> <p><i>100m<sup>2</sup> is relevant in this instance</i></p> <p><i>Medium Density Policy Area 12: PDC 8</i></p>	<p><b>Complies</b>  Dwg 1: 89.90m<sup>2</sup> (50.5%)  Dwg 5: 99.70m<sup>2</sup> (45.3%)</p> <p><b>Does Not Comply</b>  Dwg 2: 112.8m<sup>2</sup> (60.6%)  Dwg 3: 123.2m<sup>2</sup> (57.3%)  Dwg 4: 123.2m<sup>2</sup> (56.5%)</p> <p>(Site coverage for whole of land equates to 42%)</p>
<p><i>Site area less than 270 m<sup>2</sup>: 0.7</i></p> <p><i>Medium Density Policy Area 12: PDC 8</i></p>	<p><b>Does Not Comply</b>  Dwg 1: 0.72.</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <li><i>(a) pedestrian and vehicle access and vehicle parking</i></li> <li><i>(b) domestic storage</i></li> <li><i>(c) outdoor clothes drying</i></li> <li><i>(d) rainwater tanks</i></li> <li><i>(e) private open space and landscaping</i></li> <li><i>(f) convenient storage of household waste and recycling receptacles</i></li> </ul> <p><i>General Section: Residential Development: PDC 13</i></p>	<p><b>Complies</b>  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><b>Does Not Comply:</b>  Approximately 150m<sup>2</sup> or 11.5%.</p>
Private Open Space	
<p><i>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</i></p> <ul style="list-style-type: none"> <li><i>(a) to be accessed directly from a habitable rooms of the dwelling</i></li> <li><i>(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</i></li> <li><i>(c) to take advantage of, but not adversely affect, natural features of the site</i></li> <li><i>(d) to minimise overlooking from adjacent buildings</i></li> <li><i>(e) to achieve separation from bedroom windows on adjacent sites</i></li> <li><i>(f) to have a northerly aspect to provide for comfortable year round use</i></li> <li><i>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</i></li> <li><i>(h) to be partly shaded in summer</i></li> <li><i>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</i></li> <li><i>(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.</i></li> </ul>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) All POS areas are directly accessible from habitable rooms of the associated dwelling</li> <li>b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy</li> <li>c) The subject land does not maintain natural features which warrant preservation</li> <li>d) The POS areas should not be directly overlooked by adjacent buildings</li> <li>e) POS areas are not located next to bedrooms of dwellings on adjacent sites</li> <li>f) The proposed POS areas maintain a northerly aspect to provide for comfortable year round use</li> <li>g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>h) POS areas are capable of being shaded during summer</li> <li>i) Traffic, industry or other business activities</li> </ul>

<p>General Section: Residential Development: PDC 15</p>	<p>should not affect the subject land j) The POS areas are considered to have sufficient shape and area to be functional.</p>
<p><b>Site Area 250 m<sup>2</sup> or greater:</b> 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.</p> <p><b>Site area less than 250 m<sup>2</sup>:</b> 20% of the site area or 35 m<sup>2</sup>, 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.</p> <p>General Section: Residential Development: PDC 17</p>	<p><b>Partially Complies</b> (&gt;250m<sup>2</sup>): Dwg 1: 53.8m<sup>2</sup> = 29.70%, but fails to provide 5m by 5m minimum dimension.</p> <p><b>Complies</b> (&lt;250m<sup>2</sup>): Dwg 2: 50.0m<sup>2</sup> = 26.88% Dwg 3: 56.0m<sup>2</sup> = 26.04% Dwg 4: 66.7m<sup>2</sup> = 30.59% Dwg 5: 77.0m<sup>2</sup> = 35.00%.</p> <p>Note: the average POS for the whole of the land equates to 23.31%. To this end, the proposal is compliant in both instances.</p>

## Street Setbacks

<p>Except in areas where a new character is desired, the setback of buildings from public roads should:</p> <p>(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.</p> <p>General Section: Design and Appearance: PDC 23</p>	<p><b>Complies</b></p> <p>The subject locality is one where a new character is desired, and therefore the setback of proposed Dwelling 1 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 5.8 metres is similar to that of new dwellings in the locality.</p> <p>It is also of value to note that due to the 'elbow' in the road, the front boundary of the subject land is set back 10 metres from the street kerb; compared to a typical setback of 4.5 metres for most other properties with a frontage to Greenasche Grove or Sutton Avenue. As such, the setback from the front boundary will be exaggerated by the generous road reserve.</p>								
<p>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:</p> <table border="1"> <thead> <tr> <th>Setback difference between buildings on adjacent allotments</th><th>Setback of new building</th></tr> </thead> <tbody> <tr> <td>Up to 2 metres</td><td>The same setback as one of the adjacent buildings, as illustrated below:</td></tr> <tr> <td colspan="2">  <p>When <math>b - a \leq 2</math>, setback of new dwelling = <math>a</math> or <math>b</math></p> </td></tr> <tr> <td>Greater than 2 metres</td><td>At least the average setback of the adjacent buildings</td></tr> </tbody> </table> <p>General Section: Design and Appearance: PDC 25</p>	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:	 <p>When <math>b - a \leq 2</math>, setback of new dwelling = <math>a</math> or <math>b</math></p>		Greater than 2 metres	At least the average setback of the adjacent buildings	<p><b>Partially Complies</b> Dwelling 1: 5.88 metres</p> <p>(Dwellings on adjoining land set back approximately 7.2 and 8.2 metres, which equals an average setback of 7.7 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. Having said that, for the reasons listed above, the proposed setback is considered acceptable.</p>
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:								
 <p>When <math>b - a \leq 2</math>, setback of new dwelling = <math>a</math> or <math>b</math></p>									
Greater than 2 metres	At least the average setback of the adjacent buildings								

<p><i>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</i></p> <p><i>General Section: Residential Development: PDC 36</i></p>	<p><b>Complies</b></p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>
<b>Side Setbacks</b>	
<p><i>Where the wall height is not greater than 3 metres: 1 metre</i></p> <p><i>Where the wall height is between 3 metres and 6 metres:</i></p> <p><i>(a) 3 metres if adjacent southern boundary</i></p> <p><i>(b) 2 metres in all other circumstances.</i></p> <p><i>Where the wall height is greater than 6 metres:</i></p> <p><i>(a) if not adjacent the southern boundary, 2 metres plus an additional setback equal to the increase in wall height above 6 metres</i></p> <p><i>(b) if adjacent the southern boundary, 3 metres plus an additional setback equal to the increase in wall height above 6 metres.</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>Dwellings 2 to 5 (inclusive) are single storey only and feature side setbacks no less than 1.0m.</p> <p><b>Partially Complies</b></p> <p>Dwelling 1 provides a minimum 1.97m upper level side setback from the northern side boundary. Nevertheless, given the oblique angle of the dwelling to the boundary, the majority of the dwelling is effectively setback well beyond 2.0m. To this end, the setback shortfall represents minor quantitative departure which is unlikely to have a material impact beyond the subject 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 &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the rear setbacks do not comply with that sought, the separation from the existing side and rear boundaries is considered sufficient to minimise the visual impact of the buildings from adjacent properties. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>
<b>Rear Setbacks</b>	
<p><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Does Not Comply</b></p> <p>Dwelling 5 incorporates a minimum rear setback of 1.745 metres. This setback increases to various measurements due to the staggered footprint of the building.</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></p> <p><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</i></p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p><b>Does not comply</b></p> <p>Dwelling 5 – see above</p>

## 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**

Dwelling 1 incorporates a maximum building height of approximately 7.5m metres, which is less than the maximum permitted in the Policy Area.

Dwellings 2 to 5 are single storey only.

## 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**

All garages are located internally facing the common driveway. To this end, the garages do not face the street direct and setback back well behind the associated dwellings.

*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: PDC 8*

### **Complies**

The proposed garages will not be readily visible from beyond the subject land. Nonetheless, each garage incorporates 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) :*

*1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.*

*Residential Zone: PDC 7*

### **Complies.**

The proposal seeks for 5 residential flat dwellings, which requires 8 resident parking spaces, plus 2 visitor parks or a total of 10 on-site parking spaces.

In this instance the proposal provides a total of 11 on-site parking spaces, including two parking spaces for each dwelling, as well as a dedicated visitor parking space located at the front of the site.

	<p>To this end, the proposal provides more than the required on-site parking.</p> <p>The proposal accord with PDC 7.</p>
<p><i>On-site vehicle parking should be provided having regard to:</i></p> <p><i>(a) the number, nature and size of proposed dwellings</i></p> <p><i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i></p> <p><i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i></p> <p><i>(d) availability of on-street car parking</i></p> <p><i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></p> <p>General Section: Transportation &amp; Access: PDC 43</p>	<p><b>Complies</b></p> <p>a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.</p> <p>b) Centre facilities and public transport are located in walking distance of the dwellings.</p> <p>c) The likely occupants are anticipated to have standard mobility and transport requirements.</p> <p><b>Does Not Comply</b></p> <p>d) e) No on-street parking is available directly in front of the subject land, whereby Land Division Principle 22 would seek for 3 spaces.</p> <p>However, parking controls exist on both sides of the road in this immediate locality, such that on-street parking is prevented.</p>
<p><i>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</i></p> <p><i>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</i></p> <p><i>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</i></p> <p><i>(c) reinforce or contribute to attractive streetscapes.</i></p> <p>General Section: Transportation &amp; Access: PDC 44</p>	<p><b>Complies</b></p> <p>(a) (b) Council's Development Engineer has confirmed that the development provides adequate space for vehicles to manoeuvre between the street and 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>General Section: Transportation &amp; Access: PDC 45</p>	<p><b>Complies</b></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>General Section: Land Division: PDC 22</p>	<p><b>Does Not Comply</b></p> <p>One on-site parking space is dedicated for visitors at the front of the site. This, combined with the proposal providing more than that required for resident parking spaces, assists in reducing the demand for on-street parking.</p> <p>Nonetheless, Principle 22 seeks for 3 on-street parking spaces which are not available in front of the subject land.</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**

*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**

The proposed crossover requires the relocation of an existing street sign. This has been agreed by Council's traffic engineers and the applicant has agreed to pay all relevant costs.

*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**

*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:*

<b>No. of dwellings served by driveway</b>	<b>Width at front property boundary &amp; for first 6 metres</b>	<b>Width beyond first 6 metres</b>	<b>Widening required for passing</b>	<b>Minimum landscaped strip either side of driveway (metres)</b>
4-7	4.5	3	Widen to 5 metres at a point 25 metres from the front property boundary and then provide a similar passing area for every additional 25 metres thereafter	0.8

**Partially Complies**

The driveway will include a 500mm landscaping strip along the south/eastern side boundary, as well as a number of separate garden beds on the internal side of the driveway in front of each dwelling.

The shortfall in width for the landscape bed, whilst not desirable, will not, in my view, have a detrimental impact upon the streetscape, and is somewhat off-set by the landscaping at the front of the site; street-side of the gabian wall.

*General Section: Residential Development: PDC 41*

## 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.*

**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 different brick, and render on the front façade
- Varying front setbacks to minimise building height, mass and proportion
- Protruding portico, and well-proportioned upper/lower level windows

<p><i>General Section: Design &amp; Appearance: PDC 3</i></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 &amp; Appearance: PDC 17</i></p>	<ul style="list-style-type: none"> <li>• Eave overhang and pitched roof form at general 25 degree slope; and,</li> <li>• Roofs clad in a Colorbond material</li> </ul> <p>The garage of each dwelling features a Panel lift door (although not readily visible to the street).</p> <p>These materials should not result in glare to neighbouring properties, drivers or cyclists.</p> <p>The side elevations of the dwellings feature a mixture of render and horizontal cladding, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.</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><i>General Section: Design &amp; Appearance: PDC 15</i></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 &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></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><i>General Section: Residential Development: PDC 6</i></p>	<p><b>Complies</b></p> <p>Dwelling 1 incorporates an attractively designed façade presenting the street. Whilst the entry door and portico are located on the side elevation of the building, the building nonetheless ‘addresses’ the street.</p> <p>All living rooms have an external outlook towards the associated private open space area.</p> <p><b>Does Not Comply</b></p> <p>The entry doors to Dwellings 2 – 5 are located on the side elevation of the dwelling, and if a vehicle is parked in the second space, the entry door will be somewhat screened from view and require visitors to navigate around the parked vehicle.</p> <p>This element of the proposal is considered to fail Residential Development Principle 6.</p>
<h2>Overshadowing</h2>	
<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> <p><i>(a) windows of habitable rooms</i></p> <p><i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i></p> <p><i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p><i>General Section: Design &amp; Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <p><i>(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</i></p> <p><i>(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></p> <p><i>(i) half of the existing ground level open space</i></p> <p><i>(ii) 35 square metres of the existing ground level open space (with</i></p>	<p><b>Complies</b></p> <p>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</p> <p>b) A majority of winter shadow will be cast upon the common driveway. However, some shadow will be cast into the eastern adjoining property in the afternoon hours from Dwelling 1, although this is likely to be generally limited to the front yard of that property only.</p> <p>Consequently, the extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 10 and 11.</p>

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

## 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

Dwelling 1 incorporates fixed obscure glazing and/or window sill heights to 1.7 metres above floor level for windows on the side and rear elevations. Upper storey windows on the front elevation remain unobscured to provide surveillance to the street, and therefore should not result in overlooking of habitable areas.

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

The dwellings located towards the rear of the site 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

### Partially Complies

Landscaping bays are located adjacent the bedrooms of Dwellings 2, 3 and 4 to assist in minimising headlight glare. It is acknowledged however that the Bedroom 2 windows of Dwelling 2 are located in close proximity to the car parking space of Dwelling 1 where a level of amenity disturbance may occur.

