

**DEVELOPMENT ASSESSMENT PANEL
AGENDA FOR MEETING TO BE HELD ON
WEDNESDAY 5 NOVEMBER 2014**

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HELD ON 5 NOVEMBER 2014**

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DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.1
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Zebedee William Nickolai
Development Description:	A two storey detached dwelling exceeding a building height of 9 metres, and incorporating an in-ground swimming pool, associated earthworks, retaining walls and landscaping
Site Location:	2 Boonga Street, Hallett Cove
Zone:	Residential Zone
Policy Area:	Hills Policy Area 11
Application Type:	Category 2 / Consent
Lodgement Date:	28 July 2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1290
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development, for the following reasons;

- The extent of earthworks as part of the proposal was considered to be minor in nature and will not unreasonably impact on the owners or occupiers of land in the locality and therefore a Category 1 form of development pursuant to Part 1, clause 2(g) of Schedule 9 of the Development Regulation 2008 (see below); and
- By virtue of the Public Notification section of the Residential Zone of the Marion Council Development Plan which assigns development that comprises a building height exceeding 9.0 metres as Category 2 development.

In my view, the extent and nature of the earthworks proposed as part of the proposal can be reasonably treated as minor and will not unreasonably impact on the owners or occupiers of land in the locality for the following reasons;

- The land comprises a very steep grade – the ‘developable area’ (referred to later in this report) averages 21.2%. As such, a considerable amount of earthworks would be reasonably expected for any development on the land;

- The developable area is limited in depth (due to the placement of the easement), limiting the opportunity to avoid treating the extent of fill over a greater area via battering or terracing, as such works cannot occur over the easement;
- Retaining to various heights is evident on a majority of nearby properties and is commonplace throughout the locality;
- The highest extent of retaining on the site (2.05 metre-high and 1.15 metre-high terraced retaining wall adjacent the southern side of the single-width driveway) is designed to provide formality and street presence;
- The face of these retaining walls will be clad with Redgum panelling, which will grey over time and provide a softened view (compared to concrete sleepers or similar);
- The area between the retaining walls will be landscaped with appropriately-selected plantings;
- These walls will have no detrimental impacts upon adjoining or adjacent land via visual impact or overshadowing;
- The second-highest extent of retaining (up to 1.9 metres above ground level - north-western corner of swimming pool), is not in close proximity to neighbouring residential properties and will not be readily visible from residential properties;
- When viewed from nearby land, the retaining wall will be back-dropped by the dwelling, and will not be a prominent structure on the land;
- The retaining wall is to be clad with Redgum panelling which will grey over time and provide a softened view (compared to concrete sleepers or similar);
- The retaining wall is proposed to be back-filled and landscaped with appropriately-selected plantings; and
- The wall will essentially form part of the swimming pool, which is either a form of development that does not require Planning Consent pursuant to Schedule 1A, or is a Category 1 form of development, pursuant to the Development Regulations, 2008; and
- The greatest extent of cutting into the land will be set within the footprint of the building and will therefore not be visible from adjoining land.

It is for these reasons that I am satisfied the earthworks and retaining proposed is to be considered minor in nature and will not unreasonably impact on the owners or occupiers of land in the locality, and therefore the application is appropriately categorised 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

As Members are likely to recall, an application for the construction of a two storey dwelling on the subject land was considered by the Panel at its meeting of 19 March 2014. That application was refused for reasons of bulk and scale, visual impact upon the adjoining property to the south, the roof form of the building, extent of earthworks (in particular, fill) and the colours of the building.

An appeal has been lodged against that decision, with the next conference scheduled for Thursday 20 November 2014.

Members are respectfully reminded to treat the subject application as a separate/independent application to that previously considered by the Panel.

SUBJECT LAND & LOCALITY

The subject land is situated at 2 (Lot 64) Boonga Street, Hallett Cove, on the western side of that road. This street is limited to some 200 metres in length and terminates at its northern end, adjacent the subject land.

The subject property incorporates a frontage width of 35.51 metres, an average depth in the order of 29 metres and an overall site area of approximately 971 square metres. An easement, in favour of the Minister for Infrastructure is located towards the northern side and western rear boundaries.

The land grades down in a north-westerly direction, becoming steeper towards the northern and western boundaries of the property.

The land is free from substantial vegetation; however, the author understands the limited existing vegetation is indigenous to the local area.

A guard rail is located within the road reserve; towards the northern end of the front boundary of the land.

The locality comprises dwellings of a variety of architectural styles, many of which are single storey in form, having been constructed in the 1970s – 1980s. More recently-constructed dwellings are typically split level and/or two storey in height, comprise more generous footprints and are generally designed to take advantage of the coastal views to the west.

The general pattern of division results in conventional, rectangular-shaped allotments between 700 – 800 square metres in area, although larger, irregular-shaped allotments are located adjacent the coast and the steep drainage gorge to the north and (further a-field) east of the subject site.

An SA Water sewer pumping station is located on a small, triangular-shaped allotment at the north-eastern end of Boonga Street.

The topography of the land is defined by the steep drainage gorge referred to above and the coast to the west of the site.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application seeks to construct a two storey (split-level) detached dwelling, taking advantage of the attractive views available in a west to north-westerly direction.

On the ground floor, the dwelling incorporates a single-width carport, guest bedroom with associated en-suite, family room, pool store and separate bathroom. A large deck and swimming pool and spa are located outside the building's footprint; west and north of the dwelling, respectively. A benched and retained 'yard' area to the north of the (carport and) building is also proposed at ground level.

The upper floor comprises three bedrooms (main with en-suite), an office, laundry, typical wet areas, double garage and an open plan kitchen/living/dining area with access to a balcony to the north-west corner of the building.

The dwelling employs a modern design theme, with render and vertical cladding to the street façade, with an attractive curved roof, broken into two parts, above the building.

Outside the dwelling, the retaining walls to the north and west of the building will be clad in 'Redgum' panelling (to weather naturally), timber screening will be provided above the retaining wall; partly enclosing the 'yard' area, tiered concrete retaining walls to the front of the building, with a range of landscape beds and plant species (generally indigenous) throughout the site.

As part of the stormwater disposal system, a swale is to be constructed adjacent the western rear boundary.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	6 properties were notified during the Category 2 public notification process.
Representations:	3 representations were received by Council; all against the application
Persons wishing to be heard:	All three representors identified they wish to address the Panel in person or by representative
Summary of representations:	<ul style="list-style-type: none"> • Loss of view; • Visual impact and building bulk; • Southern side setback and overshadowing; • Excessive cut and fill; • Overlooking/loss of privacy; • Inappropriate colours and materials; • Lack of energy efficiency; • Lack of landscaping; and • Building height. <p style="text-align: right;"><i>Refer Attachment IV</i></p>
Applicant's response:	<p>A response to the concerns raised, in conjunction with additional documentation has been provided by the applicant.</p> <p style="text-align: right;"><i>Refer Attachment V</i></p>

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>The proposal, including the stormwater disposal is considered acceptable, subject to the imposition of a Reserved Matter that a Geotechnical Survey and Report of the structure of the land be undertaken to ensure the development will not have a detrimental impact upon the stability of the subject or adjacent land.</p> <p>During the processing of a previous application, it was brought to Council's attention that the street stormwater from Boonga Street was disposed of over the subject (private) land. Alterations to the road and stormwater disposal design has now been undertaken. A small length (approximately 3.0 metres) of the guard rail will require removal to accommodate the northern (single width) driveway. Council's Engineering Department has confirmed the guard rail is a 'visual barrier' only, and is not of a design to prevent errant vehicles entering the gorge. Reduction of the guard rail is acceptable, and costs shall be borne by the applicant/owner.</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>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
Hills Policy Area 11		
<p>Objectives</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>Desired Character</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 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ detached dwelling ▪ group dwelling 	Complies
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>Partially Complies See comments below</p>
PDC 4	<p>Wherever possible, existing vegetation should be used to screen the building and excavation or filling from view.</p>	<p>N/A Very limited vegetation exists on the land. What currently exists is of a small height that is unlikely to provide</p>

		screening benefits.
PDC 5	<i>Development that would be prominently visible from the Adelaide plains should:</i> (a) <i>achieve a profile that blends with the topography of the land</i> (b) <i>avoid the use of bright and highly reflective external materials and finishes</i> (c) <i>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>	Partially Complies See comments below
PDC 6	<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> (a) <i>incorporating stepping in the design in accordance with the slope of the land</i> (b) <i>where appropriate, setting back the upper storey of a dwelling a greater distance from front and side boundaries than the lower storey.</i>	Partially Complies See comments below

Assessment

The subject proposal seeks to construct a detached dwelling on an existing allotment, and in this regard, the proposal is consistent with the density envisaged within the Policy Area. (It is acknowledged that density is also measured by site coverage, setbacks to boundaries and the height, bulk and scale of buildings – these are discussed throughout the report).

The Policy Area emphasises the importance of development to be “sensitive to the...topography of the area”, so that “the amount of cutting and filling...is minimised”, preferably via split-level dwellings. Further, important features of natural character, such as watercourses and steep gullies “warrant protection from inappropriate development and earthworks”.

The site is adjacent a steep ravine, comprising a watercourse that is likely to carry water during heavy rain events and in the winter months. The property is also within 60 metres of the Coastal Conservation Zone – the subject land satisfies that described in the Desired Character as part of the “landscape character”.

As proposed, up to 1.6 metres of cut and up to 1.9 metres of fill is sought. Given the footprint of the dwelling and associated yard area, this is a large volume of earthworks. To consider the appropriateness of such works, the nature of the land should be acknowledged, as well as the design of the development and techniques employed to treat the earthworks proposed.

The ‘developable area’ of the allotment (area where a dwelling can be sited) is (practically) restricted street-side of the easement (refer to Certificate of Title – Attachment I). The depth of the developable area measures between 17.7 metres and 25.5 metres (average of 21.6 metres).

Whilst land ‘outside’ the easement comprises the steeper parts of the site, the average grade of the developable area equates to 1:4.7 (21.2%). This is particularly steep land. Further, the grade of the land falls in a north-westerly direction – diagonally across the site; as such, any conventional dwelling on the land will be constructed over several metres of landfall.

These factors all combine to make designing a dwelling on the land, in strict accordance with the conservative Principles and Desired Character of the Policy Area, quite difficult.

The design of the building has made an attempt at minimising earthworks. The dwelling does comprise a form of split-level design – as the ground floor is set-in from the south-eastern end of the upper floor; following the slope of the land.

All of the proposed cutting of the land will be concealed within the footprint of the dwelling. In this regard, I am satisfied the amount of cutting proposed is acceptable, will not compromise the integrity of the Policy Area, nor have a detrimental impact upon the amenity of the subject or adjoining land.

Filling proposed is generally contained street-side of the easement, although the applicant's representative has advised that "some small amounts of fill will be placed against the walls which will then be landscaped to further minimise their dominance".

Except that fill, a majority of the fill will be located under the footprint of the building, 'yard' area and swimming pool. The proposal incorporates a retaining wall of up to 1.9 metres in height at the north-western corner of the developable area, although this measurement is taken from the corner of the swimming pool, whereby very little soil will be required.

Some fill is proposed at the front of the site, to provide foot access to the building, as well as flat and terraced turfed and landscaped areas street-side of the dwelling. The fill, at its highest point, measures 2.0 metres above ground level. Whilst this height does exceed that sought in Council's Sloping Land provisions (see further in this report), in my view, the filling and associated retaining is not a result of excessive filling and/or poor design – an outcome discouraged by Council's design guidelines - but rather is a way to provide formality and structure to the landscaping of the front yard of the property.

The retaining walls will be clad in 'Redgum' timber panelling, which will weather and grey over time, whilst areas between will comprise a mix of low-level shrubbery and lawn.

It is acknowledged there could be more done to limit the amount of filling proposed – a more conservative footprint would enable tiering of the retaining wall, rather than the 'abrupt' ending of the development at the easement. However, when having regard to the Desired Character statement of the Hills Policy Area and Council's Sloping Land Principles, and being cognisant of the severe slope of the land, it is my view that a reasonable attempt has been made at not only reducing the extent of earthworks required to accommodate the building, but also in treating such works. The 'Site Earthworks Plan' (see Attachment III) provides a useful indication as to the amount of cutting and filling required to accommodate the building – demonstrating that the floor levels of the dwelling result in a relatively even amount of cut and fill.

The Policy Area seeks for dwellings of more than one storey to "take account of the height and bulk of the proposed building" and "incorporate stepping...in accordance with the slope of the land", be split level "to reduce visual bulk" and "[set] back the upper storey...from...the lower storey". Buildings should "pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development".