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) Common letterboxes are featured at the entrance to the common driveway.  
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 each dwelling maintains side gate access to its rear garden. 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**

The dwellings 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.

As identified in the Overshadowing section of this table, 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.

It is however included as a recommended condition of consent that a revised landscape plan be provided that details an increased mix of native plants and taller, broader plantings adjacent the front of the site.

<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 &amp; Walls: PDC 5</p>	<p><b>Complies</b></p> <p>The application seeks to construct a gabian rock wall adjacent the front boundary of the site; providing an attractive entry feature to the site and limiting view of the visitor car park space behind.</p> <p>This wall will be somewhat resistant to graffiti given its uneven façade.</p> <p>In addition, the application proposes retaining walls varying in height to a maximum 450 millimetres. If a standard 1.8 metre high fence is constructed atop these walls, this will result in a maximum structure height of 2.25 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 generally 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 coverage;
- Percentage of pervious land area;
- Rear setback; and
- Lack of on-street parking.

### Site coverage

Whilst the individual site coverage figures of each allotment is quite high, the total site coverage for the whole of the land equates to 42%, similar to that expected within the Medium Density Policy Area.

In addition, the amount of private open space for each dwelling substantially exceeds that sought, whilst the setbacks proposed generally meet or exceeds the Development Plan provisions.

As such, the excess in floor area does not result in any meaningful detrimental impacts upon adjoining land or the streetscape.

### Percentage of pervious land area

The extent of pervious land area equates to 11.5%, where 20% is sought by Residential Development Principle 14. This is partly a result of the proposal plans indicating a large percentage of the rear yard area comprising paving, which is typically not shown to such an extent.

In the event the Panel are concerned with the extent of paved areas, but comfortable otherwise with the proposal, a condition could be placed on the consent to have the amount of paved areas reduced to more closely align or achieve compliance with Principle 14.

### Rear setback

The rear setback of Dwelling 5, at 1.745 metres is substantially less than that sought (6.0 metres). Whilst this is the case, the setback increases due to the staggered footprint of the

dwelling. As such, the building incorporates setbacks of between 1.7 – 4.0 metres when measured perpendicular to the rear boundary.

In addition, it is of worth to note that a majority of the land to the rear of the subject site is used as a car park for the associated swim centre. As such, the proposed dwelling will not have a detrimental impact upon the amenity of the adjoining property.

#### **Lack of on-street parking**

The proposal does not enable any on-street parking in front of the site. Having said this, Council has prevented on-street parking in this immediate locality via the painting of yellow lines on the street.

The applicant has sought to address this issue by providing a total of 11 car parking spaces on site, including one dedicated visitor space. The number of spaces provided on site exceeds that sought by the Development Plan by 1 car park space.

The visitor space is considered to be visible from the street, and whilst its location favours Dwelling 1, a space further into the site may be less likely to be used by visitors to the site.

As such, the proposal is considered acceptable in terms of on-site car parking.

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#### **REPRESENTOR'S CONCERNS**

The concerns raised by the representors in relation to density, loss of privacy, parking and site coverage have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The representors have also raised concerns over noise, disturbance and waste bin collection. While these concerns are noted, as the proposal seeks for residential development within a residential zone, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

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## ANALYSIS/CONCLUSION

The proposed development displays consistency with the Objectives and Desired Character Statement of the Policy Area, particularly as it explicitly encourages the cohesive streetscapes, an increase in the availability of housing types within the locality, higher densities above existing and the siting of garages out of view from the public streetscapes.

The site's location, with its proximity to the Regional Centre Zone, public transport and an area of useful open space is also a catalyst to suggest increased housing densities are appropriate as anticipated in the Objectives of the Residential Zone and Medium Density Policy Area 12.

The proposed development does fall short in frontage width, site coverage, rear setback and on-street parking. However, none of these non-compliances result in impacts to the existing dwellings around the site and it has been determined that the development is compliant in its setbacks from existing properties and will not result in overlooking or overshadowing.

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.

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## 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: 100/2014/1162 to construct five (5) dwellings, including a two storey dwelling to the front of the site and four single storey dwellings to the rear in a hammer head configuration with an associated driveway, on-site parking and landscaping at 22 Greenasche Grove, 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. 100/2014/1162, except when varied by the following conditions of consent.
- 2. A revised, 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. A revised landscaping plan shall be submitted to Council for consideration and approval, detailing a mix of native medium and low-level plantings throughout the front yard of the property and all other landscape areas of the site.
- 4. 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](http://www.marion.sa.gov.au/page.aspx?u=181)*

- 5. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
- 6. 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. 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.
9. 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.
10. 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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; 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>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 – 3.4</b>
<b>Originating Officer:</b>	<b>Stephen Both Senior Development Officer - Planning</b>
<b>Applicant:</b>	<b>Salt Studio</b>
<b>Development Description:</b>	<b>To make alterations and additions to an existing two storey detached dwelling including new second storey balcony to the front of the dwelling</b>
<b>Site Location:</b>	<b>3 Short Street, Marino</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Hills Policy Area 11</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Lodgement Date:</b>	<b>14/11/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/2058</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of Schedule 9 of the Development Regulations 2008. 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.

### SUBJECT LAND & LOCALITY

The subject land is located at 3 Short Street, Marino and is located on the eastern side of the road. The subject land comprises a large rectangular shaped allotment which enjoys an 18.29 metre frontage to Short Street and a depth of 51.72 metres to provide a total site area of 949.9 square metres. The subject land sits on the high side of Short Street and slopes downwards towards the road steeply.

The subject land is developed with an existing two storey dwelling which is located well back on the allotment some 31 metres from the front property boundary. A long driveway leads up to the dwelling from the road with open car parking areas located to the front of the dwelling. The subject land is devoid of any significant trees, whilst the Certificate of Title confirms that the land is clear of any easements or encumbrances.

The locality is characterised by a predominance of single and two storey detached dwellings (some split level in design) in a diverse range of architectural styles on large regular shaped allotments. Given the sloping topography of the land and the views that are to be gained of the coastline to the west and north, many dwellings within the locality incorporate upper level decks or balconies either to the rear or the front of the dwelling to take advantage of the coastal views.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The applicant is proposing to make alterations and additions to the front and side elevations of the existing dwelling which will alter the appearance of the dwelling when viewed from the street. The proposed changes include the construction of a second storey balcony which is to be extended forward of the existing dwelling for a distance of 4.7 metres from the main face of the dwelling. Ground floor access will be achieved via a set of external stairs that are to be erected along the southern side of the proposed balcony.

The proposed structure will provide a floor area of 63.6 square metres in area and will be covered by a skillion type roof extending out from the main roof of the dwelling. The proposed balcony and external stairs will be open with no solid walls and will incorporate a 1 metre high timber balustrade along all sides including the external stairs. Other proposed changes to the dwelling are largely cosmetic and will include the installation of new weatherboard cladding to the upper level north and west facing walls and the rendering of existing wall surfaces.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	5 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	3 representations were received by Council with 1 in favour of the application and 2 objecting to the proposed development.
<b>Persons wishing to be heard:</b>	2 representors have indicated a desire to be heard by the Development Assessment Panel.
<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• The proposed structure will completely block an existing bedroom window along the northern elevation of the dwelling.</li> <li>• The structure will partially restrict the passage of natural light and existing views from the window of a room used as a "home office".</li> <li>• Request that the proposed external stair case be relocated to the opposite side of the house away from the "home office" window.</li> <li>• Request that no floors, walls or privacy screens be included to further block existing light and views with the structure be left as open as possible.</li> </ul> <p><i>Refer Attachment IV</i></p>

<b>Applicant's response:</b>	<p>The applicant has provided a comprehensive response in relation to the concerns raised within the representations received by Council.</p> <p style="text-align: right;"><i>Refer Attachment V</i></p>
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## ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Hills Policy Area 11 are listed in the following table and discussed in further detail below:

Residential Zone		
<p><b>Objectives</b></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>		
Hills Policy Area 11		
<p><b>Objectives</b></p> <p>1 A policy area primarily comprising of detached dwellings at low densities. 2 Residential development sensitive to the particular topography of the area and which has minimal visual and environmental impacts. 3 Development that contributes to the desired character of the policy area.</p>		
<p><b>Desired Character</b></p> <p>The desired character is of a high quality residential environment containing appropriately designed houses set in attractively landscaped, relatively large gardens. This desired character is also derived from the existing prevailing character where it is based on low-density detached dwellings of a variety of architectural styles on relatively large, sloping allotments. The importance of the landscape character, the protection of existing trees and vegetation and the revegetation of land are all emphasised, particularly in those parts of the policy area that function as a backdrop to the Adelaide Plains or contribute to scenic coastal landscapes. Other important features are the varied natural topography, natural watercourses and steep gullies, and interfaces with adjoining areas of open space including Hills Face and coastal land. This landscape character warrants protection from inappropriate development and earthworks.</p> <p>Buildings and associated earthworks will be designed to minimise alteration of the natural or existing landform. Designs include split-level to reduce visual bulk and reduce the need to cut and fill sloping sites. Buildings, particularly on a site in a highly visible and prominent location or adjoining an area of open space or other natural character, will be finished with colours and materials complementing the surrounding environment. Highly reflective and very bright materials and colours that detract from the prevailing residential or natural character are inappropriate.</p> <p>It is important when designing new buildings and extensions (and associated finished levels and decks) on sloping sites to pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development.</p> <p>Buildings and subdivision of land will reflect the existing pattern and scale of nearby development, except that in some areas where land has been subdivided into smaller allotment sizes, any new development will be at a lower density and scale. In addition, larger allotments may be appropriate due to the natural gradient of land.</p>		
PDC 3	<p>Development should be designed and sited to relate to the slope of the land, so that:</p> <p>(a) the bulk and scale of the buildings do not dominate the landscape (b) the amount of cutting and filling of the natural ground profile is minimised.</p>	<p><b>Complies</b></p> <p>The proposed alterations and additions to the dwelling are considered minor in nature projecting for only a small distance forward of the main face of the dwelling as it currently stands.</p>

		<p>The proposed additions to the front of the dwelling will be open to all sides without incorporating any solid walls along boundaries. As such, it is considered that the proposed additions will not significantly add to the bulk and scale of the building.</p> <p>As the dwelling is well setback from the street, it is considered that the proposed additions to the front of the dwelling will not dominate the streetscape.</p> <p>Whilst the subject land slopes steeply to the road, the proposed additions will be undertaken on a flat section of the land without any need to significantly alter the land.</p>
PDC 5	<p><i>Development that would be prominently visible from the Adelaide plains should:</i></p> <p><i>(a) achieve a profile that blends with the topography of the land</i></p> <p><i>(b) avoid the use of bright and highly reflective external materials and finishes</i></p> <p><i>(c) incorporate existing vegetation wherever possible and additional landscaping to assist in reducing the apparent bulk and scale of the building and any site works.</i></p>	<p><b>Complies</b></p> <p>The subject land cannot be readily seen from the Adelaide Plains nonetheless, the proposed finishes comprise light colours including "Woodland Grey" Colourbond cladding to the roof and gutters with external walls of the dwelling to be rendered or painted a white colour.</p>
PDC 6	<p><i>Development of more than one storey in height should take account of the height and bulk of the proposed building relative to adjoining dwellings by:</i></p> <p><i>(a) incorporating stepping in the design in accordance with the slope of the land</i></p> <p><i>(b) where appropriate, setting back the upper storey of a dwelling a greater distance from front and side boundaries than the lower storey.</i></p>	<p><b>Complies</b></p> <p>The proposed balcony will be two stories in height to complement the height of the existing dwelling and will not look out of character within the locality.</p>

## Assessment

In respect to the above provisions, it is considered that the proposed alterations and additions to the dwelling will not add to the bulk and scale of the dwelling nor will dominate the streetscape appearance of the dwelling. The proposed additions will extend slightly forward of the existing portico to the front of the dwelling and will be open to all sides with no solid components or walls to be incorporated along each side of the balcony. Given this, it is expected that the impact of the proposed structure on the amenity of adjacent residents will not be significantly detrimental.

It is acknowledged that the Desired Character of the Policy Area seeks for new development (including extensions and decks) to "pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development". To avoid repetition, the reader is respectfully directed to the heading 'Visual Privacy' for assessment regarding privacy.

Whilst the adjacent dwelling at 5 Short Street comprises a north-facing window directly south of the proposed balcony (room used as a 'home office'), outlook from this window is 'borrowed' over the front yard of the subject land. Whilst the proposed balcony is likely to result in some overshadowing of this window, its open nature and elevated position above ground level will nonetheless enable ambient light to this window.

Whilst view out of this window may be somewhat obstructed by the support posts and stairwell, it is not the primary habitable room/living room of the dwelling. Further, view from the window is

gained partly due to the elevated position of the window above ground level, and as identified above, is gained over the subject land. As such, in my view, little weight should be given to the outlook/view from this room.

Having visited the subject land I am of the opinion that the proposed additions will complement the design and appearance of the existing dwelling and will enhance the street presentation of the dwelling when viewed from the street. In addition, the proposed materials and finishes of construction are considered appropriate for the locality comprising light earthy tones and will therefore not have a detrimental visual impact on the existing character of the locality.

On balance, it is my opinion that the proposed development sufficiently accords with a majority of the applicable provisions of the Hills Policy Area 11.

## 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>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <li><i>(a) pedestrian and vehicle access and vehicle parking</i></li> <li><i>(b) domestic storage</i></li> <li><i>(c) outdoor clothes drying</i></li> <li><i>(d) rainwater tanks</i></li> <li><i>(e) private open space and landscaping</i></li> <li><i>(f) convenient storage of household waste and recycling receptacles</i></li> </ul> <p><i>General Section: Residential Development: PDC 13</i></p>	<p><b>Complies</b></p> <p>Notwithstanding a slight increase in floor area as a consequence of the proposed development, the subject land still maintains 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><b>Complies</b></p>
Street Setbacks	
<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <ul style="list-style-type: none"> <li><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></li> <li><i>(b) contribute positively to the function, appearance and/or desired character of the locality.</i></li> </ul> <p><i>General Section: Design and Appearance: PDC 23</i></p>	<p><b>Complies</b></p> <p>The front setback of the existing dwelling does not significantly alter as a consequence of the proposed additions to the front of the dwelling and will remain well setback from the street property boundary.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <ul style="list-style-type: none"> <li><i>(a) the visual impact of the building as viewed from adjacent properties</i></li> <li><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></li> </ul> <p><i>General Section: Design &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the side setbacks of the proposed balcony do not comply with quantitative criteria, the separation from side boundaries is considered sufficient to minimise the visual impact of this structure from adjacent properties.</p>

## 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*

*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**

It is considered that the proposed alterations and addition to the dwelling will enhance the streetscape appearance of the dwelling providing the dwelling with a modern appearance that will not look out of character in the locality.

On balance, it is considered that the design and appearance of the proposed additions to be acceptable appropriately satisfying the 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 balcony is to be integrated with the design of the main dwelling and will incorporate a traditional timber balustrade that enables line of sight to the street.

*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**

## 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**

Given the sloping nature of the land and the natural topography of the locality it is difficult to limit or restrict overlooking of adjacent properties.

There is already potential to overlook adjacent land to the north from the existing front windows and north-facing window of the dwelling at 3 Short Street.

Having visited the subject land I am of the opinion that the proposed balcony to front of the dwelling will not

significantly increase the potential to overlook adjacent properties.

As can be seen from the aerial photograph, the balcony will generally align with the rear of the adjacent dwelling at 1 Short Street. Whilst some angled views of the rear yard are likely, a majority of the yard in close proximity to the balcony has a steep, and therefore unusable grade.

A small verandah is situated on the north-east side of that dwelling, which will be afforded privacy by the roof of the building.

View of the rear yard of the property is currently screened by existing vegetation. In the event this vegetation was to be removed, the oblique angle of view and separation distance is adequate to prevent a severe loss of privacy.

View to the adjoining property at 5 Short Street will be generally of the roof of the dwelling on that. Given the attractive views are in a north to west direction (in an anti-clockwise direction), it is unlikely persons will direct their vision over this land.

In summary, the balcony to the front of the dwelling is oriented to obtain views of the streetscape and the coastal views to the west and north of Marino and Glenelg.

## 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**

*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**

## Siting and Visibility

*Buildings and structures should be designed to minimise their visual impact in the landscape, in particular:*

*(a) the profile of buildings should be low and the rooflines should complement the natural form of the land*

*(b) the mass of buildings should be minimised by variations in wall and roof lines and by floor plans which complement the contours of the land*

*(c) large eaves, verandas and pergolas should be incorporated into designs so as to create shadowed areas that reduce the bulky appearance of buildings.*

*General Section: Siting and Visibility: PDC 4*

**Complies**

*The nature of external surface materials of buildings should not detract from the visual character and amenity of the landscape.*

*General Section: Siting and Visibility: PDC 5*

**Complies**

## REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to light and view obstruction have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The concerns raised by one representor in relation to noise related issues and building damage caused by construction are acknowledged. 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.

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## ANALYSIS/CONCLUSION

It is considered that the proposed development complies with a majority of the quantitative and qualitative provisions of the Development Plan without displaying any significant shortfalls of consequence. It is considered that the proposed balcony will complement the style of the existing dwelling whilst the installation of new weatherboard cladding to the upper level north and west facing walls and the rendering of existing wall surfaces will greatly enhance the appearance of the dwelling when viewed from the street.

Whilst the proposed balcony structure will extend slightly forward of the existing portico entry to the front of the dwelling, I am of the opinion that the proposed balcony will not have a significant detrimental impact on the amenity or privacy of the adjacent residents. As previously mentioned, due to the sloping nature of the land and views that are to be gained, many dwellings within the locality incorporate upper level decks or balconies. As such, it is considered that the proposed balcony will not look out of character within the locality.

The extent of overlooking is considered relatively minor and acceptable, having regard to the extent of overlooking typical within the locality, views currently gained of the adjoining property to the north, the usability (or lack thereof) of rear yard areas visible from the balcony and privacy afforded (and that will be maintained) to the primary area of private open space.

The structure is likely to overshadow a bedroom (used as a home office) on the north-facing wall of the adjacent dwelling at 5 Short Street. Whilst this is the case, a reasonable amount of ambient light will nonetheless be available.

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 subject to conditions.

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## 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: 100/2014/2058 for To make alterations and additions to an existing two storey detached dwelling including new second storey balcony to the front of the dwelling at 3 Short Street, Marino be GRANTED subject to the following conditions:

## CONDITIONS

- 1. The development shall proceed in accordance with the plans and details prepared by Salt Studio Architecture stamped dated received 3 November 2014 all submitted with and forming part of Development Application No. 100/2014/2058, except where varied by the following conditions of consent.
- 2. 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.

## 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.

## Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; 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>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 - 3.5</b>
<b>Originating Officer:</b>	<b>Rhiannon Hardy Development Officer - Planning</b>
<b>Applicant:</b>	<b>Homestead Homes Pty Ltd</b>
<b>Development Description:</b>	<b>To demolish the existing maisonette dwelling, convert the adjoining maisonette into a detached dwelling, and to construct a single storey detached dwelling incorporating a garage wall on the northern side boundary</b>
<b>Site Location:</b>	<b>30 Barham Avenue, Morphettville</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Regeneration Policy Area 16</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Lodgement Date:</b>	<b>29/10/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/1913</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### 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. 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.

### SUBJECT LAND & LOCALITY

The subject land is located at 30 (lot 4) Barham Avenue, Morphettville. The allotment is located on the corner of Carlisle Avenue and Barham Avenue. The land is 470 square metres in area, with a frontage width to Barham Avenue of 9.73 metres, and a depth of 36.6 metres.

The land currently accommodates a semi-detached dwelling which was constructed in approximately 1955 by the South Australian Housing Trust. The dwelling is currently in average condition. Vehicle access is provided off Carlisle Avenue to a freestanding garage at the rear of the allotment.

The land is relatively flat with negligible gradient. There are no regulated trees on the subject land.

The locality north of Carlisle Avenue features a large proportion of public housing owned by the South Australian Housing Trust. Traditional maisonettes built at low densities, similar to the subject land, are the predominant dwelling type in the locality. However, redevelopment at medium densities is also evident in the locality, as row dwelling developments have recently been constructed on Carlisle Avenue and Appleby Road.

The Northern Policy Area 13 is located on the southern side of Carlisle Avenue and features a mixture of older dwelling stock and redeveloped properties at low-to-medium densities.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The application proposes to demolish the existing semi-detached dwelling (maisonette) on the subject land. In doing so, the application proposes to convert the adjoining dwelling at 28 Barham Avenue into a detached dwelling, and to “make good” the existing party wall.

The application proposes to construct a single storey detached dwelling on the land, which features a garage wall abutting the northern side boundary. The dwelling incorporates four bedrooms, living area, double garage, open-plan family/meals area and under-main-roof alfresco.

The new dwelling is proposed to obtain access from Barham Avenue, which requires removal of an existing *Corymbia ficifolia* “WA Red Flowering Gum” street tree.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	7 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	1 representation was received by Council, which was primarily against the application.
<b>Persons wishing to be heard:</b>	Bryan Connolly (owner of adjoining dwelling at 28 Barham Avenue)
<b>Summary of representations:</b>	<ul style="list-style-type: none"><li>• Request report from a structural engineer outlining short/long term effects.</li><li>• How will the structural integrity of the party wall be maintained during construction?</li><li>• How will the roof be dealt with, as the timber frame will be cut and will affect the aesthetic appeal of 28 Barham Avenue.</li><li>• How will the roof be made structurally?</li><li>• How will the proposal affect the value of 28 Barham Avenue?</li></ul> <p><i>Refer Attachment IV</i></p>
<b>Applicant’s response:</b>	<ul style="list-style-type: none"><li>• The roof timbers that have been cut in the demolition process will be cut back and capped with cement sheeting.</li><li>• A roof plumber will be cutting back the roof sheeting</li></ul>

	<p>and re-flushing the roof, level with the wall. The flushing will be the same Colorbond colour that currently exists on the neighbour's property.</p> <ul style="list-style-type: none"> <li>• The wall be examined, cracks repaired and depending on what is required finished off, either painted, skim coated or rendered to a smooth finish using a professional plasterer</li> <li>• Any holes that exist or subsequently exist after demolition of my dwelling will be filled in accordance with Australian standards for firewalls.</li> <li>• Any space between the existing party wall and the roof cladding will be filled with appropriate fire rated material in accordance with Australian Standards for firewalls.</li> </ul> <p>*Property owner has provided a Residential Dilapidation Building Inspection report by the Building Bureau</p> <p style="text-align: right;"><i>Refer Attachment V</i></p>
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*Refer Attachment VI*

## INTERNAL DEPARTMENT COMMENTS

<b>Building:</b>	The Building Code of Australia permits the demolition of the subject maisonette, provided that the building owner "makes good" any damage to adjacent premises. This procedure is outlined under Part 6 "Regulation of Building Work" (Building work affecting other land—Division 3) of the Development Act 1993.
<b>Development Officer - Arboriculture:</b>	Corymbia ficifolia "WA Red Flowering Gum" street tree has a large decaying cavity in the trunk. A 2.5 metre TPZ would be required for any new driveway. Alternatively, the tree could be removed subject to payment of \$650 + GST required to undertake removal and replacement. (Property owner has paid fee on 28/11/14.)

## ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Regeneration Policy Area 16 are listed in the following table and discussed in further detail below:

Residential Zone
<p><b>Objectives</b></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>
Regeneration Policy Area 16
<p><b>Objectives</b></p>

- 1 Integrated re-development of poor quality housing stock and under utilised land.
- 2 Improved quality of living environments.
- 3 Improved quality of housing.
- 4 Increased mix in the range of dwellings, including a minimum of 15 per cent affordable housing available to cater for changing demographics, particularly smaller household sizes and supported accommodation.
- 5 Improved environmental outcomes.
- 6 Increased dwelling densities and population.
- 7 More efficient use of land.
- 8 Improved community services and infrastructure.
- 9 Higher dwelling densities in close proximity to centres, public transport routes and public open spaces.
- 10 A smooth transition in the character and scale of development between this and adjoining residential policy areas.
- 11 Development that contributes to the desired character of the policy area.

### **Desired Character**

...The desired character of the policy area is derived from high quality and distinctive living environments at a higher density compared to that typical of the original dwelling stock in the area. It will be characterised by integrated development at low-medium and medium densities, with a wide range of dwelling types to meet a variety of accommodation needs for public housing tenants and the private housing sector.

Buildings of up to two storeys in height are appropriate, with three storey buildings also being appropriate provided the impact of their additional height and bulk does not adversely impact on existing neighbouring development and neighbouring amenity.

Medium density development should predominate adjacent to public open space reserves, major transport routes, shops and community facilities, but can be dispersed throughout the area as part of major comprehensive redevelopment projects. Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. For larger areas, a comprehensive scheme for the development of a range of dwelling types is desirable.

Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or 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.

<b>PDC 1</b>	The following forms of development are envisaged in the policy area: <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ dwelling including a residential flat building</li> <li>▪ student accommodation</li> <li>▪ supported accommodation.</li> </ul>	<b>Complies</b>
<b>PDC 4</b>	Minimum Site Area:  Detached dwelling: 250 m <sup>2</sup>	<b>Complies</b> 30 Barham: 465 m <sup>2</sup> 28 Barham: 466 m <sup>2</sup>
	Minimum Frontage:  Detached dwelling: 9 metres	<b>Complies</b> 30 Barham: 9.73 metres 28 Barham: 13.1 metres

## Assessment

The proposed dwelling sufficiently accords with the objectives, principles and desired character of the Regeneration Policy Area 16. Although the proposal will not increase the density of the subject land, it shall replace existing dwelling stock in average condition with a modern dwelling to provide improved quality of housing and improved living environment.

In doing so, the adjoining dwelling on 28 Barham will be converted from a semi-detached into a detached dwelling (with the former party wall becoming a boundary wall). The existing allotment

dimensions of both the subject land and adjoining land satisfy minimum site area and depth requirements for detached dwellings in the Policy Area 16.

Although the application proposes removal of an existing street tree, Council's Arborist has advised that the tree has a large decaying cavity in the trunk, and therefore it is suitable for removal.