The property to the south (4 Boonga Street) is the only residential property that shares a boundary with the subject land. The dwelling on that land has been designed to take advantage of the attractive views in a north-to-north-westerly direction. Some of this view is directed over the subject land.

This dwelling comprises a garage, entry foyer, bathroom, stairwell and open plan kitchen/living/dining area on the upper floor. The ground floor incorporates three bedrooms, 'studio', wet areas and open 'play' area. A copy of these plans will be available for Members to view on the night of the meeting.

A triangular-shaped deck, accessed from the kitchen/living/dining area is the primary area of private open space for this property. Whilst there is a small area of flat, paved and gravelled ground level space, a majority of the yard area of the property is attractively landscaped. The landscaped areas no doubt provide a point of interest for the resident of this property.

The western 'third' of the southern elevation will be most apparent from the dwelling and rear yard area of 4 Boonga Street, as the remainder of the proposed building either aligns with the garage at 4 Boonga Street and/or view of the building will be largely obstructed by a standard 1.8 metre-high boundary fence when viewed from the ground floor rooms of 4 Boonga Street. The western 'third' comprises the enclosed deck on the ground floor and Bedroom 3 above.

The height of the wall measures between 6.82 metres (eastern end) to 7.07 metres (western end) above natural ground level, and is setback between 4.1 and 5.4 metres to the southern side boundary (respective to the wall heights above).

The setbacks of these walls, relatively to their height above ground level, exceeds the minimum setbacks sought in Zone Principle 7 (discussed further in this report).

In my view, given the steeply sloping nature of the land, the height of the wall above ground level has been kept relatively modest given the sloping roof form, whereby the wall height (above ground floor) is lower at the western end than the eastern end.

In relation to the impact of the proposed dwelling upon the adjacent property, it is of value to recognise the adjacent dwelling's design orientates the occupier's view over the subject land, and in this regard, any two storey building on the subject land will be reasonably apparent from that property.

In my opinion, it is also important to acknowledge the difference in floor level between the two dwellings (see table below).

	Proposed dwelling	4 Boonga Street
Ground Floor	37.40	39.00 (approx)
Upper Floor	40.55	41.80 (approx)

As can be seen from the table above, the ground floor of the proposed dwelling will be approximately 1.6 metres below that of the dwelling at 4 Boonga Street, whilst the upper floor will be in the order of 1.25m lower than the upper floor of 4 Boonga Street.

At its closest point, the Bedroom 3 wall of the proposed dwelling will be situated some 10 metres from the upper level deck of the adjacent dwelling. This provides a reasonable level of separation to the primary area of private open space for that dwelling.

As such, an appropriate level of separation has been provided to the southern boundary for the tallest and most prominent section of the southern elevation, which when combined with the setback of the adjacent dwelling provides a distance of 10 and 15 metres between the upper level deck and the Bedroom 3 wall of the proposed dwelling.

It is acknowledged that the garage wall does not satisfy the setbacks sought in Zone Principle 7. However, the garage will be adjacent the garage on the adjoining property, where no amenity impacts are envisaged, whilst any view of the garage from the ground floor of 4 Boonga Street is likely to be substantially obscured by standard boundary fencing.

For the reasons above, I am of the opinion that whilst the proposed wall will have a detrimental impact upon the adjoining property, the level of compliance of the proposal in relation to southern side setbacks, combined with the fact the adjacent dwelling is designed with its primary orientation over the subject land results in a visual impact which is acceptable and will not lead to such a detrimental impact upon the adjoining property as to offend the relevant Policy Area Principles.

This position has been informed by the factors identified above, in combination with my position that the extent of overshadowing and view loss (both relative to the location, height and proximity of the subject wall) is acceptable (discussed further in this report).

The Desired Character statement of the Policy Area seeks that buildings do “not dominate the landscape” via bulk and scale.

When considering whether the dwelling “dominates the landscape” via bulk and scale, it is of value to acknowledge the level of articulation afforded to the building. Further, whilst the building will be a prominent element within the landscape, any building on the site will have a level of prominence, given the positioning of the site, the openness around the land, the restrictive dimensions of the developable area, the steep slope (1:4.7 (21.2%)) and diagonal cross-fall of the property.

The expanse and height of the building’s elevations will be most apparent when viewed from the north or west. From these positions, the proposed dwelling will nonetheless be set within the hills behind – the silhouette of the building should not protrude over the local topography.

The curved roof form mimics the slope of the land, softening the built form and reducing the prominence of the dwelling within the local landscape, as sought by Policy Area Objectives 2 and 3, the Desired Character statement and Sloping Land Principle 2(c) and Siting and Visibility Principles 4(a) and 4(b).

As such, it is my view that whilst the building will be prominent within the local landscape, it will not “dominate” the landscape for the reasons listed above.

The Objectives, Principles and Desired Character of the Policy Area seek for minimal environmental impacts, and encourage the revegetation of land. The Desired Character statement also seeks for the employment of natural materials and the avoidance of bright and reflective colours and materials.

At present, the land is relatively free from substantial vegetation. The development of the site will provide an opportunity for the land to be revegetated, assisting in minimising erosion and complementing the natural setting of the site.

The applicant’s representative has made contact with Council’s Biodiversity Officer, who has provided

The Landscape Plan (refer Attachment II) includes a list of indigenous and/or endemic plant species to be used as part of the revegetation of the site.

The density and location of plantings proposed are considered to result in an attractive greening of the site, whilst the species chosen will ensure their longevity, being accustomed to windy, coastal conditions.

The dwelling (and associated development) comprises a mix of colours and materials that will complement the setting of the site. In particular, the use of the timber panelling on the northern and western faces of the exposed retaining walls will soften their appearance and provide a natural look to this element.

As part of the applicant’s response to representations, the colours of the building have been amended to avoid white or lighter colours, with ‘earthy’ tones now dominating the colour palette of the building.

The walnut vertical cladding, *Dulux* ‘heifer’ (similar to beige in colour) and ‘shale grey’ roof are darker colours, which will assist in settling the building into the landscape. It is likely that some reflection will occur from the windows of the building, however the generous eave overhangs, and verandah and balcony elements will provide shading to the glazing for a large proportion of the day.

Given that loss of view is an amenity consideration, it is important when assessing such a development to have regard to the potential loss of view(s) experienced by adjacent land, if the

proposed development is approved. In assessing the loss of views, I have not only had regard to the Marion Council Development Plan, but also recent Environment, Resources and Development (ERD) Court and Supreme Court Decisions.

In assessing the potential loss of view, in my opinion, the two properties most affected by the proposed development are those located at 1 and 4 Boonga Street, and to a lesser degree, 3 Boonga Street.

In the Supreme Court judgment of *Hutchens v City of Holdfast Bay*, Justice Debelle stated that, when determining whether to grant consent to a new building which will obstruct views enjoyed by existing developments, regard *“must be had to the nature and extent of the view, the extent to which the view will be obstructed by the proposed development, and the reasonableness of the proposal as determined by reference to planning controls”*.

Justice Debelle endorsed a four-part test for the assessment of a development which would result in the obstructing of views of existing developments. In the interests of brevity, these are;

- Step 1: Assess the views to be affected (i.e. water, land, coast etc);
- Step 2: Consider from which part of the property the views were being obtained;
- Step 3: Assess the extent of impact of the loss of views; and lastly
- Step 4: Assess the reasonableness of the development proposal.

The following assessment considers the potential loss of view experienced by those properties identified, following the four-part test.

Introduction

Prior to undertaking a views assessment, I believe it is of value to recognise that the subject property is a private parcel of land. This land, to the best of my knowledge, was divided at the time of the original division of the area. It has existed, therefore, in its form for some time. The owner of this land has the right to develop their property for a residential dwelling, and given the fact that adjacent dwellings are designed to take advantage of views over the subject land, and that two storey dwellings are envisaged in the Policy Area, it is inevitable that any dwelling on this land will have an impact upon the views currently available to adjacent properties.

4 Boonga Street

Views currently available from this land and dwelling span from the south-west to the north-east (in a clock-wise direction). The most attractive views are to the north-west, which comprise the Hallett Cove Walking Trail and the conclusion of the steep gully where it meets the coast. Whether or not these features can be considered ‘iconic’ views is a matter of debate or personal preference. Nonetheless, it is clear this particular feature/part of the view is the most attractive; it also provides a point of interest with persons frequently using the Walking Trail throughout the day. In speaking to the owner of the property, this is the most valued part of that view. Views to the west are over the hill in the foreground to the ocean horizon beyond. Views from the north-west to the north-east are also available; over the subject land (2 Boonga Street) as it is undeveloped with no boundary fencing. Views to the south-west are of a less attractive gully face and dwellings atop.

View is available from ground level north-west of the dwelling, although due to the sloping nature of the land, limited usable area is available. (It is acknowledged however that the landscaped garden area is a pleasant space for a garden enthusiast, and therefore view from the sloping garden can nonetheless be enjoyed).

Views gained from the ground floor are from the Play Room, stairwell landing, hallway and Bedroom 1. Views from the Play Room would be significantly restricted via the placement of a

standard boundary fence. Views from Bedroom 1 and the hallway are in a north-westerly direction through generously-proportioned windows.

Views gained from the upper level are from the entry foyer (through the stairwell window), triangular-shaped deck and open plan kitchen/living/dining area. Given the elevated nature of this floor, views are significant and would not be affected by boundary fencing. Views can be gained in a sitting and standing position.

Whilst some view is available over the rear boundary of the property, in a west-north-west direction, the more valued views are over the side boundary of the property, in a north-westerly direction. In this regard, it should be acknowledged that in *Hutchens v City of Holdfast Bay*, DeBelle J stated “the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries...The expectation to retain side views...is often unrealistic.”

In relation to the ground floor hallway and upper level entry foyer, these are ‘transitional spaces’; not designed for extended use or ‘occupation’; rather they are intended to provide access from one part of the building to another. Whilst I appreciate the owner of this dwelling does enjoy the view from these spaces (in particular, view from the entry foyer and through the stairwell provides an attractive introduction to the building), I have not placed considerable weight from the views gained from these areas given their function within the building.

As such, in my opinion, it is view from the ground floor Bedroom 1 and upper level deck and open plan kitchen/living/dining area that should be given most weight in relation to the proposed development.

From my estimates, the outlook from these areas will be affected in a northerly and north-north-west direction. The further west one is within the dwelling at 4 Boonga Street, the greater the amount of un-affected view.

View from the upper level deck will be most affected by the proposed development, if approved. View from the kitchen and dining areas will also be affected, and to a lesser degree, the lounge area.

As there are no structures in the immediate vicinity of the upper level deck, outlook from this space currently spans 180 degrees. As discussed above, the most attractive and valued views are of the Hallett Cove Walking Trail, the conclusion of the steep gully where it meets the coast and of the ocean west of these features.

When viewed from the deck, the building and its height will be ; the open vista will be interrupted by the proposed dwelling – in particular the western ‘third’ of the southern wall (refer Attachments VI).

Whilst this is the case, consideration must be had to;

- This view is gained over a side boundary;
- Due to the location of the easement on the subject land and the steeply-sloping nature of the land west of the easement, view over this part of the side boundary is likely to be retained in perpetuity; and
- The compliance of the proposed dwelling with the relevant Development Plan.

The impact of the proposed development upon the views available from 4 Boonga Street relates to wall height, dwelling setback (to side and rear boundaries) and building height.

The rear setback of the building, at 7.8 metres is marginally short of the 8.0 metres sought in the Policy Area. There is no private property abutting the rear boundary of the land, and when having regard to the limited dimensions of the ‘developable area’ of the allotment, I am of the view that the minor shortfall in rear setback as proposed is acceptable.

The dwelling does not exceed 9.0 metres above natural ground level (discouraged by Zone Principle 7 – refer to Table Discussion for explanation). Further, the part of the building most affecting the view (Bedroom 3 wall) exceeds the side setback as sought in the Policy Area. As such, any view loss as a result of the building is somewhat ‘anticipated’ by the Policy Area provisions.

In conclusion, it is my opinion the extent of view loss would be considered moderate. Whilst the proposed dwelling will intrude upon the current views available, when viewed from the upper level deck and kitchen (the most easterly parts of the dwelling most affected by the proposal) a reasonable amount of the attractive elements of the view (conclusion of the gully, coastline and a majority of the Walking Trail) will remain largely unaffected. View gained from the more westerly rooms/spaces within the dwelling will have the attractive parts of the view kept intact. Further, this view is gained over a side boundary, which has been identified by Debelle J as one that is more difficult to protect.

As the upper level lounge room, ground floor Bedroom 1 and ground level yard areas are generally west of the kitchen and deck, the impact of view currently enjoyed from these spaces will be less. As such, I conclude the impact of the development upon these views to be negligible.