## DEVELOPMENT ASSESSMENT

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

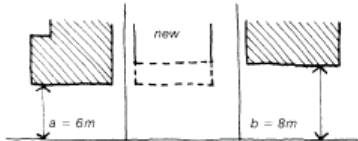
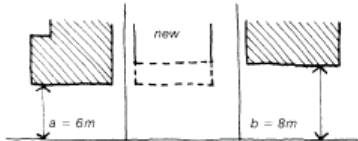
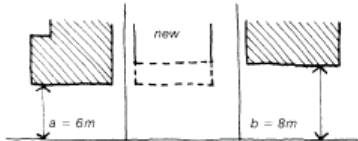
### Principles of Development Control

### Assessment

Site Coverage	
<p><b>Maximum site coverage:</b></p> <p>Site area greater than 375 m<sup>2</sup>: 40%</p> <p>Regeneration Policy Area 16: PDC 5</p>	<p><b>Does Not Comply</b> 256.05 m<sup>2</sup> = 55.1%</p> <p><i>Note: 233.52 m<sup>2</sup> excluding alfresco = 50.2%</i></p>
<p>Site coverage should ensure sufficient space is provided for:</p> <p>(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> <p>General Section: Residential Development: PDC 13</p>	<p><b>Complies</b></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> <p>(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> <p>General Section: Residential Development: PDC 15</p>	<p><b>Complies</b></p> <p>a) POS area is directly accessible from habitable rooms of the associated dwelling. b) POS is located at ground level to the rear of the dwelling and capable of being screened for privacy. c) The subject land does not maintain natural features which warrant preservation. d) The POS area should not be directly overlooked by adjacent buildings . e) POS area is not located next to bedrooms of dwellings on adjacent sites. f) The proposed POS area maintains a western aspect, which should adequately provide for comfortable year round use. g) The POS should not be significantly shaded during winter by the associated dwelling or adjacent development. h) The POS area is partly covered by an alfresco, and therefore is capable of being shaded during summer. i) Traffic, industry or other business activities should not affect the subject land. j) The POS is considered to have sufficient shape and area to be functional.</p>

<p><b>Site Area 250 m<sup>2</sup> or greater:</b></p> <p><i>Minimum area of POS: 20% of the site area</i></p> <p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <p>125.1 m<sup>2</sup> = 26.9%</p> <p>Minimum dimension: 8.8 x 13.1 m</p>
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## Street Setbacks

<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <p><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></p> <p><i>(b) contribute positively to the function, appearance and/or desired character of the locality.</i></p> <p><i>General Section: Design and Appearance: PDC 23</i></p>	<p><b>Complies</b></p> <p>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 setback of 5.4 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.</p>						
<p><i>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:</i></p> <table border="1"> <thead> <tr> <th>Setback difference between buildings on adjacent allotments</th><th>Setback of new building</th></tr> </thead> <tbody> <tr> <td>Up to 2 metres</td><td> <p>The same setback as one of the adjacent buildings, as illustrated below:</p>  <p>When <math>b \leq a</math>, setback of new dwelling = <math>a</math> or <math>b</math></p> </td></tr> <tr> <td>Greater than 2 metres</td><td>At least the average setback of the adjacent buildings</td></tr> </tbody> </table> <p><i>General Section: Design and Appearance: PDC 25</i></p>	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 <math>b \leq a</math>, setback of new dwelling = <math>a</math> or <math>b</math></p>	Greater than 2 metres	At least the average setback of the adjacent buildings	<p><b>Partially Complies</b></p> <p>5.4 metres</p> <p><i>(Dwelling on adjoining land set back approximately 9.1 metres)</i></p> <p>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 Regeneration Policy Area 16 encourages regeneration of the existing dwelling stock, PDC 25 has limited weight in this instance.</p>
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 <math>b \leq a</math>, setback of new dwelling = <math>a</math> or <math>b</math></p>						
Greater than 2 metres	At least the average setback of the adjacent buildings						
<p><b>Minimum setback from secondary road frontage: 2 metres</b></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Does Not Comply</b></p> <p>0.9 metres</p>						
<p>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</p> <p><i>General Section: Residential Development: PDC 36</i></p>	<p><b>Complies</b></p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>						

## Side Setbacks

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

*Residential Zone: PDC 7*

### **Partially Complies**

Northern side: 0.29 – 1.3 – 1.0 metres

The side setback of 0.29 metres has resulted from the “kink” in the property boundary. This setback will effectively form a part of the boundary wall, as the 0.29 metre separation will be in-filled with nib brick walls to abut the adjoining boundary wall. Accordingly, the shortfall in setback will not be perceptible from adjacent land.

*Dwellings with walls located on the boundary should be designed in accordance with the following:*

- (a) the walls should not abut more than one side allotment boundary*
- (b) a wall from an adjacent dwelling already exists on the boundary:*
  - (i) be located immediately abutting the adjacent wall*
  - (ii) be constructed to the same or to a lesser length and height as the adjacent wall*
  - (iii) be setback 2 or more metres behind the main face of the adjacent dwelling*
- (c) no wall exists on the adjacent boundary:*
  - (i) be setback 2 or more metres behind the main face of the adjacent dwelling*
  - (ii) not exceed 6 metres in length*
  - (iii) not exceed 3 metres in height*
  - (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*

*General Section: Residential Development: PDC 38*

### **Complies**

- (a) Wall abuts one side boundary only*
- (c)(iii) 3.0 metre boundary wall height*

### **Does Not Comply**

- (b) wall does not immediately abut the adjacent wall*
- (c)(i) wall is located 2.6 metres forward of adjoining dwelling*
- (c)(ii) 6.5 metre boundary wall length*

*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*

### **Complies**

Although the boundary wall location does not entirely comply with quantitative criteria, the shortfall should not result in unreasonable overshadowing of adjacent properties, as a majority of winter shadow will be cast south toward the Carlisle Avenue streetscape, and there will be negligible shadowing to the north.

## Rear Setbacks

*6 metres for a single storey dwelling*

*Residential Zone: PDC 7*

### **Complies**

8.8 – 10.4 metres

## 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**

5.3 metres

## 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**

Garage set back 6.6 metres from primary road frontage, and 1.2 metres behind main face of dwelling

*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 garage is incorporated under the main roof of the dwelling, with materials and detailing which complement the 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**

4.8 metre garage door width = 49.3% of lot width

## Car Parking

*Minimum number of on site car parking spaces (one of which should be covered) :*  
*3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.*

*Residential Zone: PDC 7*

### **Complies**

4 spaces, 2 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 nature and size of the proposed dwelling, as demonstrated by compliance with PDC 7.
- b) Not applicable, as the application does not propose an increase in density and on-site parking complies with PDC 7
- c) The likely occupants are anticipated to have standard mobility and transport requirements.
- d) e) 5 on-street car parking spaces shall remain available on Carlisle Avenue 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**

5 on-street car parking spaces will be maintained on Carlisle Avenue.

## 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**

3.0 metre driveway width proposed

*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**

The proposed crossover maintains suitable clearance from street infrastructure. Council's Arborist has advised that the existing street tree can be removed.

*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**

1 access point proposed.

## 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 dwelling incorporates a 22.5 degree tiled roof in "Gunmetal Grey", with a mixture of Cream render and Grange brickwork on its facades. The panel lift garage door is Dune colour. These materials should not result in glare to neighbouring properties, drivers or cyclists.

The elevations of the dwellings feature appropriate fenestration to avoid extensive areas of uninterrupted walling exposed to public view.

On balance, the design and appearance of the dwelling appropriately satisfies 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*

*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 dwelling is designed so that its main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

## 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><b>Complies</b></p> <p>The dwelling is oriented so that its open space and main activity area face west, which should receive adequate winter sun, particularly in afternoon hours.</p> <p>Furthermore, the northern elevation features meals and living area windows to enhance access to direct winter sunlight.</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><b>Complies</b></p> <p>The dwelling incorporates a hipped roof form set at a 22.5 degree pitch, with a generous north-facing section upon which solar collectors could be sited efficiently.</p>

## TABLE DISCUSSION

The proposed dwelling accords with a majority of applicable criteria of the Development Plan, with exception to the following:

- Site coverage
- Front setback
- Secondary street setback
- Boundary wall alignment and length

### Site coverage

Site coverage equals 55.1%, where a maximum of 40% is prescribed by the Development Plan. However, it is appropriate to have regard to the maximum amount of site coverage permitted to Complying development pursuant to Schedule 4 of the Development Regulations 2008. The subject land is located within the Determined Area for the purposes of Schedule 4, which permits maximum site coverage of 60% for new dwellings. Given that this proportion of site coverage could feasibly be constructed on the subject land “as of right” (i.e. without an assessment against Development Plan criteria), this suggests that it is inappropriate to enforce the maximum 40% site coverage to merit applications with such rigidity.

It is noted that this proportion of site coverage includes an under-main-roof alfresco area. The average site coverage of the dwelling alone equals only 50.2% of the site area. Incorporation of an alfresco area with the subject dwelling application reduces the need for owners/occupiers of the land to construct a verandah in the future, and therefore the higher proportion of site coverage proposed is reasonably justified by the benefit derived from delivering a usable all-weather area of private open space in conjunction with the dwelling.

Furthermore, the dwelling is limited in size to provide sufficient space for pedestrian and vehicle access, vehicle parking, domestic storage, outdoor clothes drying, rainwater tanks, private open space and landscaping, and convenient storage of household waste and recycling receptacles; the proposal therefore accords with PDC 13 (General Section: Residential Development). As such, the excess in site coverage above Development Plan criteria is not considered to be fatal to the merit of the subject application.

### **Front Setback**

The proposed dwelling is set back 5.4 metres from the front boundary, where the dwelling on adjoining land is set back approximately 9.1 metres. While this does not meet PDC 25 (General Section: Design & Appearance), 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 Regeneration Policy Area 16 anticipates redevelopment of the existing dwelling stock at higher densities, PDC 25 has limited weight in this instance.

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 setback of 5.4 metres is similar to that of other 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.

### **Secondary street setback**

Secondary street setback is proposed at 0.9 metres, where 2.0 metres is prescribed. However, it is noted that Schedule 4 2B permits a secondary street setback of 0.9 metres. Given that this setback could be constructed “as of right”, it is considered appropriate for the subject application.

### **Boundary wall alignment and length**

The proposed garage wall does not immediately abut the adjacent party wall, is set 2.6 metres forward of adjoining dwelling, and features a wall length of 6.5 metres. The 0.5 metre excess in length should be of negligible consequence, given that only 2.9 metres of the wall’s length will be visible from adjoining land; the remainder will abut the adjoining boundary wall. Furthermore, it is once again noted that the boundary wall length and location would satisfy “Residential Code” complying standards.

*Note: The subject application could not be processed as “Residential Code” complying development due to the proposed works to the boundary wall of the adjoining maisonette and the setback of the garage from the boundary of 0.29 metres.*

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## **REPRESENTOR’S CONCERNS**

The concern raised by the representor in relation to the aesthetic appeal of the adjoining dwelling (28 Barham Avenue) are noted. The property owner has confirmed that the party wall of this adjoining dwelling will be “made good”. This has been confirmed by recommended Condition of Consent 2. Effectively, this will allow the existing party wall to become a boundary wall with appropriate finishes.

The structural integrity of the party wall is a matter that will be assessed as part of the Building Rules Consent, and therefore is not a relevant consideration to the Development Plan Consent.

The representor has also raised concerns over property value. While this concern is noted, a planning assessment under the Development Act 1993 does not allow consideration of this matter, and hence is outside the scope of this assessment.

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## ANALYSIS/CONCLUSION

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

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

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## 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: 100/2014/1913 to demolish the existing maisonette dwelling, convert the adjoining maisonette into a detached dwelling, and to construct a single storey detached dwelling incorporating a garage wall on the northern side boundary at 30 Barham Avenue, Morphettville, be GRANTED subject to the following conditions:

## CONDITIONS

- (1) The development shall be constructed and maintained in accordance with the plans and details submitted with and forming part of Development Application No.100/1913/2014 (being Sheet 1 of 4 to 4 of 4 (inclusive) and Sheet 5 of 6 to 6 of 6 (inclusive) prepared by HTP Drafting Pty. Ltd. for Homestead, Siteworks Plan by RCI Consulting Engineers received by Council on 15 December 2014, and email correspondence from Emma Bradbrook dated 16/02/2015 and 23/02/2015), except when varied by the following conditions of consent.
- (2) The party wall of the adjoining maisonette shall be “made good” in accordance with the email correspondence from Emma Bradbrook dated 16/02/2015 and 23/02/2015. The rectification works shall be completed as soon as practicable following demolition of the subject dwelling, and prior to occupation of the proposed dwelling, to the reasonable satisfaction of Council.
- (3) 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.
- (4) 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](http://www.marion.sa.gov.au/page.aspx?u=181)

- (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) 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.
- (7) 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.

- (8) 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) Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development, to the reasonable satisfaction of the Council. (A suggested measure is to install a gravelled construction exit with wash down facilities).
- (4) Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.
- (5) The proposed crossover/access must be constructed a minimum of 1.0 metre clear of all existing street infrastructure (including, but not limited to, stobie poles, street signs, storm water entry pits, pram ramps and Telstra pits) and a minimum of 2.0 metres clear of any existing street trees.
- (6) The property owner has paid the cost associated with the removal of the existing street tree, and the installation of a replacement street tree to the Council verge. Removal of the street tree will be ordered once Development Approval has been granted, and replacement planting will occur once the development has been completed.
- (7) Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; 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>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 – 3.6</b>
<b>Originating Officer:</b>	<b>Stephen Both Senior Development Officer - Planning</b>
<b>Applicant:</b>	<b>Mr Kym Obst</b>
<b>Development Description:</b>	<b>To construct three single storey row dwellings, one of which (Dwelling 1) incorporates a garage wall on the southern boundary</b>
<b>Site Location:</b>	<b>58 Conmurra Avenue, Edwardstown</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Northern Policy Area 13</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Lodgement Date:</b>	<b>03/12/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/2184</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### 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 new dwellings 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.

### SUBJECT LAND & LOCALITY

The subject land is located at 58 Conmurra Avenue, Edwardstown, at the south-western corner of the intersection of that street and Gilpipi Avenue. The land is rectangular in shape with a corner cut-off at the north-east corner, resulting in a frontage width of 17.07 metres to Conmurra Avenue, a secondary street frontage to Gilpipi Avenue of 33.53 metres and total site area of 731.3 square metres. The site currently accommodates a detached dwelling in relatively good condition, presenting to the intersection of the two roads. There are no significant or regulated trees existing on the subject land.