Whilst the ‘outlook’ to the north-east will be removed by the building, any double storey (and possibly, single storey) dwelling on the land will significantly affect this vista in any event.

As such, it is my opinion that the proposed development will not have such a detrimental impact upon the views currently enjoyed from the land and dwelling at 4 Boonga Street as to warrant amendments to the proposal or refusal of the application.

1 Boonga Street

Views currently available from this land and dwelling span from the west to the east (in a clockwise direction). The most attractive views are to the west-north-west, which comprise the Hallett Cove Walking Trail and the conclusion of the steep gully where it meets the coast. This geographical formation represents a ‘V’ shape. View of the southern ‘half’ of the ‘V’ is over the subject land. Whether or not these features can be considered ‘iconic’ views is a matter of debate or personal preference. Nonetheless, it is clear this particular feature/part of the view is the most attractive, and in speaking to the owner of the property, is the most valued part of that view. Views to the west are over dwellings in the foreground to the ocean beyond. Views from the north-west to the east are of the steep gully and dwellings atop.

View is available from within the dwelling and associated balconies. All ground level space is at the rear of the dwelling and whilst an open view to the gully may be available, the proposed dwelling will not affect this vista.

The dwelling incorporates a double garage, ‘workshop’ and ‘store’ on the basement floor. The proposed dwelling will not be visible from this level.

The lower floor is where a majority of the activity within the dwelling occurs. This level comprises a bedroom and study to the southern side, laundry, bathroom, entry hall and open plan kitchen/living/dining area, providing access to two balconies; the larger is of some 27 square metres to the north-west of the building, whilst the smaller balcony is approximately 15 square metres and serves to provide access to the rear yard.

Views gained from the lower floor are from the study (view to the west) and the open plan kitchen/living/dining area and two balconies; the smaller of the two providing view to the north to east (gully) and the larger providing view from the west to north-east (towards the attractive

views of the Hallett Cove Walking Trail and the conclusion of the steep gully where it meets the coast).

The upper level comprises two bedrooms (main bedroom with small balcony to western façade), 'media room', bathroom and large living area with access to a balcony of approximately 18 square metres north of the building.

Views gained from the upper level are from the main bedroom and associated balcony, large living area and associated balcony. All areas would provide view towards the coast – the living area and balcony providing the more unaffected vantage point.

The proposed dwelling will impact the views available in a westerly direction, with greatest impact upon views gained from the southern parts of the dwelling (ground floor study and upper floor bedroom and associated balcony). These views are gained over the front boundary of the property at 1 Boonga Street.

View from the study will be significantly hampered due to the proposed dwelling. As this room is on the lower level of the dwelling, and to the south of the building, the proposed dwelling is likely to remove all view of the ocean (and ocean horizon), gully and Walking Trail. A small amount of ocean view may remain north of the building. Gully views, at an oblique angle to the north-west are likely to remain intact.

With respect to the view impact from this room, it should first be acknowledged that this room functions as a study or bedroom. Views from such rooms are not as valued as those from living rooms. Secondly, the impact results from a dwelling that presents as single storey from the street. Due to the sloping nature of the subject land, it would be difficult to achieve a significantly lower relationship to the street.

For the reasons above, I am of the opinion that view loss from the study is moderate.

View from the ground floor kitchen/living/dining area and associated large balcony will be most affected – due to it being within the lower level within the dwelling and its function within the building as the primary area of activity and everyday living.

The proposed dwelling (and associated 'yard' area) is likely to remove the southern half of the 'V'-shaped formation of the gully (refer Attachment VI) and view of the ocean horizon south of the northern extremity of the building. Due to the angle of view, this impact will be greater when viewed from within the lounge room compared to the balcony.

The northern half of the 'V' will remain intact, with a reasonable amount of ocean beyond available. View to the north and north-east, to the lesser attractive parts of the gully, will nonetheless remain unaffected.

To consider the reasonableness of the proposal, one should have regard to;

- Two storey dwellings are an envisaged form of development within the locality;
- The land is steeply sloping and the relative floor levels of the proposed dwelling;
- View available from 1 Boonga Street is from a three storey building (not envisaged within the Policy Area), albeit the primary living space is situated on the lower floor; and
- The extent of view available and the amount of view lost as a result of the proposed dwelling.

The greatest impact of the building upon the views enjoyed from the lower floor living area and balcony is a result of the northern-most part of the dwelling and associated yard area.

The lower floor single-width carport comprises a floor level of 37.35 – resulting in a maximum height of fill to accommodate this floor level of 1.55 metres. In my opinion, given the steeply

sloping nature of the land, combined with diagonal cross-fall of the gradient, the extent of fill to accommodate the building is entirely reasonable.

Whilst it is appreciated the most valued view from the living area and balcony will be affected (more so the living area than the balcony), ample amount of view and vista will remain unaffected by the proposal. Views north of the building – including the northern half of the ‘V’ formation, the ocean beyond and the gully to the north and north-east (albeit the secondary, less attractive views) will nonetheless remain available. In context with the Hutchens case, there will not be an “obliteration” of views.

To this end, I consider the extent of view loss to be moderate to considerable.

View from the upper level bedroom and associated balcony will be impacted given their southern positioning within the dwelling. The view impact however will be somewhat reduced given the elevated position of these spaces in relation to the proposed dwelling.

As such, the additional height of this room and balcony will enable view over the proposed building. Whilst view of a large percentage (if not all) of the ‘V’ formation will be lost, view of the ocean horizon above the dwelling will nonetheless be maintained, whilst view north of the building will also remain available (albeit at an oblique angle).

Given the ‘secondary’ nature of the room and balcony as a space to enjoy views, I consider the likely extent of view impact to be negligible to moderate.

View from the upper level living area and associated balcony will be less impacted than other rooms and floors within the dwelling. The northern positioning of these areas within the dwelling and their elevated location will enable a significant amount of view to be maintained.

It is expected that some part of the ‘V’ formation will be removed from view, however, a large percentage of this feature will remain unaffected. A majority of the ocean will remain visible, as it is likely the silhouette of the proposed dwelling will generally be located within that of the hill beyond. View/vista spanning from the north-west to the east (in a clock-wise direction) will remain unaffected.

To this end, I consider the extent of view loss from the upper level living area and associated balcony to be negligible.

3 Boonga Street

This dwelling comprises a small balcony and one bedroom on the street-side of the upper floor. The balcony comprises limited dimensions and is not particularly usable.

This dwelling comprises an upper floor level approximately 2.0 metres higher than that of 1 Boonga Street and therefore its elevated positioning will enable view over the roof of the proposed dwelling to the ocean beyond.

It is likely that some view of the gully and Walking Trail will be lost, however to a lesser degree than would be experienced from the upper level bedroom of 1 Boonga Street.

Given two storey dwellings are envisaged within the Policy Area, the building does not exceed 9.0 metres above natural ground level and does not significantly contribute to view loss, I am of the opinion that the extent of view loss as experienced by the occupiers of 3 Boonga Street is negligible to moderate.

Conclusion

In conclusion, it is apparent the proposed dwelling will have an impact upon the views currently enjoyed by adjacent properties; in particular, those at 4 and 1 Boonga Street. The dwelling is generous in proportion, and a moderate reduction in the overall footprint of the dwelling would enable neighbouring properties additional view.

The amenity of adjacent properties, whilst affected, will not be so eroded as to have a devastating impact upon the liveability and enjoyment of those properties. Certainly, the view currently enjoyed by adjacent properties will not be "obliterated".

To this end, the proposal it is my opinion that the extent of view loss is not of a magnitude as to warrant amendments to the proposal or refusal of the application.

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>Site coverage should ensure sufficient space is provided for:</i> (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 <i>General Section: Residential Development: PDC 13</i>	Complies Ample area is available outside the building for the items described in (a)-(f)
<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>	Complies
Private Open Space	
<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> (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. <i>General Section: Residential Development: PDC 15</i>	Complies POS with flat grade directly accessible from main living room or ground floor family room, with northern orientation and limited shading from dwelling

<p>Site Area 250 m² or greater: <i>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.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 17</i></p>	<p>Complies 51.2%</p> <p>Partially Complies 4.4m minimum dimension, flat grade and comprises 13% of site area</p>
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Street Setbacks

<p><i>No less than 8 metres</i></p> <p style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Does Not Comply 4.4m at closest point (see below)</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 style="text-align: right;"><i>General Section: Residential Development: PDC 36</i></p>	<p>Complies This section of Boonga Street will see very little traffic</p>

The front setback of the building equates to 4.0 metres to the north-east corner of the office and en-suite water closet; measured perpendicular to the front boundary of the property.

These figures are significantly less than the 8.0 metres sought in the Policy Area.

Whilst this is the case, achievement of an 8.0 metre setback would provide a 'developable' depth between 9.7 to 17 metres (measured perpendicular to the front boundary) and a 'developable' area of some 360 square metres (which would also include private open space of a usable grade). This is unlikely to enable the construction of a functional or particularly efficient dwelling, and therefore a relaxation regarding front setback is considered appropriate.

In addition to the above, the site's location at the end of a terminated road provides justification for a lesser setback, given the dwelling will not be located between dwellings. Further, the dwelling directly opposite the subject site comprises setbacks in the order of 2.6 metres (workshop) to 5.35 metres (main face).

As such, it is my view that the site demonstrates two particular characteristics that permit consideration for a front setback less than that sought in the Policy Area.

The articulated nature of the dwelling's façade, and acute angle in which the building presents to the street further enhances the perceived setback of the building from the front boundary.

For the reasons above, I am satisfied that the front setback as proposed will not have an unreasonable impact upon the streetscape, nor erode the integrity of the Policy Area.

Side Setbacks

<p><i>Where the wall height is not greater than 3 metres: 2 metres</i></p> <p><i>Where the wall height is between 3 metres and 6 metres:</i> (a) 3 metres if adjacent southern boundary (b) 2 metres in all other circumstances.</p> <p><i>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 style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Does Not Comply Part of garage wall < 3.0m in height setback 1.2m</p> <p>Complies Northern wall – setback 7.0m from boundary</p> <p>Southern wall – Bed 3 setback between 4.1m – 5.4m (min setback required between 3.82m – 4.07m)</p> <p>Southern wall – laundry and hall setback between 3.3m – 4.4m (min setback required 3.0m – 3.8m)</p> <p>Does Not Comply Garage wall >3.0m in height setback between 1.5 – 3.0 metres (min setback required 3.0m)</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i> (a) the visual impact of the building as viewed from adjacent properties (b) overshadowing of adjacent properties and allow adequate sunlight</p>	<p>Complies As discussed in the Zone/Policy Area and Overshadowing discussions,</p>

<p>access to neighbouring buildings.</p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>adequate separation and articulation to the building is provided to result in an acceptable impact upon the adjoining property to the south in relation to overshadowing and visual impact.</p>
Rear Setbacks	
<p>8 metres for a single storey dwelling</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Does not comply</p> <p>The south-western 'nib' wall of the Bedroom 3 is setback 7.8 metres. The remainder of the building is setback 8.0 metres or more from the rear boundary. This is considered to represent a very minor departure from the Development Plan.</p>
<p>8 metres for a 2 or more storey dwelling</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Does not comply</p> <p>7.8m</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>Does not comply</p> <p>7.8m for two storey wall</p>
Building Height	
<p>Maximum building height (from natural ground level):</p> <p>2 storeys of not more than 9 metres</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>From my calculations, the building does not incorporate a height exceeding 9.0 metres, as measured vertically above natural ground level at that point.</p>
Garages, Carports and Outbuildings	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage:</i></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>Does Not Comply</p> <p>Single width carport is setback 4.2 metres from front boundary. However, double garage is setback more than 5.5 metres from front boundary and can accommodate two vehicles within the driveway space; enabling ample on-site parking for residents and visitors.</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>Complies</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p>Complies</p>

<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies</p>
<p>Car Parking</p>	
<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>Complies</p>
<p>Access</p>	
<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>Does Not Comply The double-width driveway incorporates an excessive width. It has been included as a recommended condition of consent that this driveway be reduced to no more than 5.0 metres in width.</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>Does Not Comply The double-width driveway will interfere with the existing stobie pole. The recommended condition (discussed above) will achieve satisfactory compliance. The single width driveway requires shortening of the guard rail. Council's Engineers are comfortable with such works.</p>
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Complies</p>

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

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

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

See comments below

The dwelling is a well-articulated building, with substantial stepping and a mix of materials on all facades. Throughout the day, the mass of the building will be reduced via shaded and stepped walls. This is further assisted by the eaves overhang and verandah and balcony elements.