The locality features a mixture of dwelling types and densities. The pattern of development is typically defined by single storey dwellings at low to low-medium densities. Recent development has occurred in the locality, displaying a number of single storey semi-detached and row dwellings.

Approximately 250 metres to the east, the Edwardstown industrial precinct (and within the Industrial Zone) comprises a mix of industrial, warehouse and storage land uses. Some land has been recently developed, typically displaying car parking forward of the building.

The Ascot park train station is located approximately 500 metres to the south-west of the subject land.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The application proposes to construct three single storey row dwellings, one of which incorporates a garage wall on the southern boundary.

The floor plan of each dwelling comprises three bedrooms, single garage, typical wet areas and open plan kitchen/living/dining area. The existing crossover will be modified to accommodate the driveway of Dwelling (1), whilst Dwellings (2) and (3) propose new crossovers. The proposal also seeks the removal of a street tree associated with the driveway of Dwelling (2).

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	9 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	2 representations (in favour) were received by Council.

*Refer Attachment VI*

## INTERNAL DEPARTMENT COMMENTS

<b>Arborist:</b>	<p>Council's Arborist has identified the street tree as a Photinia species which is no longer planted by Council, a fee of \$200 is required for removal and \$150 for replacement.</p> <p><u>Staff comment:</u> Council requested that the applicant confirms in writing to pay this amount which has been provided.</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><b>Objectives</b></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><b>Objectives</b></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><b>Desired Character</b></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"> <li>▪ affordable housing</li> <li>▪ detached dwelling</li> <li>▪ group dwelling</li> <li>▪ residential flat building</li> <li>▪ row dwelling</li> <li>▪ semi-detached dwelling</li> <li>▪ supported accommodation.</li> </ul>	Complies
PDC 3	Minimum Site Area: 250 square metres (row dwellings)	<p><b>Complies</b> Dwg (3) = 268.22m<sup>2</sup></p> <p><b>Does Not Comply</b> Dwg (1) = 232.64 m<sup>2</sup> Dwg (2) = 230.5 m<sup>2</sup></p>
	Minimum Frontage: 7.0 metres (row dwellings)	<p><b>Complies</b> Dwg (1) = 11.56m Dwg (2) = 11.45m Dwg (3) = 13.56m</p>
	Minimum Depth: 20 metres (row dwellings)	<p><b>Complies</b> All allotments</p>

## Assessment

The application proposes three single storey row dwellings on an allotment which currently accommodates a single storey detached dwelling, increasing the number of dwellings on the land by two. It is noted that the construction of the dwellings will not impact any significant or regulated trees in the locality. The proposal is similar to the housing stock recently developed in the locality, which is encouraged by the Desired Character statement and Principles of Development Control 1 and 3 of the Northern Policy Area 13.

Despite the considerable shortfall in site area for Dwellings (1) and (2), the overall site area of 731.3 square metres is only 2.5% short of that sought for three row dwellings. This shortfall is considered relatively minor in its consequence, given the applicant has demonstrated the lesser site area has not compromised the ability of the proposal to display appropriate compliance Council's Development Plan.

The proposal maintains a coherent streetscape as a result of the street setback; similar to dwellings and structures within the locality. The dwelling's appearance will be modern in terms of design and use of materials, comprising brick piers and a rendered façade and will provide a positive contribution to the existing streetscape.

The application proposes the removal of a street tree which is not native to the locality. The tree does not significantly contribute to the amenity of the local area and Council's Arborist has determined that removal of the tree is suitable at a cost of \$350. The applicant has confirmed in writing that he is willing to pay this amount. Additionally, it is noted that this tree species is no longer planted by Council and it is possible that a previous resident may have planted this tree.

The proposal complements the applicable Objectives, Principles of Development Control and Desired Character of the Residential Zone and Northern Policy Area 13.

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## 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	
<i>Maximum site coverage: 40%</i> <i>Northern Policy Area 13: PDC 4</i>	<b>Does Not Comply</b> Dwg (1) = 52.38% Dwg (2) = 52.66% Dwg (3) = 45.58%
<i>Site coverage should ensure sufficient space is provided for:</i> <i>(a) pedestrian and vehicle access and vehicle parking</i> <i>(b) domestic storage</i> <i>(c) outdoor clothes drying</i> <i>(d) rainwater tanks</i> <i>(e) private open space and landscaping</i> <i>(f) convenient storage of household waste and recycling receptacles</i>  <i>General Section: Residential Development: PDC 13</i>	<b>Complies</b> The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.
<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>  <i>General Section: Residential Development: PDC 14</i>	<b>Complies</b>

## 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 dwelling 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) The proposed POS areas maintain a northerly aspect to provide for comfortable year round use.
- g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development.
- 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

- h) POS areas not to comprise shading devices, however are capable of being shaded during summer.

### Site Area 250 m<sup>2</sup> or greater:

*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 m<sup>2</sup>:

*20% of the site area or 35 m<sup>2</sup>, 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

Dwg (1) = 60.17m<sup>2</sup> (22.43%)

### Complies

Dwg (2) = 47.68m<sup>2</sup> (20.69%)  
Dwg (3) = 48.02m<sup>2</sup> (20.64%)

## 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 setback of 4.4 – 5.5 metres is similar to that of existing and more recently-constructed 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.

<p><i>Minimum setback from secondary road frontage: 3 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Partially Complies</b></p> <p>Dwg (3) = Min setback 2.0m, increasing to 3.0m or more for the remainder</p>
<p><i>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</i></p> <p><i>General Section: Residential Development: PDC 36</i></p>	<p><b>Complies</b></p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>
<h2>Side Setbacks</h2>	
<p><i>Where the wall height is not greater than 3 metres: 1 metre</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p>
<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>(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</i></p> <p><i>or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>General Section: Residential Development: PDC 38</i></p>	<p><b>Complies</b></p> <p>(c)(iii) Wall height of 2.7 metres</p> <p>(c)(iv) More than 3.5 metres from north-facing habitable room window</p> <p><b>Does Not Comply</b></p> <p>(a) Dwgs (1) and (2) abut both side boundaries; however, this is somewhat symptomatic of row dwellings. The remaining boundaries remain free of structures/buildings, providing adequate separation from the street and adjoining land.</p> <p>(c)(i) Boundary wall is not set 2.0 metres behind main face of adjacent dwelling</p> <p>(c)(ii) Incorporates a length of 6.39 metres</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 &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the boundary wall length does not comply with quantitative criteria, the separation from side boundaries is considered sufficient to minimise the visual impact of the building from adjacent properties. 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><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Does Not Comply</b></p> <p>Min 3.23 metres</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></p> <p><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</i></p> <p><i>(b) a minimum of 8 metres for two storey components of dwellings</i></p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p><b>Does Not Comply</b></p> <p>Dwg (1) : 3.23m setback (57%) 5.93m setback (34%)</p> <p>Dwg (2): 3.23m setback (57%) 5.93m setback (34%)</p> <p>Dwg (3): 3.23m setback (47%) 5.93m setback (44%)</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 &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>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>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>The proposed dwellings incorporate a maximum building height of 4.8 metres, which is less than the maximum permitted in the Policy Area.</p>
<h2>Garages, Carports and Outbuildings</h2>	
<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></p> <p><i>8 metres for a freestanding structure.</i></p> <p><i>5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p><b>Complies</b></p>
<p><i>Carports and garages should be setback from road and building frontages so as to:</i></p> <p><i>(a) not adversely impact on the safety of road users</i></p> <p><i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p><b>Complies</b></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><b>Complies</b></p> <p>The proposed garages 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><b>Complies</b></p>

Car Parking	
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i>  <i>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></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 (e.g. an increase in number of driveway crossovers).</i></p> <p><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Complies</b></p> <p>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) 5 on-street car parking spaces shall remain available adjacent the subject land.</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><b>Complies</b></p> <p>5 on-street car parking spaces are provided for the proposed allotments.</p>
Access	
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i>  <i>(a) 3 metres wide for a single driveway</i>  <i>(b) 5 metres wide for a double driveway.</i></p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p><b>Complies</b></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><b>Complies</b></p> <p>The proposed crossovers are set back a minimum of 1 metre from existing street infrastructure.</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><b>Complies</b></p> <p>Vehicle access points are separated by a minimum distance of 8 metres.</p>

## 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 front façade
- Protruding portico, balcony and cantilevered window awnings
- Eave overhang and pitched roof form at 22.5 degree slope
- Fenestration

The dwellings incorporate a 22.5 degree Colorbond roof, with rendered facades. These materials should not result in glare to neighbouring properties, drivers or cyclists.

The side elevations of the dwellings feature brick and 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.

*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.

## 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) 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<sup>st</sup> of June

Shadow cast into the southern adjoining property will extend over the common property; a turfed and less-frequently used area.

Given the single storey nature of the dwellings, an appropriate amount of natural light will be available to adjoining land.

## 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 dwellings are oriented so that their open spaces and main activity areas face north and west 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 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 22.5 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 (e.g. 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**

Whilst the landscaping details shown on the site plan are relatively limited, adequate area exists at the front of the site for reasonable landscape plantings of varying heights.

As such, the setback of the buildings and limited sealed area forward of the dwellings will nonetheless enable an attractively landscaped streetscape.

## TABLE DISCUSSION

The proposal satisfies a majority 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; and
- Rear setbacks

### **Site coverage**

Each dwelling exceeds the maximum site coverage provision of 40%, with Dwelling (1) at 52.38%, Dwelling (2) 52.66% and Dwelling (3) achieving 45.58%.

Further, it is of my opinion that the site coverage shortfall will not detrimentally impact the function of each dwelling, as a sufficient amount of private open space will be made available to the rear of each dwelling and to the side of Dwelling (3). Additionally, it is of value to note that when dividing the total floor area against the total site area of the land, an overall site coverage of 50.2% is achieved, which whilst still relatively high, is more in-keeping with the site coverage provisions and other dwellings within the locality.

### **Rear setbacks**

Whilst the rear setback of each dwelling does not strictly comply with that sought in the Policy Area, adequate separation is provided to avoid resulting in an unreasonable visual impact or the overshadowing of the adjoining property to the west.

Further, at present, this property comprises a driveway and large detached outbuilding adjacent the shared boundary. As such, the proposed dwellings are adjacent an area utilised for the parking and manoeuvring of vehicles, rather than the primary area of private open space.

## ANALYSIS/CONCLUSION

It is my opinion that the proposed development complements the Objectives, Principles of Development Control and Desired Character of the Northern Policy Area 13, being an area which encourages the redevelopment of old housing stock at low to medium densities and a range of housing types.

It is acknowledged that the proposal displays areas of non-compliance, the most significant being the site area and site coverage. However, after further assessment and consideration of the potential impacts, it has been demonstrated that this element will not have detrimental impacts upon the function of the proposed development, nor upon adjoining land.

Furthermore, the assessment of the qualitative criteria has demonstrated that the proposal generally achieves the anticipated design, layout and features sought for new residential development, achieving a number of positive outcomes for the amenity of future residents and the owners and occupiers of adjacent properties.

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.

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## 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: 100/2014/2184 to construct three single storey row dwellings, one of which (Dwelling 1) incorporates a garage wall on the southern boundary at 58 Conmurra Avenue, Edwardstown be **GRANTED** subject to the following conditions:

## CONDITIONS

1. The development shall proceed in accordance with the Site, Elevation and Floor Plans stamped dated received 3 December 2014 and the amended Engineered Site Works and Drainage Plan prepared by RCI Consulting Engineers stamped dated received 4 February 2015 all submitted with and forming part of Development Application No. 100/2014/2184, except where 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](http://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.

8. 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.

## 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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment IV:</i>	<i>Statement of Representations</i>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 4 March 2015

<b>Agenda Ref No:</b>	<b>DAP040315 – 3.7</b>
<b>Originating Officer:</b>	<b>Rhiannon Hardy Development Officer - Planning</b>
<b>Applicant:</b>	<b>Mike Sugars</b>
<b>Development Description:</b>	<b>A two storey dwelling and two single storey dwellings to the rear of the site, all with associated car parking and landscaping</b>
<b>Site Location:</b>	<b>27 Trott Grove, Oaklands Park</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Medium Density Policy Area 12</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Lodgement Date:</b>	<b>07/10/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/1771</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of Schedule 9, clause 18(b) of the Development Regulations 2008, which assigns “2 or more dwellings on the same site where at least 1 of those dwellings is 2 storeys high, but no residential building is to be more than 2 storeys high” as Category 2 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
Vehicle parking and manoeuvring areas do not serve users efficiently, conveniently or safely.	Residence 1's garage relocated from the rear of the dwelling to the side of the dwelling, thereby providing direct vehicle access from the street frontage, and enabling the areas to the rear of Residence 1 to be used for turning areas of Residences 2 and 3. As such, Residence 1 converted from a group dwelling to a detached dwelling.
Residence 1 should provide a minimum 20% POS	POS increased from 16.7% to 23.4%
Residences 2 and 3 should be set back a minimum 3 metres from the rear (northern) boundary	Portion of dwelling setback 1.0 metre from rear boundary decreased in width from 5.6 metres (laundry and garage) to 3.4 metres (garage only).
Site coverage should not exceed 40% of the site area	No notable change
The common driveway should maintain a minimum width of 3.0 metres with 0.5 metre wide landscaping strips on both sides	Driveway width increased from 2.8 to 3.0 metres. Additional landscaping strip provided on western side of driveway.
Height of terraces abutting rear boundary should not exceed 3.0 metres	Terrace gutter height decreased from 3.4 metres to 2.7 metres.