The curved roof form complements the local topography and assists in softening the appearance of the building from adjacent land and the street.

The balcony, accessed from the dining/living area is integrated into the design of the dwelling and will be located under the main roof. The balcony has a northern orientation to maximise solar access and comprises an area of 16 square metres, functional for the likely needs of the occupants.

The dwelling incorporates an attractive entry point to the building, and enables surveillance of the street via the office and stairwell windows.

The proposal is considered to adequately satisfy the provisions above.

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 dwelling incorporates a prominent and attractive entry portico, making the entrance to the building apparent from the street.

The dwelling incorporates an office that provides passive surveillance to the street. The primary living areas of the dwelling incorporate an attractive outlook to the north-west or west.

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

See comments below

The overshadowing plans submitted by the applicant are difficult to quantify. Further, it does not appear these plans have been informed by the level of the adjoining property, as the levels of this land have not been taken by survey.

The applicant has advised that the plan submitted is as accurate as possible, based upon the information available to the draftsman.

It is appreciated that due to the inconsistent grade of the adjoining property, an accurate measurement of the extent of shadow likely to be cast would be difficult.

Based upon my calculations of the likely extent of shadow cast, this appears to be reasonably accurate, although the extent of shadow cast at 3:00pm does not appear to take into account the slope of the land at the front of that site.

Panel Members should be aware that this plan shows the extent of shadow cast in relation to the ground floor of the dwelling. As such, the extent of shadow cast to the upper floor would be significantly less. (Based upon my calculations, upper level habitable rooms will be free from shadow cast from the building throughout the year).

Having regard to the Principles above, based upon the information submitted and my own calculations, I am of the view that the proposal satisfies Principles 8, 10 and 11 above.

It is likely the Play Room on the ground floor of the adjacent dwelling will be in shadow for a majority of the day during winter months. However, the primary habitable room – the open plan kitchen/living/dining area on the upper floor, will be free from shadow throughout the day during winter months; satisfying Principle 8(a) and 10 above.

From the information before me, I anticipate that the northern-most 4 – 6 metres of the ground level private open space area of the adjoining property will receive shadow throughout the day in winter months. However, the upper level deck, which provides the primary area of private open space will be free from shadow throughout the year, whilst when assessed against Principle 11, at least 100 square metres of ground level private open space will remain free from shadow. As such, the proposal satisfies Principle 8(b), 8(c) and 11 above.

The proposed dwelling is likely to cast shadow upon the roof of the adjacent dwelling during late afternoon hours. As such, through the majority of the day when solar benefits are at their maximum, the proposed dwelling would not prejudice the opportunity for the use of solar energy.

As such, the proposal satisfies the relevant provisions relating to overshadowing.

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

See comments below

The proposed dwelling has ensured a reasonable level of privacy is maintained for the adjoining property to the south, with no windows on the southern elevation.

The full extent of the southern end of the lower floor deck incorporates a louvered screen, whilst the nib wall extending from the western façade will prevent oblique-angled views from Bedrooms 2 and 3.

Whilst the landing and stairs from the laundry are unscreened, this space is a transitional area, where persons will be traversing from the dwelling to the front/rear yard. As such, it is not expected these stairs will be used frequently or by persons seeking a view, whilst the unscreened balcony and windows of the adjacent dwelling will result in a 'mutual privacy' factor between the two properties.

It is also worthy to acknowledge the upper floor of 4 Boonga Street is located 1.25 metres (approximately) above the upper floor of the proposed dwelling.

In addition, it is expected that a typical 1.8 metre-high boundary fence would provide a reasonable level of privacy to the ground level bedrooms of the adjacent dwelling from persons traversing the stairs.

To this end, the proposal is considered to satisfy Principle 12.

Energy Efficiency

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

General Section: Energy Efficiency: PDC 1

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

General Section: Energy Efficiency: PDC 2

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

General Section: Energy Efficiency: PDC 3

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 dwelling incorporates a generous roof overhang that not only assists in reducing the bulk of the building, but will also reduce the extent of heat-loading during summer.

The main living area is oriented to the north and west, maximising views and day-long solar exposure.

Due to the design of the curved roof, solar collectors will face west. Whilst this is undesirable, having regard to other provisions that seek for building profiles to be low and to follow the slope of the land, the proposal's inability to comply with Principle 5 is considered relatively inconsequential.

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

See comments below

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

See comments below

The landscape plan incorporates the use of indigenous plant species and plantings that assist in softening the building's appearance from adjacent land.

At present, the site is relatively devoid of vegetation, save for some small shrubs adjacent the western and northern boundaries.

The proposed development provides an opportunity for the re-greening of the site.

The use of the species proposed will complement the built form; in particular, native tree species are to be planted adjacent the southern side boundary. Further, grasses and bushes will be planted alongside exposed retaining walls throughout the site.

Substantial landscape plantings are proposed adjacent the western rear boundary, within the stormwater swale and outside the easement.

To this end, the proposal satisfies Principle 1(a), 1(b), 1(c), 1(d), 1(i), 1(j), 1(k) and 1(l).

There is limited detail regarding fencing, except for reference to a 1800mm-high colorbond fence to the southern side boundary. Such fencing, with a total height of no greater than 2.1 metres above ground level does not require the consent of Council.

The retaining proposed throughout the site will not result in damage to neighbouring trees, will ensure visibility of the proposed dwelling and assist in highlighting the building entrance and will not affect sunlight access to adjoining land.

The retaining wall is located well within the boundaries of the site, enabling the landscaping proposed to soften the appearance of the wall over time.

The retaining wall is to be clad with timber panelling, which is a flammable material. However, given these are unlikely to be substantial in volume, I do not anticipate the use of the panelling to result in an unreasonable risk to the dwelling's occupants or owners or occupiers of adjoining land.

Atop the yard area, timber look-alike slats will be erected. The use of this material will provide visual permeability; reducing the perceived total height of the structure and complementing the use of timber or timber look-alike products on the building and retaining walls.

Sloping Land

Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:

- (a) minimises their visual impact*
- (b) reduces the bulk of the buildings and structures*
- (c) incorporate roof lines which complement the natural slope of the land*
- (d) minimises the extent of cut and/or fill*
- (e) provide a stable and readily accessible building site*
- (f) minimises the need for, and the height of, retaining walls*
- (g) does not cause or contribute to instability of any embankment or cutting*
- (h) avoids the silting of watercourses*
- (i) protects development and its surrounds from erosion caused by water run-off.*

General Section: Sloping Land: PDC 2

Partially Complies
See comments below

The cutting and/or filling of land should:

- (a) be kept to a minimum and be limited to a maximum depth or height no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation*
- (b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment*
- (c) only be undertaken if the resultant slope can be stabilised to prevent erosion*
- (d) result in stable scree slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the area.*

General Section: Sloping Land: PDC 7

Partially Complies
See comments below

Retaining walls should:

- (a) not exceed 1 metre in height*
- (b) be stepped in a series of low walls*
- (c) be landscaped to enhance their appearance.*

General Section: Sloping Land: PDC 8

Does Not Comply
See comments below

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
See comments below

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
See comments below

Throughout this report, I have discussed the building's relationship with ground level and the extent of earthworks proposed and have concluded that given the steep slope and diagonal cross-fall of the site, the restrictive 'developable area' of the land, the concealed nature of a majority of the cut and the treatment to exposed retaining walls (including timber panelling and landscaping), the proposal is considered acceptable in context to the Objectives, Principles and Desired Character of the Hills Policy Area.

As such, I am of the view that whilst the height of retaining exceeds that sought in Principle 8 above, the resultant impact upon the integrity of the Policy Area, streetscape and amenity of adjoining land is acceptable.

I have previously commented on the curved roof form. This design feature, in my view, is commendable and serves to soften the appearance of the building, as well as imitating the slope of the land. The proposal finds compliance with Sloping Land Principle 2(c) and Siting and Visibility Principles 4(a) and 4(b).

The proposal includes the provision of a stormwater swale adjacent the western boundary of the land. Council's Development Engineer is comfortable with this proposal, and it is noted that the alternative would be to direct stormwater to the street, which is directed into the adjacent gully in any event. In this regard, the proposal may reduce the level of erosion resulting from the development, as the swale (combined with the use of a rainwater tank(s) for domestic use) is likely to reduce the amount of stormwater exiting the bounds of the subject site.

Council's Development Engineer has sought the provision of a Geotechnical report to ensure the land is suitable and stable for its intended purpose and proposed development. In the event that such a report confirms the proposal is satisfactory, the proposal will comply with Principle 2(e) above.

Council administration has sought legal advice, which confirms the provision of this information as a Reserved Matter is appropriate.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to loss of view, visual impact and building bulk, southern side setback and overshadowing, excessive cut and fill, overlooking/loss of privacy, inappropriate colours and materials, building height and front setback have been addressed in the body of the report, and I have concluded that whilst marginal in places, the proposal is satisfactory in relation to these matters.

ANALYSIS/CONCLUSION

The dwelling is an attractive, well-articulated building, employing a mix of materials and design techniques to utilise the land.

The proposed dwelling is a generously proportioned building. The 'developable area' of the land is restricted via the placement of an easement, running somewhat parallel to the western and northern boundaries of the property.

The applicant has sought to maximise, to the full extent, use of the 'developable area'.

The 'developable area' is steeply sloping, made more difficult by the diagonal cross-fall of the grade – any dwelling on this land will result in a level of earthworks likely to exceed that generally sought.

The dwelling has attempted to address the slope of the land via a split-level design – the maximum cut of 1.8 metres will be concealed within the dwelling, with exposed cut retaining walls incorporating a height of less than one metre. Filling, of up to 2.6 metres, is required to accommodate the swimming pool – the dwelling itself is sited no more than 1.55 metres above natural ground level.

Whilst the maximum height of the retaining proposed is high, it is to be treated with natural materials and backfilled and landscaped to soften its appearance. Given the nearest residential properties, and the Hallett Cove Walking Trail is some 50 – 70 metres away, the prominence of this wall will be reasonably reduced over this distance.

The dwelling will result in a detrimental impact upon the amenity of two adjacent properties, being 4 and 1 Boonga Street.

The southern setback of the proposed dwelling will result in overshadowing, visual impact and loss of view experienced by 4 Boonga Street. The preceding assessment has identified that view loss and overshadowing are acceptable. The visual impact of the western 'third' of the southern wall will be considerable. This wall does not meet the setback sought for walls of this height and will be prominent from the adjacent dwelling and associated open space, however, given the relative floor levels between the dwellings and level of separation provided (despite not meeting the setbacks sought by the Development Plan), I have concluded the proposal, whilst finely balanced in this regard, is acceptable.

The proposal will disrupt views currently enjoyed from the dwelling and associated balcony of 1 Boonga Street. The preceding assessment has identified that whilst up to half of the more valued view will be lost, a reasonable amount of this view will be available from certain parts of the lower floor (primary area of use within the dwelling), whilst views from the upper level will be less affected.

Further to this point, the openness and vista available to this dwelling will generally remain intact. The extent of view loss likely to be experienced by this dwelling is considered to be generally moderate. There will not be an "obliteration" of views, as was the case in *Hutchens v City of Holdfast Bay*.

Having said the above, the impact resulting from the proposed dwelling could be significantly reduced via a more modest floor area/floor plan and a more conventional dwelling design, where the 900mm-high parapets were replaced with an eaves overhang following a pitched roof.

In this regard, there are options available to the applicant to achieve a functional, attractive and well-proportioned dwelling without having the impact as currently proposed.

In conclusion, having regard to the nature of the impacts associated with the development, the restrictive nature of the slope of the land and 'developable area' and the compliance of the proposal with a number of design criteria, I am of the view that the proposed development is not seriously at variance to the Development Plan, and whilst finely balanced in some areas, the proposal warrants Development Plan Consent subject to a reserved matter and several conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1290 for a two storey detached dwelling exceeding a building height of 9 metres, and incorporating an in-ground swimming pool, associated earthworks, retaining walls and landscaping at 2 Boonga Street, Hallett Cove be GRANTED subject to the following Reserved Matter and Conditions:

RESERVED MATTER

Pursuant to Section 33(3) of the Development Act, Council RESERVES its decision in relation to the following matter/s. Development Approval cannot be issued by the Council unless and until it has assessed such matters and granted its consent in respect thereof.

- (1) A detailed final (non-preliminary) geotechnical report prepared by a suitably qualified engineer which:
 - a. confirms that the proposed dwelling can be constructed so as to be safe and stable;
 - b. specifies the necessary foundation and footings design to do so;
 - c. specifies the requirements for the formation of stable banks;
 - d. specifies the requirements for site drainage necessary for site stability; and
 - e. sets out any other necessary measures for site stability.