## SUBJECT LAND & LOCALITY

The subject land is located at 27 (lot 271) Trott Grove, Oaklands Park. The allotment maintains a frontage width of 12.19 metres, and is irregular in shape with a site area of approximately 903 square metres.

The existing allotment accommodates a single storey detached dwelling built in the 1950s, which is in basic condition. A driveway crossover exists adjacent the western side of the allotment to provide vehicle access to the dwelling.

No regulated trees are located on the subject land. The mature trees on the land are not regulated, as they are located within 10 metres of the existing dwelling and are not Eucalyptus or Agonis species.

The site maintains a moderate gradient, as the site rises from the front to the rear boundary by a height of approximately 1.2 metres.

The locality comprises a mixture of dwelling types and densities, with a combination of existing housing stock at low densities and redeveloped properties at low-to-medium densities. Redeveloped properties take the form of a range of dwellings types including row dwellings, semi-detached dwellings and group/residential flat building developments.

The adjoining land to the east (29-31 Trott Grove) incorporates a new development comprising seven dwellings; three two-storey dwellings at the front of the site and four single-storey dwellings to the rear. This application was granted Development Plan Consent by the Development Assessment Panel at the meeting held on 18 June 2014.

It is noted that the Regeneration Policy Area 16 is located on the southern side of Trott Grove, while the Northern Policy Area 13 commences on the eastern side of Pemberton Street; both located approximately 50 metres from the subject land.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The subject application proposes to construct one two-storey dwelling at the front of the site (Residence 1), and two single-storey dwellings at the rear of the site (Residences 2 and 3). Although one vehicle access point is proposed to be shared by all three dwellings, Residence 1 maintains a frontage of the public road, and a shared right of way over a portion of the common driveway. As such, it is considered that this dwelling will maintain a site held exclusively with that dwelling, and therefore would satisfy the definition of a detached dwelling if/when a plan of division is deposited with the Land Titles Office.

The applicant has not confirmed whether Residences 2 and 3 will be joined together by a party wall, and therefore it is likely that these two dwellings will be detached from one another. Given that they share access from a common driveway and do not maintain frontage from a public road, they are classified as group dwellings for the assessment purposes of this report.

The applicant has provided an indicative plan of division which confirms the above, however a formal land division application has not been lodged as yet.

It is recognised that the application comprises a Category 2 development despite whether a land division is received or not, and therefore no third parties are prejudiced by the absence of a formal land division application.

Residence 1 incorporates a single-width garage, laundry, WC and open-plan family/kitchen area on the ground floor. The upper floor features three bedrooms (main with ensuite), bathroom and living area. An under-main-roof verandah is located on the eastern side of the dwelling, directly accessible from the meals area.

Residences 2 and 3 each feature a single garage, three bedrooms (main with ensuite), open-plan living/kitchen area, bathroom, laundry and under-main-roof terrace to the rear of the dwelling.

The common driveway, which provides vehicle access to all three dwellings, is located adjacent the western side boundary and utilises the existing vehicle crossover.

A selection of landscaping is proposed throughout the site, including adjacent the common driveway and in the front yard of Residence 1.

The development site will be levelled, resulting in cut throughout the site, and only a minimal amount of fill forward of Residence 1. Residence 1 is proposed to be sited 500mm below Residences 2 and 3. Cut of the site should not exceed 0.5 metres in vertical height, with retaining walls proposed at a maximum height of 0.5 metres along the northern rear boundary.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	6 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	1 representation was received by Council, in favour of the application.

## INTERNAL DEPARTMENT COMMENTS

<b>Engineering:</b>	Vehicle manoeuvring areas are satisfactory.
<b>Open Space:</b>	1.5 metre setback required from driveway to existing Crepe Myrtle street tree.

## 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.*

<i>PDC 1</i>	<p><i>The following forms of development are envisaged in the policy area:</i></p> <ul style="list-style-type: none"> <li>▪ <i>affordable housing</i></li> <li>▪ <i>detached dwelling</i></li> <li>▪ <i>group dwelling</i></li> <li>▪ <i>residential flat building (buildings between one and three storeys)</i></li> <li>▪ <i>row dwelling</i></li> <li>▪ <i>semi-detached dwelling</i></li> <li>▪ <i>supported accommodation.</i></li> </ul>	<p><b>Complies</b> Application proposes a detached dwelling and group dwellings.</p>
<i>PDC 6</i>	<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><b>Complies</b> 1 common driveway proposed</p>
<i>PDC 7</i>	<p><i>Minimum Site Area:</i></p> <p><i>Detached: 300 m<sup>2</sup></i> <i>Group: 250 m<sup>2</sup></i></p>	<p><b>Does Not Comply</b> Residence 1: 248 m<sup>2</sup> Residences 2 &amp; 3: 244 m<sup>2</sup></p>
	<p><i>Minimum Frontage:</i></p> <p><i>Detached: 10 m</i> <i>Group (on battleaxe allotment): 4 m</i></p>	<p><b>Does Not Comply</b> Residence 1: 7.9 m</p> <p><b>Complies</b> Residences 2 &amp; 3: 4.3 m</p>
	<p><i>Minimum Depth:</i></p> <p><i>Detached: 20 m</i> <i>Group: 45 m</i></p>	<p><b>Partially Complies</b> Residence 1: 16.6 - 21.2 m</p> <p><b>Does Not Comply</b> Residences 2 &amp; 3: 37.6 m</p>

## Assessment

### **Objectives & Desired Character**

The subject land is located approximately 1 kilometre (walking distance) from the Oaklands train station, and 400 metres from the nearest bus stop on Diagonal Road. The nearest reserve is located 700 metres away from the subject land on the corner of Diagonal Way and Dwyer Road. The Regional Centre Zone is located only 370 metres from the subject land, which accommodates a number of centre facilities including Westfield Marion, Marion Cultural Centre, Domain Medical Centre and the SA Aquatic Centre.

Given that the subject land is located in close proximity to the Regional Centre Zone and within an acceptable walking distance of public transport routes and public open space, the wider locality contains features identified in Objective 2 of the Residential Zone and Objective 1 of the Medium Density Policy Area 12 as warranting increased residential densities.

The application includes a two-storey dwelling and two single-storey dwellings, which shall achieve a variety of housing forms and styles as encouraged by the Desired Character. Two storey dwellings are expressly anticipated in Policy Area 12. The proposed detached dwelling and group dwellings are forms of development directly envisaged by Principle 1 of the Policy Area. Accordingly, the essential form and nature of the proposal complements the overarching policies of the Medium Density Policy Area 12.

## **Site Areas**

The site area of Residence 1 equals 248 square metres, where a minimum site area of 300 square metres should be provided for a detached dwelling. This represents a deficiency of 52 square metres, which equates to 17.3% below the minimum requirement.

The site area of Residences 2 and 3 fall short of criteria at 244 square metres, where a minimum of 250 square metres applies. This represents a shortfall of 6 square metres per dwelling, or 2.4%.

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 dwellings would maintain an average site area of 301 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. It is therefore considered that the subject land could feasibly be developed to accommodate three dwellings in accordance with density guidelines. Furthermore, the proposed site areas fall within the category of medium residential density, which corresponds with the level of density desired to occur within Policy Area 12.

This observation is further justified by the fact that other redeveloped properties in the locality support average site areas similar to that proposed in the subject application.

These considerations suggest that the shortfalls in site areas are not fatal to the merit of the subject application.

## **Frontage**

Residence 1 maintains a frontage width of 7.9 metres, where 10 metres is prescribed. Despite this shortfall, the undersized frontage width should not be readily apparent when viewed from the street given that the common driveway is integrated into the frontage. A right of way is to be imposed over a portion of the common driveway to enable unrestricted access for all three dwellings. This ensures that fencing shall not be erected between the common driveway and Residence 1, and therefore the overall frontage width of 12.19 metres should present to the street as an integrated site.

## **Site Depth**

The site maintains a depth of 37.6 metres, where 45 metres is recommended for group dwellings. However, the allotment maintains a width of 39.32 metres along the rear boundary, where a width of 18 metres is anticipated. Accordingly, the minor shortfall in site depth is sufficiently compensated by the generous dimensions of the site.

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## DEVELOPMENT ASSESSMENT

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

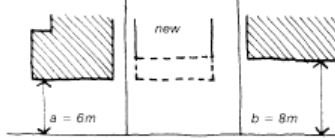
### Principles of Development Control

### Assessment

Site Coverage	
<p><b>Maximum site coverage:</b></p> <p>Site area less than 270 m<sup>2</sup>: 100 m<sup>2</sup> or 40%  <b>(100 m<sup>2</sup> is the greater in this instance)</b></p> <p>Medium Density Policy Area 12: PDC 8</p>	<p><b>Does Not Comply</b></p> <p>Residence 1: 117.6 m<sup>2</sup> (47.4%)  Residences 2 &amp; 3: 146.0 m<sup>2</sup> (59.8%)</p>
<p><b>Maximum floor area ratio:</b></p> <p>Site area less than 270 m<sup>2</sup>: 0.7</p> <p>Medium Density Policy Area 12: PDC 8</p>	<p><b>Complies</b></p> <p>Residence 1: 164.2 m<sup>2</sup> = 0.66</p>
<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> <li>(a) pedestrian and vehicle access and vehicle parking</li> <li>(b) domestic storage</li> <li>(c) outdoor clothes drying</li> <li>(d) rainwater tanks</li> <li>(e) private open space and landscaping</li> <li>(f) convenient storage of household waste and recycling receptacles</li> </ul> <p>General Section: Residential Development: PDC 13</p>	<p><b>Complies</b></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"> <li>(a) to be accessed directly from a habitable rooms of the dwelling</li> <li>(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</li> <li>(c) to take advantage of, but not adversely affect, natural features of the site</li> <li>(d) to minimise overlooking from adjacent buildings</li> <li>(e) to achieve separation from bedroom windows on adjacent sites</li> <li>(f) to have a northerly aspect to provide for comfortable year round use</li> <li>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>(h) to be partly shaded in summer</li> <li>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</li> <li>(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.</li> </ul> <p>General Section: Residential Development: PDC 15</p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) All POS areas are directly accessible from a habitable room of the associated dwelling</li> <li>b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy</li> <li>c) The subject land does not maintain natural features which warrant preservation</li> <li>d) The POS areas should not be directly overlooked by adjacent buildings</li> <li>f) The proposed POS areas maintain a northerly aspect to provide for comfortable year round use</li> <li>g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>h) POS areas are capable of being shaded during summer, as each dwelling incorporates an under-main-roof terrace/alfresco</li> <li>i) Traffic, industry or other business activities should not affect the subject land</li> </ul> <p><b>Does Not Comply</b></p> <p>e) The POS of Residence 1 is sited adjacent Bed 2 of Residence 3. Although this siting is not ideal, it is noted that the southern wall of Bed 2, which abuts the POS, is solid with no windows or openings, which should somewhat assist in minimising noise intrusion.</p>

	<p><b>Partially Complies</b></p> <p>j) The POS areas of Residences 2 and 3 are considered to have sufficient shape and area to be functional. However, the POS of Residence 1 is segmented, with three different areas proposed. The proposed allotment is an irregular shape with an additional area of POS in the north-eastern corner of the site. Despite this irregular configuration, the overall amount of POS satisfies criteria, with usable dimensions provided to the areas on the eastern side of the dwelling. As such, the POS is considered to have sufficient shape and area to be functional.</p>
<p><b>Site area less than 250 m<sup>2</sup>:</b></p> <p><i>20% of the site area or 35 m<sup>2</sup>, whichever is the greater</i></p> <p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <p>Residence 1: 58.0 m<sup>2</sup> = 23.4% Residences 2 &amp; 3: 67 m<sup>2</sup> = 27.4%</p> <p><b>Complies</b></p> <p>Residence 1: 4.8 x 5.0 metres minimum dimension, which is directly accessible from living room with negligible gradient</p> <p><b>Partially Complies</b></p> <p>Residences 2 &amp; 3: 5 x 5 metres minimum dimension, which is indirectly accessible from the living area. The area immediately adjacent the living area has 3.0 x 9.3 minimum dimension. Both areas with negligible gradient.</p>
<b>Street Setbacks</b>	
<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <p><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></p> <p><i>(b) contribute positively to the function, appearance and/or desired character of the locality.</i></p> <p><i>General Section: Design and Appearance: PDC 23</i></p>	<p><b>Complies</b></p> <p>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 setback of 4.75 - 5.0 metres is similar to that of new dwellings in the locality (as two-storey dwellings at 29-31 Trott Grove feature a minimum front setback of 4.5 metres).</p> <p>Furthermore, given that the subject land is located at the end of a cul-de-sac, a linear pattern of street setbacks is not evident.</p> <p>As such, the proposed front setback is considered to adequately contribute to the function, appearance and desired character of the locality.</p>

*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 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: 4.75 - 5.0 metres

(Dwellings on adjoining land set back approximately 4.5 and 17.5 metres, which equals an average setback of 11 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*

*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

Res 1: 1.0 m minimum

### Does Not Comply

Res 2 & 3: 0.9 minimum

The proposed side setback of Res 2 and 3 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.

### Partially Complies

Res 1: 2.0 – 4.8 m (east) and 1.2 – 3.0 (west)

The shortfall in western side setback should not result in unreasonable impacts to adjacent land, given that this side of the dwelling is adjacent the common driveway of Residences 2 and 3. As such, the shortfall in side setback will not affect habitable areas, and therefore should not detract from the amenity of adjoining land.