Pursuant to Section 33(3) of the Development Act 1993 the Council reserves its decision on the form and substance of any further conditions of development plan consent that it considers appropriate to impose in respect of the reserved matter outlined above.

NOTE: the final geotechnical report identified above may necessitate changes to the plans herein granted development plan consent. If that is so, a variation application must be submitted in relation to those changes.

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1290, except when varied by the following conditions of consent.
- 2. The driveway servicing the double garage shall be reduced in width to;
 - a. Provide no less than 1.0 metre separation to the existing stobie pole; and
 - b. Provide a width of no greater than 5.0 metres at the front property boundary.
- 3. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.

4. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
5. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
6. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
7. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

NOTES

1. The applicant/owner is reminded to contact Council's Engineering Department regarding the alteration to the existing guard rail. All costs associated with the alteration shall be borne by the applicant/owner.
2. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
3. All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system, to the reasonable satisfaction of the Council. (Acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).
4. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
5. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.
6. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
7. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.2
Originating Officer:	Rhiannon Hardy Development Officer - Planning
Applicant:	City Of Marion
Development Description:	To erect 5 (five) lighting towers (12.0 metres in height) servicing the BMX facility Thursday evenings (6:00pm-8:30pm) and Monday evenings during the months of April and May
Site Location:	Lot 176 and 174, Lonsdale Road, Hallett Cove
Zone:	Open Space Zone
Precinct:	Precinct 7 Hallett Cove Recreation
Application Type:	Category 3 / Consent
Lodgement Date:	1 August 2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1331
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 3 Consent form of development by virtue of Section 38 of the Development Act 1993, which prescribes that any development that is not assigned to Category 1 or 2 by the Development Regulations 2008 or the Development Plan will be taken to be a Category 3 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 comprises two allotments, known as Lot 176 (DP: 10367 CT: 5553/994) and Lot 174 (DP: 9979 CT: 4006/463) Lonsdale Road, Hallett Cove. The two allotments house a BMX track which forms part of the Cove Sports and Community Club.

Several buildings are located on the eastern side of the BMX track (including shelters, clubrooms, etc.) and vegetation surrounds the track on its western, northern and southern sides.

The locality varies in nature surrounding the BMX track. The ovals of the Cove Sports and Community Club comprise the locality to the east, while Lonsdale Road and Oval Road are located north of the land. Residential properties are sited west of the land along Annabelle Drive, while residential properties to the south of the land form part of Elizabeth Crescent and Stuart Court.

The Sports and Community Club land is located at a considerably higher ground level than adjoining residential properties to the west and south.

Attachments I & II

PROPOSED DEVELOPMENT

Two lighting towers are proposed to be erected on the eastern allotment (Lot 174) and three towers on the western allotment (Lot 176).

The towers are configured surrounding the BMX track, with three towers on its western side and two towers on the eastern side.

The towers are set back varying distances from the western boundary, ranging from a minimum of 18.5 metres to a maximum of 70.5 metres. The most-eastern tower is set back 68.5 metres from the southern adjacent residential property.

All proposed lighting towers are 12.0 metres in height.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	15 properties were notified during the Category 3 public notification process.
Representations:	2 representations were received by Council; 1 primarily against the application, and 1 against the application
Persons wishing to be heard:	George Moon of 16 Annabelle Drive, Hallett Cove Kata O'Reilly of 9 Stuart Court, Hallett Cove
Summary of representations:	<ul style="list-style-type: none"> The sports facilities need to be moved and appropriate playground, recreation and parks need to be in this location. A much larger piece of land is needed for the Cove Sports Complex; issues with parking, noise, bad behaviour and dumped rubbish. The lights would shine into the kitchen window of 9 Stuart Court, Hallett Cove. <p><i>Refer Attachment IV</i></p>
Applicant's response:	The provided light design report by Gerard Professional Solutions (former SportsLighting) shows under sections 3.3 and 3.4 the light spill expected at the property boundary. For Annabelle Dr is a peak light spill of 3.6 lux calculated (refer section 3.3) and for Elizabeth Cr a maximum light spill of 4.7 lux (refer section 3.4). Australian Standard AS4282 regarding obtrusive light recommends that no reading shall be above a maximum of 10 lux on

	<p>neighbouring properties and as can be seen in the abovementioned sections of the report, readings are within this limit. The effect of spill light will also be mitigated by the club's adherence to the operation times.</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 Open Space Zone are listed in the following table and discussed in further detail below:

Objectives / Principles of Development Control

Assessment

Open Space Zone	
<p>OBJECTIVES</p> <p><i>1 A zone in which the open space character is preserved to provide a visual contrast to the surrounding urban area.</i></p> <p><i>2 Land within the zone developed for a range of passive and active outdoor recreation activities, community and educational facilities and open space development, conservation and revegetation, in a parkland setting.</i></p>	<p>The use of the land for outdoor recreation activities satisfies Objective 2 of the Open Space Zone. However, it is noted that the proposed lighting towers will not alter the approved land use of the subject land.</p>
<p>PRINCIPLES OF DEVELOPMENT CONTROL</p> <p><i>1 The following forms of development are envisaged in the zone:</i></p> <ul style="list-style-type: none"> ▪ community facilities ▪ conservation works, including wetlands ▪ education establishment ▪ recreation area ▪ sports grounds and associated facilities ▪ toilet blocks and barbeque facilities. 	<p>The proposed lighting towers relate to the legitimate and envisaged use of the land for sporting grounds and associated facilities.</p>
<p><i>2 Development listed as non-complying is generally inappropriate.</i></p>	<p>The proposed lighting towers are not listed as non-complying.</p>
<p><i>3 Development should be of a high standard of co-ordinated design with an emphasis on the creation of pedestrian areas.</i></p>	<p>The lighting towers are considered to be of a high standard with co-ordinated design and siting. The lighting towers will not result in the creation of pedestrian areas, but would naturally assist in safe pedestrian access through the site when in use during night time hours by increasing visibility.</p>
Precinct 7 Hallett Cove Recreation	
<p><i>6 Development may be for active recreational purposes and ancillary activities such as clubrooms and vehicle parking.</i></p>	<p>The proposed development relates to an active recreational area and its ancillary structures.</p>
<p><i>7 Buildings and structures should generally be of a domestic scale but in any event should be:</i></p> <p><i>(a) designed to minimise the apparent bulk of the building or structure</i></p> <p><i>(b) located so as to be as visually unobtrusive as possible</i></p>	<p>The proposed lighting towers are each 12 metres high, and therefore are slightly higher than a domestic scale (given that dwellings in the Residential Zone generally have a height restriction of 9 metres). That being said, the structures should</p>

from the floor of the Field River valley or from Precinct 5 Worthing Mine Heritage within the Metropolitan Open Space System Zone.	not result in apparent visual bulk in accordance with (a), due to their slimline appearance. Accordingly, the structures should be not be visually obtrusive when viewed from the Field River valley or Precinct 5 Worthing Mine Heritage. <i>Note: Precinct 5 Worthing Mine Heritage is located approximately 400 metres east of the proposed lighting towers.</i>
8 Landscaped buffers, not less than 10 metres in width, should be provided around the perimeter of recreation or sporting facilities where they abut residential uses.	The proposed lighting towers should not substantially affect the existing landscaped buffer along the western side of the BMX track.

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

Interface Between Land Uses	
<p><i>Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</i></p> <p>(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants</p> <p>(b) noise</p> <p>(c) vibration</p> <p>(d) electrical interference</p> <p>(e) light spill</p> <p>(f) glare</p> <p>(g) hours of operation</p> <p>(h) traffic impacts.</p> <p><i>General Section: Interface Between Land Uses: PDC 1</i></p> <p><i>Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 2</i></p>	<p>The proposed lighting towers may result in some light spill onto adjacent land. In order to assess the impact on nearby residential properties, a report has been provided by Gerard Professional Solutions (Attachment III) which assesses the projected extent of light overspill in lux levels.</p> <p>Page 7/10 of the report dated 16/10/2014 illustrates that the lux levels within the rear gardens of 9 residential properties along Annabelle Drive will vary from 0.7 to a maximum of 3.6 lux.</p> <p>Page 8/10 illustrates that light spill reaching the side boundary 2 residential properties located south of the land (43 Elizabeth Crescent and 9 Stuart Court) will be limited to a maximum of 4.7 lux.</p> <p>Australian Standard AS4282 regarding obtrusive light recommends that no reading shall be above 10 lux on neighbouring properties.</p> <p>In addition to the moderate extent of light spill, the impact on adjoining properties is further mitigated by the controlled times of use. Correspondence from Keith Noble (Manager Cove Sports & Community Club) received by Council on 13 August 2014 confirms that the subject lighting shall only be used in winter months from 6:00 – 8:30pm on Thursdays, in addition to several Monday nights in April and May.</p> <p>Given:</p> <p>a) the relatively infrequent usage of the lighting towers;</p> <p>b) operation during typical waking hours; and</p> <p>c) the moderate extent of light spillage caused, the proposed lighting towers should not result in unreasonable negative impacts on existing residential properties.</p>

Open Space and Recreation

Recreation facilities development should be sited and designed to minimise negative impacts on the amenity of the locality.

General Section: Open Space and Recreation: PDC 15

The proposed towers maintain a slimline appearance and height of 12 metres, which is generally standard for lighting structures surrounding recreation areas. Accordingly, they are not out of character for structures anticipated around recreation facilities.

It is acknowledged that the representor has raised concern regarding nuisance caused by the BMX Club activities. Any negative impacts on the locality arising from the activities of the Cove Sports and Community Club cannot be considered as part of the subject application; only the impact of the lighting towers themselves.

Crime Prevention

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.

General Section: Crime Prevention: PDC 1

The proposed lighting complements Crime Prevention principles, as the lighting shall maximise surveillance on the subject land during their operation.

REPRESENTOR'S CONCERNS

The representor at 9 Stuart Court, Hallett Cove has raised concern regarding potential light spill into their kitchen windows. This report has identified that the maximum extent of light spill into this property would be limited to a maximum of 3.6 lux, which is a modest level of luminance when assessed against the relevant Australian Standard.

The representor has also raised concerns over the need for a public park/playground on the subject land instead of the Cove Sports and Community Club, and the current nuisance caused by activities on the subject land. While these concerns are noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

ANALYSIS/CONCLUSION

The proposed lighting towers adequately accord with the relevant objectives and principles of development control of the Open Space Zone, as they remain within the envisaged use of the land for sports ground and associated facilities.

Examination of the potential for light overspill has demonstrated that the lux levels on adjoining residential properties will reach less than half of the maximum lux levels prescribed by Australian Standard AS4282 regarding obtrusive light on adjacent land. Additionally, the limited operating hours of the lighting towers should ensure that any light spill will be experienced infrequently and for relatively short periods of time.

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

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1331 to erect 5 (five) lighting towers (12.0 metres in height) servicing the BMX facility Thursday evenings (6:00 pm - 8:30 pm) and Monday evenings during the months of April and May, at Lots 174 and 176 Lonsdale Road, Hallett Cove, 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. 100/2014/1331, except when varied by the following conditions of consent.
- 2. The hours of operation of the proposed lighting towers shall be restricted to the following times:
 - Thursday evenings in winter months; 6:00 pm to 8:30 pm; and
 - Monday evenings in April and May; 6:00 pm to 8:30 pm.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.3
Originating Officer:	Rhiannon Hardy Development Officer - Planning
Applicant:	City Of Marion
Development Description:	To remove two Regulated Trees (<i>Agonis flexuosa</i>) due to their poor condition and risk to pedestrians and motorists
Site Location:	Adjacent 16 and 25 Egan Crescent, Mitchell Park
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Consent / Category 2
Lodgement Date:	02/09/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1540
Recommendation:	Development Plan Consent and Development Approval (Granted)

CATEGORISATION & DELEGATION

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

SUBJECT TREES & LOCALITY

The subject trees are both of the *Agonis flexuosa* (WA Willow Myrtle) species.

The tree forward of 16 Egan Crescent maintains a trunk circumference of 2.4 metres, with an approximate height of 5 metres and spread of 5 metres.

The tree forward of 25 Egan Crescent maintains a trunk circumference of 2.2 metres, with an approximate height of 7 metres and spread of 6 metres.

The subject land comprises the streetscape of Egan Crescent, forward of 16 and 25 Egan Crescent. The streetscape maintains sporadic street tree planting, as several properties in the immediate locality do not maintain street trees in the adjacent road reserve, while newer tree plantings are

common at the western end of Egan Crescent. The subject Agonis trees represent some of the most mature trees in the streetscape.

Refer Attachment I & II

PROPOSED DEVELOPMENT

The application proposes to remove both trees.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	19 properties were notified during the Category 2 public notification process.
Representations:	2 representations were received by Council.
Persons wishing to be heard:	Nil
Summary of representations:	<p>23 Egan Crescent</p> <ul style="list-style-type: none"> Request "Golden Rain" replacement trees in keeping with the species planted at the western end of Egan Crescent and in front of 23 Egan. Also request that the same species be planted in the numerous gaps left by the original planting which have died. <p>25 Egan Crescent</p> <ul style="list-style-type: none"> Request for tree to remain adjacent 25 Egan Crescent to remain. Ficus tree at 23 Egan Crescent was destroyed in a storm in February 2014, but subject Agonis tree remained standing. The tree cannot be in such poor health if it withstood damage from the storm. Owner has cared for and watered the tree in its youth. Birds use the subject tree. <p><i>Refer Attachment IV</i></p>
Applicant's response:	<ul style="list-style-type: none"> The tree [forward of 25 Egan Crescent] is in serious decline as shown in the attached photographs. Its ability to produce new cells is diminished by the fact that the vascular system is infected with fungal decay which has also hollowed the interior of the tree to the point where fractures are evident. At some point the tree will completely split. The level of risk of failure is high to persons and property and should be removed. A hive of bees has also moved into the tree at 1 metre above ground level in the trunk which also points to the fact that the tree is quite hollow inside. Council is organising a contractor to remove the colony as it also poses a risk to passers-by. Koelreuteria ["Golden Rain"] trees are no longer part of the planting program as they were left off the current endorsed Street tree framework. Another

	<p>species will be selected for the street out of the 9 Genus that are assigned to Mitchell Park.</p> <p>Lophostemon confertus ["Queensland Brush Box"] is one of these, and there are already a couple of specimens in the street.</p> <p style="text-align: right;"><i>Refer Attachment V</i></p>
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DEVELOPMENT ASSESSMENT

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

Criteria

Assessment

General Section: Regulated Trees	
<p>Objective 1</p> <p><i>The conservation of regulated trees that provide important aesthetic and/or environmental benefit.</i></p>	<p>The subject trees are not considered to provide an important aesthetic or environmental benefit, given their relatively modest height, poor health and structure and non-indigenous species.</p> <p>It is acknowledged that the trees are visually prominent in the immediate streetscape, however this visibility does not necessarily provide an "important" aesthetic benefit, particularly given that they are not visible from the wider locality. The trees maintain a lack of vigour with dry, sparse twigs and leaves, extended and dying branches and hollowed trunks.</p> <p>Accordingly, the trees do not warrant conservation in accordance with Objective 1.</p>
<p>Objective 2</p> <p><i>Development in balance with preserving regulated trees that demonstrate one or more of the following attributes:</i></p> <p>(a) significantly contributes to the character or visual amenity of the locality</p> <p>(b) indigenous to the locality</p> <p>(c) a rare or endangered species</p> <p>(d) an important habitat for native fauna.</p>	<p>a) The trees are not considered to <u>significantly</u> contribute to the character or visual amenity of the locality given that the Agonis flexuosa species is not indigenous to the locality, and the trees' height provides limited visibility beyond the immediate streetscape.</p> <p>b) The trees are not indigenous to the local area.</p> <p>c) The trees are not a rare or endangered species.</p> <p>d) The trees do not provide an "important" habitat for native fauna. Although the trees may be used occasionally by birds, this habitat value is not considered to be of such significance that it would warrant retention of trees which are in poor health and structural decline.</p> <p>Given that the trees do not distinctly fulfil any of the criteria in Objective 2, this objective suggests that the regulated trees do not require preservation.</p>
<p>Principle of Development Control 2</p> <p><i>A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:</i></p> <p>(a) the tree is diseased and its life expectancy is short</p> <p>(b) the tree represents a material risk to public or private safety</p> <p>(c) the tree is causing damage to a building</p> <p>(d) development that is reasonable and</p>	<p>Council's Planning Officer - Arboriculture (Gordon Sykes) and Coordinator Arboriculture (Heath Reynolds) have assessed the subject trees and concur with the following observations:</p> <p>a) Both of the subject trees are diseased, as their trunks have split, with hollowing and decay. The trees therefore have an estimated life expectancy of approximately 2 years, but have reached the end of their safe useful life expectancy (SULE).</p> <p>b) As a result of this trunk decay and hollowing, the trunks of both trees have longitudinal splitting, which presents a high risk of failure. Given that the trunks support heavy first order branches at risk of</p>

<p><i>expected would not otherwise be possible</i> <i>(e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.</i></p>	<p>failure which overhang the footpath, the trees maintain a high risk rating of 9/12. This is considered to represent a material risk to public and private safety.</p> <p>c) The trees are not causing damage to a building.</p> <p>d) The trees are not preventing reasonable/expected development.</p> <p>e) Not applicable</p> <p>Given that it has been demonstrated that the trees satisfy (a) and (b), PDC 2 anticipates that the trees should be removed.</p>
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REPRESENTOR'S CONCERNS

The concern raised by the representor in relation to the value of the tree at 25 Egan Crescent has been considered in the body of this report. Whilst this concern is appreciated, the fact that the tree presents a material risk to safety suggests that it should be removed, in spite of its remaining aesthetic and environmental value.

The representor has also requested "Golden Rain" replacement street tree planting. While this request 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.

ANALYSIS/CONCLUSION

The subject regulated trees are diseased, maintain a short life expectancy, and represent a material risk to safety. As a result of the trees' poor condition, limited visibility within the wider locality, and the non-indigenous nature of the Agonis species, the trees are not considered to provide an important aesthetic or environmental benefit.

Removal of the trees is therefore warranted in accordance with Objectives 1 and 2 and Principle of Development Control 2 (a) and (b) of the General Section: Regulated Trees.

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 Development Plan, and warrants Development Plan Consent and Development Approval subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent and Development Approval for Development Application No: 100/2014/1540 to remove two Regulated Trees (*Agonis flexuosa*) due to their poor condition and risk to pedestrians and motorists, adjacent 16 and 25 Egan Crescent, 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. 100/2014/1540, except when varied by the following condition of consent.
- 2. Four replacement trees shall be planted to compensate for the removal of the two regulated trees. Two replacement trees shall be planted in the same place as those removed, and an additional two trees planted in a nearby Council reserve.
- 3. Replacement trees must be planted in a suitable position greater than 10 metres in distance from any existing dwelling or in-ground swimming pool. The replacement trees must not be exempt species listed under regulation 6A clause (5)(b) of the Development Regulations 2008, or a tree belonging to a class of plant declared by the Minister under section 174 of the Natural Resources Management Act 2004.
- 4. The replacement tree planting shall occur within 12 months of the trees' removal and shall be maintained in good condition at all times and replaced if necessary.

NOTES

- 1. The applicant is encouraged to select native tree species of local provenance that are considered suitable replacements for the tree(s) to be removed (i.e. amenity / shade trees, provision of habitat, etc.). For information on appropriate species to be planted, contact State Flora within Belair National Park on telephone 8278 7777 or visit www.stateflora.com.au.

Attachments

<i>Attachment I:</i>	<i>Aerial Photograph</i>
<i>Attachment II:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment III:</i>	<i>Statement of Representations</i>
<i>Attachment IV:</i>	<i>Applicant's Response to Representations</i>
<i>Attachment V:</i>	<i>Photographs</i>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No: DAP051114 – 3.4

Originating Officer: Rhiannon Hardy
Development Officer - Planning

Applicant: Justin Mark Low

Development Description: To construct a two storey detached dwelling incorporating a garage wall on the eastern side boundary, in-ground swimming pool and retention of the existing “granny flat” at the rear of the site

Site Location: 36 Wolseley Terrace, Ascot Park

Zone: Residential Zone

Policy Area: Northern Policy Area 13

Application Type: Category 2 / Consent

Lodgement Date: 25/08/2014

Development Plan: Consolidated – 13 March 2014

Application No: 100/2014/1483

Recommendation: Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

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

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

Amendments Requested	Amendments Made
Garage wall height on boundary should not exceed 3.0 metres	Garage wall height reduced from 3.1 to 3.0 metres
Upper level windows should incorporate obscure glazing to 1.7 metres above floor level	Upper level windows amended accordingly

SUBJECT LAND & LOCALITY

The subject land is located at 36 (Lot 233) Wolseley Terrace, Ascot Park. The allotment is 554 square metres in area, with a frontage width of 13.99 metres and depth of 39.62 metres. The existing dwelling on the land was constructed in approximately 1910 in a Symmetrical Cottage style. The dwelling is currently in basic condition, with a lean-to constructed forward of the dwelling, verandah to the rear, and carport along the eastern side boundary. Dependent accommodation (a “granny flat”) is located at the rear of the site.

Council’s Arborist has reviewed several large trees on the land and confirmed that none are of a “regulated” status. The White Cedar (*Melia azedarach*) tree located at the rear of the site adjacent the western side boundary is located within 10 metres of the existing dwelling, and is therefore exempt from regulated tree controls pursuant to Regulation 6A (5) of the Development Regulations 2008.

The locality consists primarily of single storey detached dwellings on low density allotments. However, other dwelling forms are also scattered throughout the area, such as semi-detached, group and row dwellings at low-to-medium densities.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application proposes to construct a two-storey detached dwelling. The dwelling contains a lounge, double garage, bathroom, laundry and open-plan family/dining/kitchen area on the ground floor, with covered alfresco area to the rear. The upper floor features four bedrooms, retreat, bathroom, ensuite and balcony adjoining Bedroom 1. An in-ground pool is proposed to the rear of the dwelling, and the existing granny flat at the rear of the site is proposed to be retained.

The new driveway shall utilise the existing vehicle crossover located adjacent the eastern side boundary.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	15 properties were notified during the Category 2 public notification process.
Representations:	2 representations were received by Council; both primarily against the application
Persons wishing to be heard:	Nil
Summary of representations:	<ul style="list-style-type: none">• Few two storey buildings in the locality• Devaluation concerns• Building will dominate the streetscape and make single storey houses look inferior• Privacy concerns• Garage wall abutting boundary will give a “boxed in alley way feel”

Applicant's response:	<ul style="list-style-type: none"> • Happy to obscure upper level windows as per planning requirements to achieve the privacy requirements. As the upper level balcony only faces the street, we do not believe that there is any screening requirement. • The garage wall is below the maximum length allowance (7 metres) in the Residential Zone. • Two storey dwellings are allowed in the Residential Zone. The height of the dwelling is within the maximum height requirement and the style, aesthetic and material of the dwelling is complementary to the streetscape. • The existing dwelling to be demolished is a weathered old cottage with a non-sensitive flat roof extension to the front and flat roof carport to the side. We believe that the new dwelling will better reflect the aesthetic of the area and enhance the streetscape. <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 Northern Policy Area 13 are listed in the following table and discussed in further detail below:

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

<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"> ▪ <i>affordable housing</i> ▪ <i>detached dwelling</i> ▪ <i>group dwelling</i> ▪ <i>residential flat building</i> ▪ <i>row dwelling</i> ▪ <i>semi-detached dwelling</i> ▪ <i>supported accommodation.</i> 	<p>Complies Detached dwelling proposed</p>
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Assessment

The proposal shall not alter the density of the subject land.

The proposed two-storey dwelling fulfils the Desired Character of Policy Area 13, which anticipates both one and two storey dwellings in a variety of architectural styles.

The Policy Area also anticipates a “low scale” character. Given that the dwelling satisfies setback and height criteria, the scale and form of the dwelling is considered to appropriately satisfy the envisaged scale of housing.

The detached dwelling fulfils the form of development envisaged by PDC 1.

DEVELOPMENT ASSESSMENT

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

Principles of Development Control

Assessment

Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Does Not Comply 245.6 m² = 44.3% (including granny flat)</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <p><i>(a) pedestrian and vehicle access and vehicle parking</i></p> <p><i>(b) domestic storage</i></p> <p><i>(c) outdoor clothes drying</i></p> <p><i>(d) rainwater tanks</i></p> <p><i>(e) private open space and landscaping</i></p> <p><i>(f) convenient storage of household waste and recycling receptacles</i></p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies Although site coverage slightly exceeds the maximum percentage prescribed by PDC 4 of the Residential Zone, the proposed development nonetheless provides adequate space for vehicle access/parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>

Private Open Space

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

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

General Section: Residential Development: PDC 15

Complies

POS is accessed directly from habitable rooms, located to the rear of the dwelling, screened for privacy, and has sufficient area and shape to be functional.