## 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

### Does Not Comply

Res 1: 1.0 m (58.3% of lot width)

### Partially Complies

Res 2 & 3: 1.0 (17.3%) 3.0 (47.3%) and 7.0 m

*6 metres for a 2 or more storey dwelling*

Residential Zone: PDC 7

### Does Not Comply

Res 1: 2.0 - 3.0 m

<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 &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the rear setback of Res 1 does not comply with quantitative criteria, the separation from the rear boundary is considered sufficient given that the land to the rear comprises the driveway and manoeuvring areas of Residences 2 and 3. Given that these areas are not habitable, the shortfall in setback should not adversely impact the amenity of adjacent land.</p> <p>The garages of Res 2 and 3 fail to meet rear setback criteria. Given that freestanding garages can be constructed abutting rear boundaries as complying development, the siting of the garage 1.0 metre from the rear boundary is considered reasonable.</p> <p>Furthermore, it is noted that all dwellings maintain a northern rear boundary. As such, the shortfall in setback should not result in overshadowing of adjacent land.</p>
<b>Building Height</b>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>(i) 2 storeys of not more than 9 metres</i></p> <p><i>(ii) 2 storeys plus attic of not more than 10 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>The proposed Residence 1 incorporates a maximum building height of 7.7 metres, which is less than the maximum permitted in the Policy Area.</p>
<b>Garages, Carports and Outbuildings</b>	
<p><i>Minimum setback from primary road frontage:</i></p> <p><i>5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p><b>Complies</b></p> <p>Residence 1: 8.7 metre setback and 4.0 metres behind main face</p>
<p><i>Carports and garages should be setback from road and building frontages so as to:</i></p> <p><i>(a) not adversely impact on the safety of road users</i></p> <p><i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p><b>Complies</b></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: PDC 8</i></p>	<p><b>Complies</b></p> <p>The proposed garages are incorporated under the main roof of the associated dwelling, with 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><b>Complies</b></p> <p>Res 1: 3.25 metre wide garage = 41.1% of lot width</p>

## Car Parking

<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>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><b>Complies</b></p> <p>Res 1: 2 spaces (1 of which is covered)</p> <p>Res 2 &amp; 3: 2 garage spaces and 2 visitor spaces</p> <p><i>Note: (2 dwellings x 1.5) + (1 visitor space) = 4 spaces required</i></p>
<p><i>On-site vehicle parking should be provided having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the number, nature and size of proposed dwellings</i></li> <li><i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i></li> <li><i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i></li> <li><i>(d) availability of on-street car parking</i></li> <li><i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.</li> <li>b) Centre facilities and public transport are located within walking distance of the dwellings.</li> <li>c) The likely occupants are anticipated to have standard mobility and transport requirements.</li> <li>d) e) The development utilises the existing crossover, and therefore shall not result in a loss of on-street parking.</li> </ul>
<p><i>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</i></p> <ul style="list-style-type: none"> <li><i>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</i></li> <li><i>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</i></li> <li><i>(c) reinforce or contribute to attractive streetscapes.</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 44</i></p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>(a) (b) Council's Development Engineer has confirmed that the development provides adequate space for vehicles to manoeuvre between the street and parking area in an efficient, convenient and safe manner.</li> <li>(c) The proposed vehicle parking areas are located to the rear of the site and therefore should maintain an attractive streetscape.</li> </ul>
<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> <ul style="list-style-type: none"> <li><i>(a) not face the primary street frontage</i></li> <li><i>(b) be located to the rear of buildings with access from a shared internal laneway</i></li> <li><i>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 45</i></p>	<p><b>Complies</b></p> <p>The parking areas are located to the rear of the building with access from a shared internal laneway, and therefore do not face the primary street frontage.</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><b>Does Not Comply</b></p> <p>1 on-street car parking space is provided for the proposed allotments, where PDC 22 anticipates 1.5 spaces for the 3 proposed dwellings. However, given that adequate on-site car parking exists and the site is located in close proximity to public transport and centre facilities, the 0.5 visitor space shortfall is not considered fatal to the application.</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

4.0 metre wide crossover proposed, which shall provide vehicle access to all three proposed dwellings.

*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

The proposed vehicle access point shall utilise the existing vehicle crossover, which does not interfere with existing street infrastructure or street trees.

*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

1 vehicle access point is proposed.

*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:*

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*

### Complies

3.0 metre wide driveway with 0.5 landscaping strips on both sides

## 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 façade of Residence 1 incorporates the following elements to enhance its design/appearance and streetscape presentation:

- Mixture of brick and render on the front façade
- Stepping of the front façade to enhance articulation and variation
- Protruding porch with rendered finish.
- Eave overhang and pitched roof form at 25 degree slope
- Fenestration

The side and rear elevations feature brickwork on the ground floor, render on the upper and stepping of the façades to avoid extensive areas of uninterrupted walling exposed to public view.

Residences 2 and 3 incorporate a 25 degree Colorbond roof with brick facades and rendered pier to porch.

The proposed materials should not result in glare to neighbouring properties, drivers or cyclists.

	On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.
<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 &amp; Appearance: PDC 15</i></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 &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></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><i>General Section: Residential Development: PDC 6</i></p>	<p><b>Complies</b></p> <p>Residence 1 is designed so that its main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.</p>
<b>Overshadowing</b>	
<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> <p><i>(a) windows of habitable rooms</i></p> <p><i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i></p> <p><i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p><i>General Section: Design &amp; Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <p><i>(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</i></p> <p><i>(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></p> <p><i>(i) half of the existing ground level open space</i></p> <p><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></p> <p><i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 10</i></p>	<p><b>Complies</b></p> <p>Given that south forms the street boundary, a majority of winter shadow will be cast within the front yard of Residence 1. Some shadow will be cast into the western adjoining property in morning hours and to the eastern adjoining property in afternoon hours. However, driveway areas of adjoining land are sited adjacent Residence 1 and therefore this morning and afternoon shadow still should not affect habitable windows or POS. Consequently, the likely extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 10 and 11.</p>

## 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

Residence 1 incorporates fixed obscure glazing and/or window sill heights to 1.7 metres above floor level for upper storey windows on the side and rear elevations. Upper storey windows on the front elevation remain unobscured to provide surveillance to the street, and therefore should not result in overlooking of habitable areas.

The dwelling has 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.

*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

The dwellings 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, however these windows are separated from the common driveway by landscaping beds. This combination of setback 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) Common letterboxes could easily be provided adjacent the entrance to the site. Recommended condition of consent 2 has stipulated that this shall be provided prior to occupation of the dwellings.
- 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 each dwelling maintains side gate access to its rear garden. 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.

The main activity areas of the Residence 1 are oriented east, which should receive some northern winter sunlight, particularly in morning hours. Furthermore, the dwelling incorporates north-facing windows to the Meals area which should optimise access to winter sunlight throughout the day.

As identified in the Overshadowing section of this table, 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 development incorporates landscaping in the front yard of Residence 1, including two *Pyrus calleryana* trees and a selection of shrubs and climbing plants. A series of shrubs and climbing plants are proposed along the common driveway and adjacent the side/rear boundaries of the site.

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 retaining wall along the northern rear boundary shall retain cut to a maximum height of 0.5 metres. Given that this retaining wall shall not be visible from adjacent land, the impacts shall be minor.

Fencing has not been nominated at this stage, however standard boundary fencing could be provided in the future to provide privacy/security without adversely affecting visual amenity or access to sunlight of adjoining land.

Accordingly, the proposal accords with PDC 5.

## ANALYSIS/CONCLUSION

The proposed development generally complies with the Objectives, Principles and Desired Character of the Medium Density Policy Area 12, as it shall provide medium density development in relatively close proximity to the Regional Centre Zone and public transport, through a combination of single storey and two storey dwellings.

The proposal complies with a majority of applicable quantitative and qualitative criteria from the Marion Council Development Plan. This being said, several non-compliances have been identified, the most notable being site areas, site coverage, rear setbacks, and the proximity of Residence 3's bedroom to Residence 1's POS.

Despite the technical deficiencies in site area, the average site areas over the subject land exceed the minimum of 250 square metres prescribed for residential flat and group dwellings. Additionally, the proposed site areas are classified as medium density, which accords with the density envisaged to occur within the Medium Density Policy Area 12. Consequently, the proposed site areas and associated density are considered appropriate.

The individual site coverage of each dwelling exceeds the applicable criteria, however the overall site coverage of the land equals only 45.0% of the total site area. It is also noted that this excess includes a proposed terrace/verandah for each dwelling. Without these terraces, site coverage would equal 40.6%, which closely aligns with site coverage criteria. Incorporation of an alfresco area with the subject dwelling application reduces the need for owners/occupiers of the land to construct a verandah in the future, and therefore the higher proportion of site coverage proposed is reasonably justified by the benefit derived from delivering a usable all-weather area of private open space in conjunction with the dwellings.

The rear setback of Residence 1 fails to comply with quantitative criteria by a substantial amount. However, the preceding assessment against PDC 2 (General Section: Design & Appearance) demonstrates that this shortfall should not result in unreasonable impacts to adjacent land, as the common driveway of Residences 2 and 3 will be primarily affected by this shortfall, and overshadowing to the north should not occur.

The shortfall in rear setback of Residences 2 and 3 relates to the garage only. It is acknowledged that garages/outbuildings are permitted to abut rear boundaries for a length of up to 8 metres as complying development, and therefore this shortfall in setback is not considered to constitute fatal shortfall.

The location of the POS of Residence 1, abutting the bedroom of Residence 3, is not an ideal outcome. However, in isolation, this inopportune layout is not considered to warrant refusal of the application.

Where the proposal fails to satisfy other Development Plan criteria, it only does so by a relatively minor amount. Such discrepancies include frontage width, site depth, front setback, lack of communal facilities, and shortfall in on-street parking. Further consideration of these various discrepancies has demonstrated that the shortfalls are not of such consequence to jeopardise the amenity of adjacent land or the locality, nor do they sacrifice the form and function of the proposed development.

Ultimately, the shortfalls against Development Plan criteria are considered to be outweighed by the level of compliance with other criteria, and therefore are not considered 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.

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## 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: 100/2014/1771 for a two storey dwelling and two single storey dwellings to the rear of the site, all with associated car parking and landscaping, at 27 Trott Grove, 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. 100/2014/1771, being drawing number(s) PL01 to PL05 (inclusive) prepared by Regent Homes received by Council on 24 February 2015, and siteworks plan by RCI Consulting Engineers received by Council on 24 February 2015, except when varied by the following conditions of consent.
- 2. Mail box facilities shall be provided close to the major pedestrian entrance to the site, prior to occupation of the dwellings.
- 3. 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](http://www.marion.sa.gov.au/page.aspx?u=181)*

- 4. 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.
- 5. 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.
- 6. 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.
- 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.

## 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

- |                        |   |
|------------------------|---|
| <i>Attachment I:</i>   | <i>Certificate of Title</i>                       |
| <i>Attachment II:</i>  | <i>Aerial Photograph &amp; Site Locality Plan</i> |
| <i>Attachment III:</i> | <i>Proposal Plan and supporting documentation</i> |
| <i>Attachment IV:</i>  | <i>Statement of Representations</i>               |

## **DEVELOPMENT ASSESSMENT PANEL**

### **Wednesday 4 March 2015**

**Agenda Ref No:** DAP040315 – 4.1

**Originating Officer** Steve Hooper  
Manager – Development Services

**Description:** Review of General Operating Procedures and Terms of Reference.

#### **REPORT OBJECTIVE:**

This report seeks to provide Development Assessment Panel Members with an opportunity to review the Development Assessment Panel General Operating Procedures together with the Council's Terms of Reference in accordance with the Panel's resolution at its meeting on 10 December 2014.

#### **BACKGROUND:**

At its meeting on 10 December 2014, the Development Assessment Panel resolved to review its "General Operating Procedures" – last adopted by the Panel on 3 August 2011 at the first available meeting at which all Members are present, after four Development Assessment Panel Meetings.

This 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).

The Development Assessment Panel also resolved to review the Council's "Terms of Reference" last adopted by Council on 25 October 2011 at the same time it reviews the General Operating Procedures and make recommendations to the Council on any changes it considers appropriate.

#### **RECOMMENDATION:**

**(a) That the Development Assessment Panel review its General Operating Procedures and the Council's Terms of Reference.**

**(b) That the Terms of Reference be recommended to Council for adoption subject to the inclusion of the following changes:**

.....

**(c) That the General Operating Procedures be adopted subject to the inclusion of the following changes:**

.....

## TERMS OF REFERENCE:

The current Terms of Reference as adopted by Council on 25 October 2011 is attached at Appendix I.

The majority of clauses reflect the requirements of the Development Act, 1993 and as such there is little scope for change. The discretionary items are as follows:

- Clause 3.1 provides that the DAP shall comprise seven Members appointed by the Council. Members are advised that pursuant to Section 56A(3) of the Development Act, 1993 and with the approval of the Minister, a Development Assessment Panel within Metropolitan Adelaide may consist of 9 members. Council could write to the Minister seeking for the number of members to be increased from 7 to 9.

However, irrespective as to whether 7 or 9 members are to be sought, the Presiding Member and half of the other members must comprise "Independent Members" as outlined in Sections 3.1.2 and 3.1.3 of the current Terms of Reference.

The current operations in having 7 members are operating well.

- Section 6.3 provides guidance as to how the Panel will vote on individual matters before it. It is noted that the corresponding Clause of Section 56A, namely, 18b, is worded as follows:

*"Each member of a council development assessment panel present at a meeting of the panel is entitled to 1 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."*

Clause 3.3 of the General Operating Procedures 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).

The Development Assessment Panel can review Clause 3.3 of the General Operating Procedures provided it is consistent with Section 56A(18b) of the Development Act, 1993.