Does Not Comply

The POS has a southern orientation, which will result in overshadowing from the proposed two-storey dwelling, particularly in winter months. However, given that the site maintains a street frontage with northern orientation, it is impracticable to provide POS with a direct northern orientation, as this would be contradictory to part (b). Nonetheless, given that the POS maintains a generous depth, some winter sunlight should be received by the rear portion of the yard, and throughout morning and afternoon hours.

Site Area 250 m² 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.

General Section: Residential Development: PDC 17

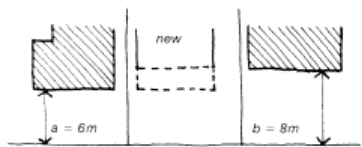
Complies

214.6 m² = 38.7% (excluding granny flat, including pool and alfresco)

All POS is directly accessible from the main living area with minimum dimension of 14 x 11 metres.

Street Setbacks

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

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

General Section: Design and Appearance: PDC 25

Complies

Main face of dwelling set back 7.4 – 8.0 metres

Note: Dwellings on adjoining land set back approximately 6.0 and 7.6 metres = 6.0 metre minimum setback applies

<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 style="text-align: right;"><i>General Section: Design and Appearance: PDC 23</i></p>	<p>Complies</p> <p>The proposed dwelling is set back in a manner that is compatible with and similar to setbacks of buildings on adjoining land and other buildings in the locality, and therefore should contribute positively to the function, appearance and desired character of the locality.</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 style="text-align: right;"><i>General Section: Residential Development: PDC 36</i></p>	<p>Complies</p> <p>Front setback achieves adequate separation from pedestrian/vehicle movement.</p>
Side Setbacks	
<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 style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>Wall height of 3.0 metres on single storey component set back 1.0 metre from western side boundary.</p> <p>Wall height of 5.1 metres for upper storey set back 2.4 metres from western boundary and 3.0 metres from eastern side boundary (with small incursion set back 2.5 metres).</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>...</p> <p><i>(c) no wall exists on the adjacent boundary:</i></p> <p><i>(i) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(ii) not exceed 6 metres in length</i></p> <p><i>(iii) not exceed 3 metres in height</i></p> <p><i>(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>(d) adjoining communal open space or a public reserve, not to exceed</i></p> <p><i>(i) 50 per cent of the length of the boundary</i></p> <p><i>(ii) 4 metres in height.</i></p> <p style="text-align: right;"><i>General Section: Residential Development: PDC 38</i></p>	<p>Complies</p> <p>a) dwelling abuts one side allotment boundary only</p> <p>c)iii) wall height does not exceed 3 metres</p> <p>Does Not Comply</p> <p>c) i) boundary wall is set back approximately 1.1 metres behind the face of the adjacent dwelling</p> <p>ii) garage wall length of 6.21 metres</p> <p>iv) garage wall located approximately 2.1 metres from Bed 2 window of adjoining dwelling.</p>
Rear Setbacks	
<p><i>6 metres for a single storey dwelling</i></p> <p style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>16.6 metres</p>
<p><i>8 metres for a 2 or more storey dwelling</i></p> <p style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>18.6 metres</p>
Building Height	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p style="text-align: right;"><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>7.25 metres maximum building height</p>

Garages, Carports and Outbuildings	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage: 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>Complies Garage set back 9.0 metres and 1.6 metres behind main face</p>
<p><i>Carports and garages should be setback from road and building frontages so as to:</i> (a) not adversely impact on the safety of road users (b) provide safe entry and exit.</p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p>Complies Garage features external brick cladding, which is replicated on the western side of the dwelling, and complements with the Matrix feature cladding. Garage is integrated into dwelling design with a cantilevered overhang from the upper floor.</p>
<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies Garage maintains 5.0 metre door width, which equals 35.7% of allotment width.</p>
Car Parking	
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i> 3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies 3 car parking spaces provided, two of which are covered</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p>Complies One on-street car park maintained forward of the allotment</p>
Access	
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i> (a) 3 metres wide for a single driveway (b) 5 metres wide for a double driveway.</p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p>Complies Existing crossover to be used</p>
<p><i>Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.</i></p> <p><i>General Section: Residential Development: PDC 40</i></p>	<p>Complies Existing crossover maintains adequate clearance from 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>Complies 1 vehicle access point provided</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

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

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

Dwelling incorporates a contemporary design with varied external materials, including matrix cladding, stone cladding to feature pier and brick cladding to garage. The front façade is stepped in various sections to enhance articulation and minimise visual bulk.

The dwelling's hipped roof form is set at 22 degrees with Colorbond "Ironstone" cladding.

The dwelling's external walls and roof do not incorporate highly reflective materials.

The front balcony is integrated into the dwelling form, with low transparent balustrade which enables line of sight to the street.

The dwelling's articulation (outlined above) avoids extensive areas of uninterrupted walling exposed to public view.

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 presents its main façade and entrance door toward the primary street frontage.

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

Due to the north-south orientation of the subject allotment, the proposed two-storey dwelling will cast shadow toward the western adjoining property in morning hours, within its own rear yard in midday, and into the eastern adjoining property in afternoon hours.

This orientation ensures that adjoining properties should receive at least 3 hours of direct sunlight at some point of the day in winter solstice, and therefore the proposal complies with PDC 9 and 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

The proposed upper level windows on the side and rear elevations feature obscure glazing to a point 1.7 metres above floor level, which should effectively minimise direct overlooking into adjoining properties.

The balcony on the front façade remains unscreened, but views should be limited toward the streetscape and public realm only. As such, the balcony should not result in direct views into habitable areas of 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

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

General Section: Energy Efficiency: PDC 4

Partially Complies

The dwelling maintains south-facing private open space due to the north-south orientation of the existing allotment. However, a section of POS is located behind the garage, which should receive some northern winter sunlight. Additionally, the generous depth of the rear yard means that some winter sunlight should reach the rear portion of the garden.

The dwelling features north-facing windows on the living area on the front elevation, which should provide thermal comfort to the living areas of the dwelling in winter months.

<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>As mentioned above, the dwelling has been designed and sited to ensure that adequate natural light remains available to the main activity areas of adjacent buildings.</p> <p>The proposed hipped roof form features two north-facing sections, which should enable the efficient siting of solar collectors.</p> <p>On balance, the dwelling is considered to sufficiently accord with relevant energy efficiency criteria.</p>
<h2>Swimming Pools and Outdoor Spas</h2>	
<p><i>Swimming pools, outdoor spas and associated ancillary equipment and structures should be sited to protect the privacy and amenity of adjoining residential land.</i></p> <p><i>General Section: Residential Development: PDC 33</i></p> <p><i>Swimming pools, outdoor spas, and associated structures (other than fencing) should have a maximum height of 1 metre above natural ground level and be setback from property boundaries the following minimum distances:</i></p> <p><i>(a) 1.5 metres for in-ground pools and spas</i> <i>(b) 5 metres for above-ground pools and spas.</i></p> <p><i>General Section: Residential Development: PDC 34</i></p> <p><i>Pool or spa equipment should be contained within a sound reducing enclosure and located at least 5 metres from a habitable room window of an adjoining property.</i></p> <p><i>General Section: Residential Development: PDC 35</i></p>	<p>Complies</p> <p>The proposed swimming pool is set back 1.5 metres from the western side boundary.</p> <p>Pool equipment is located adjacent the rear boundary, which is separated from adjoining dwellings by at least 13 metres.</p> <p>Accordingly, the swimming pool and equipment has been sited to protect the privacy and amenity of adjoining residential land.</p>

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
- Energy efficiency
- Boundary wall length

Site coverage equals 44.3%, where a maximum 40% applies. This minor 4.3% excess is not considered to detract from the merit of the proposal, particularly given that adequate POS and setbacks are maintained.

The dwelling's POS maintains a southern orientation, and therefore will be significantly overshadowed by the proposed dwelling in winter months. However, due to the orientation of the allotment, it would not be practicable to provide north-facing POS. The dwelling nonetheless makes efficient use of the allotment's orientation by siting living area windows on the front façade to receive northern sunlight, and the generous depth of the rear yard ensures that some winter sunlight will be received.

The dwelling incorporates its garage wall abutting the eastern side boundary for a length of 6.2 metres, where a maximum length of 6.0 metres is prescribed. Further, the boundary wall is set back 1.1 metres behind the adjacent dwelling, where it should be 2.0 metres, and the boundary wall is set back 2.1 metres from the bedroom window on adjoining land, where it should be 2.5

metres. Each of these discrepancies are relatively minor in nature, and are unlikely to unreasonably impact on the amenity of adjacent land.

It is also befitting to acknowledge that the subject land is located in a Determined Area with respect to Schedule 4 Complying Development. Schedule 4 permits the construction of dwellings “as of right” which incorporate boundary walls with a maximum length of 8.0 metres and height of 3.0 metres, with no consideration attributed to the impact on the amenity of adjoining land. Accordingly, the proposed boundary wall location and length of 6.2 metres remains appropriate when considered against standard design criteria for new dwellings in metropolitan Adelaide.

REPRESENTOR’S CONCERNS

The concerns raised by the representors in relation to visual privacy, the two-storey nature of the dwelling and the proposed boundary wall have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The representor has also raised concerns over depreciation in 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.

ANALYSIS/CONCLUSION

The essential nature and form of the proposed two-storey dwelling accords with the Desired Character, Objectives and Principles of the Northern Policy Area 13.

The proposal maintains several minor non-compliances when assessed against the relevant Development Plan criteria, including site coverage, boundary wall length/location and energy efficiency. However, further consideration of these matters has demonstrated that they should not result in unreasonable impacts to adjacent land or the locality, and therefore do not jeopardise the underlying merit of the proposal.

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 Development Plan, and warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1483 to construct a two storey detached dwelling incorporating a garage wall on the eastern side boundary, in-ground swimming pool and retention of the existing “granny flat” at the rear of the site at 36 Wolesley Terrace, Ascot Park, be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1483, except when varied by the following conditions of consent.
- 2. If construction of the new dwelling has not substantially commenced within 12 months of demolition of the existing dwelling, the dependent accommodation “granny flat” shall also be demolished. During the period between demolition and completion of the new dwelling, the granny flat shall be used for domestic storage purposes only, and shall not be occupied or inhabited.
- 3. The dependent accommodation “granny flat” shall only be used as a habitable area when ancillary to a dwelling on the land, and shall only be used by the occupiers of that dwelling and their immediate family members, and at no time shall be used as a separately tenable building.
- 4. All ancillary swimming pool plant/equipment shall be located a minimum 5.0 metres from any adjoining neighbouring dwelling and shall be contained within a sound reducing enclosure.
- 5. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
- 6. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council’s information guide titled “Stormwater Detention”, to the reasonable satisfaction of the Council.

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

7. The portion of the upper floor windows (except the north-facing windows presenting to the street) 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).
8. 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.
9. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
10. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
11. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
12. All mortar joints on any face brickwork on the property boundary are to be finished in a professional manner, similar to other external brickwork on the subject dwelling.

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 & 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 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.5
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Weeks Peacock Quality Homes
Development Description:	Variation to Development Application 100/2013/769 - Two storey detached dwelling and retaining walls - To extend the retaining wall along the northern side boundary (max 1.5m high) and construct an additional retaining wall adjacent the rear easement (max 1.3m high)
Site Location:	22 Kodaro Road, Hallett Cove
Zone:	Residential Zone
Policy Area:	Hills Policy Area 11
Application Type:	Category 2 / Consent
Lodgement Date:	27/05/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/880
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

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

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 Development Assessment Panel may recall considering a previous application (100/2013/769) for the construction of a two storey detached dwelling on the subject land. That application was presented to the Panel's meeting of 19 March 2014 and was granted Development Plan Consent, subject to conditions.

SUBJECT LAND & LOCALITY

The subject land is located at 22 (lot 4) Kodaro Road, Hallett Cove. The land is rectangular in shape and maintains a frontage width of 17.0 metres, depth of 45.0 metres and a total site area of 765.0 square metres.

An easement runs along the rear boundary for a width of 3.0 metres for Drainage Purposes. Currently, the land is vacant. There are no significant trees existing on the subject land.

The land incorporates a gradient of 12.7% at the front boundary, sloping approximately 2.2 metres from the southern side boundary to the northern side boundary. The gradient at the rear boundary is slightly less with a fall of 1.65 metres, or 9.7%.

The locality is characterised by detached dwellings on large allotments, which are predominantly two storey. Whilst a number of dwellings in the locality were constructed in the 1980s to 90s, a majority of dwellings in the immediate locality (i.e. Kodaro Road and Douglas Court) were constructed within the past 10 years.