- Clause 8.1 of the Terms of Reference provides that the DAP shall report to Council on an "as needs" basis detailing issues for consideration by the Council. Typically, the Development Assessment Panel has reported to Council on planning issues that have arisen through the DAP's assessment of development applications. This advice has been effective in driving policy review through the current Residential (General) Development Plan Amendment.

Whilst there is no statutory obligation for the Council to require such reports from the Panel, open communication between the statutory body which sets

development policy and the body that applies it, is considered a sound governance procedure.

It is therefore recommended that Clause 8.1 is retained.

## **GENERAL OPERATING PROCEDURES:**

The current General Operating Procedures (GOP) as adopted by the Development Assessment Panel on 3 August 2011 are attached at Appendix II.

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, 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.*

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.

### **ANALYSIS/CONCLUSION:**

It is timely that the Development Assessment Panel review the General Operating Procedures, in particular having regard to the Council resolution of the 24<sup>th</sup> of February 2015.

Whilst there is some scope to amend clauses of the General Operating Procedures there is little scope for the Development Assessment Panel to recommend to Council a review of the Terms of Reference as a majority of the clauses contained within relate to legislative requirements pursuant to Section 56A of the Development Act, 1993.

However, there may be some areas where the scope of emphasis of these provisions could be modified. The Development Assessment Panel may or may not decide to make recommendations to Council in relation to the Terms of Reference. Council would thereafter make a decision as to whether it would adopt the recommendations of the Development Assessment Panel.

- Appendix I: DAP Terms of Reference**  
**Appendix II: DAP General Operating Procedures**

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**CITY OF MARION**  
**DEVELOPMENT ASSESSMENT PANEL**  
**TERMS OF REFERENCE**  
**(Adopted by Council on 25 October 2011)**

**PREAMBLE**

This document embodies the Constitution of the City of Marion Development Assessment Panel.

**1. ESTABLISHMENT**

- 1.1. Pursuant to Section 56A of the *Development Act 1993* ("the Act") the City of Marion ("the Council") establishes a Development Assessment Panel ("DAP") for the purpose of acting as the "*relevant authority*" in respect of all matters prescribed to it under the Act and by this Terms of Reference.
- 1.2. The City of Marion DAP was established by way of resolution of Council at its meeting of 10 July 2001 (Ref No. 100701/7f.3).
- 1.3. This Terms of Reference first came into operation on 27 May 2003 (and has been amended by resolutions of the Council on 27 July 2004, 13 February 2007, 9 June 2009 and 25 October 2011).
- 1.4. The DAP is separate from and operates wholly independently of the Elected Body of the Council.

**2. FUNCTIONS**

- 2.1. The functions of the DAP are:
  - 2.1.1 to act as a delegate of the Council in accordance with the requirements of the Act and this Terms of Reference;
  - 2.1.2 to provide advice and reports to the Council as it thinks fit on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of development applications under the Act;

- 2.1.3 to cause an Annual Performance Review (APR) to be undertaken of the DAP, examining the composition of the DAP from a 'needs' perspective, the contribution, behaviour and conduct of DAP Members, the function and procedures of the DAP, and other relevant matters. The outcome of the APR shall be reported to Council within one month of being completed; and
- 2.1.4 to perform other functions (other than functions involving the formulation of planning and development policy which is the responsibility of the Council) assigned to the DAP by the Council.
- 2.2. Subject to section 56A(9) of the Act, the *Local Government Act 1999* does not apply to, or in relation to, the DAP (including with respect to the DAP Members when acting under Section 56A of the Act or its processes or procedures).

### 3. MEMBERSHIP & RE-APPOINTMENT

- 3.1. The DAP comprises seven Members appointed by the Council as follows:
  - 3.1.1 up to three persons who are Elected Members or Officers of the Council ("Council Representatives"); and
  - 3.1.2 the balance being persons selected from the community ("Independent Representatives"), who satisfy the requirements of Section 56A(3)(c)(ii) of the Act, one of whom will be appointed by the Council as the Presiding Member;
  - 3.1.3 At least one member of the DAP must be a woman and one member must be a man.

(the above are collectively referred to in this Terms of Reference as the "DAP Members").

- 3.2. Independent Representatives appointed pursuant to Clause 3.1.2 of the Terms of Reference are eligible for membership of the DAP only if:

- 3.2.1 they have demonstrated appropriate skills or knowledge of town planning and DAP processes and have a reasonable knowledge of the operation and requirements of the Act, and appropriate qualifications or experience in a field that is relevant to the activities of the DAP; and
- 3.2.2 they meet any other reasonable criteria imposed by resolution of the Council.
- 3.3. A Council Representative is entitled to be re-appointed as a DAP Member for a second successive term, by being expressly authorised by a resolution of the Council.
- 3.4. An Independent Representative is entitled to be re-appointed as a DAP Member for multiple successive terms by Council resolution.
- 3.5. The term of office for each DAP Member is as determined by the Council but in any event shall not exceed 2 years.
- 3.6. A DAP Member whose term of office expires (as distinct from resignation or removal from office) may nevertheless continue to act as a member of the DAP for a period of up to 6 months until either he or she is reappointed or a successor is appointed.
- 3.7. The Presiding Member of the DAP is appointed by the Council and will preside at all DAP meetings.
- 3.8. The Presiding Member will be appointed by the Council taking into account the following requirements:
  - 3.8.1 he or she must not be a member or officer of the Council;
  - 3.8.2 he or she must be a fit and proper person to be a member of the Panel; and
  - 3.8.3 he or she must be a person who is determined by Council to have a reasonable knowledge of the operation and requirements of the Act, and appropriate qualifications or experience in a field that is relevant to the activities of the Panel.

#### 4. VACANCY OF OFFICE/RESIGNATION/ REMOVAL AND REPLACEMENT OF A MEMBER

- 4.1. The office of a DAP Member becomes vacant if the member:
  - 4.1.1 dies; or
  - 4.1.2 completes a term of office and is not reappointed; or
  - 4.1.3 resigns by written notice to the Executive Officer; or
  - 4.1.4 becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
  - 4.1.5 is convicted of an indictable offence punishable by imprisonment; or
  - 4.1.6 is removed from office by the council.
- 4.2. A DAP Member may resign from the DAP by giving the Executive Officer notice in writing to that effect. Such notice takes effect immediately upon receipt by the Executive Officer.
- 4.3. Subject to Clause 4.4 of the Terms of Reference the Council may, at its absolute discretion, remove a DAP Member from office for any of the following inappropriate behaviours:
  - 4.3.1 a breach of, or failure to comply with, the conditions of appointment to the DAP; or
  - 4.3.2 misconduct detrimental to the interests of the DAP, the Council and/or the administration of the planning system (and in this context "misconduct" includes any conduct of a DAP Member known to the DAP, the Council or the public which offends the social mores of the community); or
  - 4.3.3 neglect of duty; or
  - 4.3.4 incapacity to carry out satisfactorily the duties of his or her office; or

- 4.3.5 failure to carry out satisfactorily the duties of his or her office;  
or
  - 4.3.6 failure to declare a direct or indirect personal or pecuniary interest in a matter before the DAP in breach of Section 56A(7) of the Act; or
  - 4.3.7 with respect to a DAP Member who is an Independent Representative - failure to disclose his or her financial interests in accordance with Schedule 2 of the Act; or
  - 4.3.8 failure to attend three consecutive meetings of the DAP without the DAP having previously resolved to grant a leave of absence to the DAP member; or
  - 4.3.9 breach of the DAP Code of Conduct adopted under 21A of the Act..
- 4.4. The Council must give written notice to a DAP Member of its intention to consider removing the DAP Member from office for any of the behaviours set out in Clause 4.3 above. Further, the Council must give the DAP Member an opportunity to respond to an allegation of inappropriate behaviour (either verbally or in writing). Any response provided by the DAP Member must be taken into account before the Council makes a determination on whether to remove the DAP Member from office.
- 4.5. Particulars of an allegation of inappropriate behaviour must be communicated in writing to the DAP Member at least seven days before the meeting of the Council at which the matter will be determined.
- 4.6. The decision of the Council in consideration of an allegation of inappropriate behaviour will have immediate effect and must be communicated to the DAP Member in writing.
- 4.7. Should a vacancy in the membership of the DAP occur for whatever reason, the Council will fill that vacancy at the earliest opportunity in accordance with this Terms of Reference.

4.8. A replacement DAP Member shall be appointed to serve the remainder of the term of the DAP Member whose position is to be filled and shall enjoy the same rights and obligations as that DAP Member.

4.9. The appointment of a Replacement DAP Member should be made expeditiously, but need not be made in the instance where the vacancy to be filled will be for a period of less than three months.

4.10. A vacancy in the membership of the DAP will not invalidate any decision by the remaining DAP Members, provided a quorum is maintained during meetings.

## 5. ROLE OF THE DAP

5.1. The primary role and objective of the DAP is to ensure that DAP decisions are consistent with the law and the policy intent of the Development Plan.

5.2. The DAP is responsible for all matters prescribed to it under Section 56A(2) of the Act and;

5.2.1 must act in strict accordance with the Act and the Development Regulations 2008 and in accordance with the terms of delegations, policies, procedures and protocols which are relevant to the DAP. In that regard, the DAP must prepare and adopt an operating procedure, which sets out the manner in which the DAP conducts its business; and

5.2.2 has no obligation to report to the Council on its development application decisions, except by the publication of the DAP Minutes.

5.3. The DAP must ensure that its procedures:

5.3.1 are fair and contribute to informed decision-making; and

5.3.2 reflect the levels of formality appropriate to the nature and scope of responsibilities exercised at that meeting; and

- 5.3.3 are sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.
- 5.4. The DAP shall on an annual basis determine a schedule of ordinary meetings.
- 5.5. The DAP will determine the distribution and presentation requirements for Agenda & Reports for DAP Members and the distribution requirement for Agenda & Reports to the Public.
- 5.6. The DAP shall ensure that accurate minutes are kept of its proceedings.

## 6. OBLIGATIONS OF DAP MEMBERS

- 6.1. A DAP Member having a direct or indirect personal or pecuniary interest, in accordance with Sections 56A(7) and (8) of the Act:
  - 6.1.1 must as soon as he or she becomes aware of his or her interest in a matter at a meeting, disclose the nature and extent of the interest to the DAP; and
  - 6.1.2 must not take part in any hearings conducted by the DAP or in any deliberations or decisions of the DAP on the matter and must be absent from the meeting when any deliberations are taking place or a decision is being made.
  - 6.1.3 Must act in accordance with these provisions when the interest is that of an associate of the DAP Member.
- 6.2. For the purposes of Clause 6.,1 a conflict of interest will include:
  - 6.2.1 when a DAP Member's ability to objectively perform his or her duties and responsibilities is compromised; or
  - 6.2.2 when an independent observer might reasonably question whether the DAP Member's interests are improperly influenced by considerations of a personal relationship, financial gain and the like related to the development application, the applicant or a representor (or their agent); or

- 6.2.3 when the DAP Member has a relationship with the applicant or a representor (or their agent), has competing professional or personal interests with the application, the applicant or representor (or their agent), which will or may be perceived objectively to influence their decision; or
- 6.2.4 when the DAP Member will financially benefit, whether directly or indirectly from their relationship with the applicant or a representor (or their agent), or otherwise in relation to the development application.
- 6.3. Every DAP Member must vote on the determination of a development application and/or any other matter arising for decision by the DAP, unless the Member has previously declared a conflict of interest in the matter.
- 6.4. DAP members must disclose an interest in a matter before the DAP, in writing to the Presiding Member, before the matter is considered by the Panel and must not partake in any assessment processes involving that matter.
- 6.5. DAP members may publicly acknowledge relationships with applicants and representors which do not give rise to an interest by stating the relationship and declaring that the relationship does not give rise to an interest.
- 6.6. Independent Representatives must disclose their financial interests in accordance with Section 56A(6) and Schedule 2 of the Act. Failure to do so may result in removal of the DAP Member from office pursuant to Section 4.3.7 of this Terms of Reference.
- 6.7. A DAP Member must not privately initiate discussions with an applicant(s), a representor(s), a member(s) of the public or government agency in relation to any matter before the DAP for consideration or likely to be considered by the DAP.
- 6.8. In a situation where a person seeks to provide information to a DAP Member outside of a meeting, the DAP Member must not make comment or express an opinion upon the merits or otherwise of the particular development application. A DAP Member may indicate that

the only decision to be made will be that of the DAP at a properly convened meeting, and the person should be encouraged to provide the information to the DAP through the Executive Officer.

6.9. A DAP Member approached in any way outside of a DAP meeting must disclose the nature and extent of the approach at the next DAP meeting.

6.10. Subject to collective DAP site visits as organised by the Executive Officer, a DAP Member must avoid entering development sites, even if invited by the land owner or a neighbouring property owner.

## **7. EXECUTIVE OFFICER AND PUBLIC OFFICER**

7.1. The Council will appoint an Executive Officer to support the DAP in undertaking its functions.

7.2. The Council will appoint a Public Officer to fulfil the obligations prescribed in Section 56A (24) of the Act. The functions of the Public Officer shall include ensuring the proper investigation of complaints about the conduct of a DAP Member or of operations of the DAP.

## **8. REPORTS TO COUNCIL**

8.1. The DAP shall report to Council on an "as needs" basis, detailing issues for consideration by the Council. The report shall include advice on trends, issues and other matters relating to planning or development that have become apparent or arisen through the DAP's assessment of development applications.

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## CITY OF MARION

## DEVELOPMENT ASSESSMENT PANEL

## General Operating Procedures

(adopted by DAP on 3 August 2011)

## 1. TIMING &amp; 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.

- 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

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).

- 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.

#### 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.

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.