The topography of the locality is undulating to steep. The coastline and the Adelaide-Seafood train line is situated some 600 metres and 140 metres to the west of the site respectively. The Hills Face Zone is located approximately 30 metres east of the subject land.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application seeks to vary the previous Development Plan Consent issued for the land, by increasing the length of the retaining wall abutting the northern side boundary. An additional retaining wall is also proposed, which will abut the western side of the easement. These retaining walls are up to 1.5 and 1.3 metres in height, respectively.

The design of the proposed dwelling is not proposed to be altered as part of the application.

An in-ground swimming pool, approved as part of a separate Development Application, is indicated on the proposal plans.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	5 properties were notified during the Category 2 public notification process.
Representations:	1 representation was received by Council.
Persons wishing to be heard:	The representor did not identify that she wishes to address the Panel
Summary of representations:	Concerns that the proposal results in excessive earthworks and resultant retaining wall and fence will have unreasonable visual impact upon property <i>Refer Attachment IV</i>
Applicant's response:	No formal response to the representation was received, however, the plans were amended, in part, in response to the representation received <i>Refer Attachment V</i>

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>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
Hills Policy Area 11		
<p>Objectives</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>Desired Character</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 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ detached dwelling ▪ group dwelling 	Complies
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>Partially Complies See discussion below</p>
PDC 4	<p>Wherever possible, existing vegetation should be used to screen the building and excavation or filling from view.</p>	<p>Partially Complies See discussion below</p>

Assessment

The proposal does not seek to alter the design or floor level of the dwelling approved on the land, rather the extent of earthworks to the north-east of the building is sought to be increased to provide additional flat yard area for the enjoyment of the occupants.

The previous proposal sought for a retaining wall up to 1.2 metres in length, situated 3.0 metres east of the footprint of the dwelling. The subject proposal seeks for a retaining wall up to 1.5 metres in height, approximately 3.5 metres east of the dwelling's footprint, followed by a second retaining wall 500mm below that, up to 1.3 metres in height.

As identified in the previous report "...the proposed finished floor level of 101.15 is set at the approximate midpoint between the higher allotment to the south (102.58, or 1.43 metres higher), and the lower allotment to the north (99.35, or 1.8 metres lower)."

Whilst ideally the dwelling would comprise a floor level 200mm lower than that approved (which would provide a floor level halfway between the adjacent dwellings) and result in a retaining wall abutting the northern side boundary of 1.3 metres; consistent with other properties on this side of Kodaro Road, it is evident the dwelling proposed does not result in a volume or extent of earthworks that exceeds that envisaged for the Policy Area or will have a detrimental impact upon adjoining land.

The proponents have sought to reduce the overall extent of filling and therefore the maximum height of the retaining wall on the northern side boundary, by stepping down the eastern portion of the rear yard by 500mm. This provides a second retaining wall comprising a maximum height of 1.3 metres, where 1.8 metres would be required if there were no step.

The proposed retaining walls are adjacent a garden shed and two rainwater tanks (refer images attached to representation) on the adjoining property. The rear yard of this property is usable and comprises a flat paved and turfed area, although the generously-proportioned balcony (4.0m x 6.0m) on the upper level is likely to perform as the primary area of private open space, given it is accessed from the main living room and enables attractive views to the north-west and west.

Given the proposal marginally increases the height of the retaining wall, which is situated on the southern boundary of the adjoining property and adjacent rainwater tanks and a garden shed, I am of the view the visual impact of the retaining walls are acceptable and will not result in a significant detrimental impact upon the amenity of the adjoining property.

In terms of privacy, it is likely that some view of the adjoining properties to the east will be visible from the lower yard area. This is typical of other properties on the eastern side of Kodaro Road, which gain views of the rear yards of properties in Douglas Court – due in part to the topography of the land and the 3.0 metre-wide easement at the rear of the Kodaro Road properties, which prevents the properties being filled to the rear boundary.

Whilst this is the case, view will be relatively limited, as the adjacent dwellings (and associated yard areas) are cut into the land. Over time, as boundary fences are erected and landscaping becomes established, the likely extent of overlooking will be diminished.

To this end, it is considered the proposal finds reasonable compliance with the Objectives, Principles and Desired Character of the Policy Area.

DEVELOPMENT ASSESSMENT

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

Landscaping, Fences and Walls	
<p><i>Fences and walls, including retaining walls, should:</i></p> <ul style="list-style-type: none"> (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 (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. <p style="text-align: right;"><i>General Section: Landscaping, Fences & Walls: PDC 5</i></p>	<p>Complies</p> <ul style="list-style-type: none"> (a) There are no substantial trees within close proximity to the proposed retaining walls (b) The length, height and location of the proposed retaining walls are consistent with other properties in the immediate locality (g) The top of the retaining walls will be equal to the ground level, ensuring a fence atop the retaining wall will provide privacy to the neighbour to the north (h) The proposed retaining wall will be constructed of concrete sleepers
Sloping Land	
<p><i>Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:</i></p> <ul style="list-style-type: none"> (a) minimises their visual impact (b) reduces the bulk of the buildings and structures (d) minimises the extent of cut and/or fill (e) provide a stable and readily accessible building site (f) minimises the need for, and the height of, retaining walls (g) does not cause or contribute to instability of any embankment or cutting <p style="text-align: right;"><i>General Section: Sloping Land: PDC 2</i></p>	<p>Partially Complies</p> <ul style="list-style-type: none"> (a) The visual impact of the proposed retaining wall is considered acceptable (b) The floor level and design of the dwelling will not alter (d) Whilst the proposal provides a stepped area which reduces the extent of fill, it has not been minimised (e) Provided for by proposal (f) The height of the retaining walls is not minimised by the proposed additional fill (g) Proposal will not make the land unstable
<p><i>The cutting and/or filling of land should:</i></p> <ul style="list-style-type: none"> (a) be kept to a minimum and be limited to a maximum depth or height no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation (b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment (c) only be undertaken if the resultant slope can be stabilised to prevent erosion (d) result in stable scree slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the area. <p style="text-align: right;"><i>General Section: Sloping Land: PDC 7</i></p>	<p>Partially Complies</p> <ul style="list-style-type: none"> (a) The maximum extent of fill is up to 1.5 metres above natural ground level (b) Is not being undertaken to reduce the visual impact of the dwelling (c) Retaining walls are likely to assist preventing erosion (d) Retaining and fill will enable a more usable rear yard, which is likely to be landscaped in the future
<p><i>Retaining walls should:</i></p> <ul style="list-style-type: none"> (a) not exceed 1 metre in height (b) be stepped in a series of low walls (c) be landscaped to enhance their appearance. <p style="text-align: right;"><i>General Section: Sloping Land: PDC 8</i></p>	<p>Partially Complies</p> <ul style="list-style-type: none"> (a) Retaining walls proposed are up to 1.5 metres in height (b) The eastern section of retaining is stepped to reduce overall height (c) As located on the boundary, there is no opportunity for applicants to screen retaining via landscaping

ANALYSIS/CONCLUSION

The proposal seeks to extend the length and height of the retaining wall previously approved on the northern side boundary of the property. The 'new' retaining wall will incorporate a maximum height of 1.5 metres, with a stepped section with a maximum height of 1.3 metres. This wall will extend to the western 'boundary' of the easement at the rear of the property. The previous proposal sought for a retaining wall with a height of 1.2 metres, ending some 8.0 metres west of the easement 'boundary'.

Whilst it would be ideal for the dwelling approved for the land to comprise a floor level 200mm lower, the extent and height of retaining required to accommodate the building and proposed as part of this application will not, in my opinion, result in such a significant impact upon the amenity of the property to warrant changes or 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 Development Plan. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/880 for Variation to Development Application 100/2013/769 - Two storey detached dwelling and retaining walls - To extend the retaining wall along the northern side boundary (max 1.5m high) and construct an additional retaining wall adjacent the rear easement (max 1.3m high) at 22 Kodaro Road, Hallett Cove 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. 100/2014/880, except when varied by the following conditions of consent.
2. The portion of the upper floor windows on the northern and southern side elevations 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).
3. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
4. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
5. 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.
6. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
7. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

NOTES

1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
2. All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system, to the reasonable satisfaction of the Council. (Acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).
3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
4. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, street trees, stobie poles, SEP's, pram ramps etc.
5. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No: DAP 051114 – 3.6

Originating Officer: Joanne Reid
Development Officer - Planning

Applicant: Wolf Wenig Nominees Pty Ltd

Development Description: Change of use from bank to shop and consulting rooms with ancillary offices

Site Location: 209 Sturt Road, Seacombe Gardens

Zone: Residential Zone

Policy Area: Regeneration Policy Area 16

Application Type: Category 3 / Non-Complying

Lodgement Date: 31/07/2014

Development Plan: Consolidated – 13 March 2014

Application No: 100/2014/1315

Recommendation: Development Plan Consent (Granted) subject to concurrence from the Development Assessment Commission

CATEGORISATION & DELEGATION

The subject application is a Non Complying form of development by virtue of the *Procedural Matters* section of the Development Plan which lists both a shop and consulting rooms, where the site fronts an arterial road as Non-complying. Delegations for Non-complying developments are granted to the Development Assessment Panel for a decision.

As the nature of the development does not comprise a development listed under Schedule 9, Part 3 as a Non-complying development that could be classified as a Category 1, the application was subject to Category 3 notification.

BACKGROUND

During the assessment process, Council staff requested the following information:

Information Requested	Information provided
Confirmation of existing parking on site and the provision of a scaled site plan which details existing car parking on site and building layout.	Scaled site plan provided showing existing car parking and building details provided.

Clarification on how DPTI's request for a 6m clear area at the property entrance can be achieved.	Site plan amended to provide in only access from Sturt Road and exit only onto Glamis Avenue.
Further details on staffing levels.	Information provided.

SUBJECT LAND & LOCALITY

The subject site is located at 209 Sturt Road, Seacombe Gardens and is located on the corner of Sturt Road and Glamis Avenue. The site maintains a frontage width of 19.8m (excluding the corner cut-off) and a depth of 35.96m and has a total site area of approximately 708m².

The site contains an existing brick building of approximately 246m² in floor area, constructed in 1967 which has existing use rights as a bank and has provision for 11 car parks which are currently line marked on the site.

The site maintains two access points, one next to the western side boundary off Sturt Road and the other off Glamis Avenue between the rear of the building and the southern boundary.

The locality comprises a mixture of land uses. Directly opposite the site to the north is Westfield Marion. To the west are two retail buildings containing around 5 tenancies between them as well as a bank and a medical centre. Directly to the south and east of the site are predominantly residential dwellings. The Regeneration Policy Area 16 is applicable to this area, which is undergoing a transformation of redevelopment resulting in older housing being replaced with single and two storey dwellings in the form of detached, semi-detached and row dwellings on medium to small allotments.

The site is located directly opposite the bus transit area in Westfield Marion and the Oaklands Train station is approximately 1km away 'as the crow flies'.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application proposes to change the use of an existing building, formerly used as a bank, to a shop (optometry dispensary) and consulting rooms (optometry) with associated office and staff amenities.

The external appearance of the building will generally remain the same whilst the internal layout will be altered to include an open plan area for sale and display of optical products, two consulting rooms and offices in the front portion of the building and in the back portion, staff facilities including a training room.

The existing access points will be retained as will the car park layout.

Operating hours are Monday to Wednesday and Friday, 9am to 5.30pm, Thursdays 9am to 9pm and Saturdays, 9am to 5pm. The optometry services will be available on an appointment only basis whilst the retail aspect will operate for the duration of the opening hours for 'walk-in' customers.

Up to four people will staff the business, 3 sales staff and 1 optometrist, however an additional 1 to 2 staff could be on-site undertaking training, typically every couple of months.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	16 properties were notified during the Category 3 public notification process.
Representations:	1 representation was received by Council in favour of the Development.
Persons wishing to be heard:	The representor did not indicate a desire to be heard by the Development Assessment Panel.
Summary of representations:	<ul style="list-style-type: none"> In support of more retailers in the vicinity of the representor's business. <p style="text-align: right;"><i>Refer Attachment IV</i></p>
Applicant's response:	<ul style="list-style-type: none"> The support of the development by a nearby operator appears to suggest that the proposed development is considered a complementary use in this location. It is noted that no written representations were received from adjacent residential properties to the south or east of the proposed development. This would seem to indicate that nearby residents do not consider that the proposed development will have undue impact on their residential amenity through hours of operation, noise, traffic, emissions or any other activities. There was also no written representation from the owners of Marion Regional Centre, which seems to indicate that they are not concerned that the proposed development will impact on retail activities conducted in the Centre. <p style="text-align: right;"><i>Refer Attachment V</i></p>

GOVERNMENT AGENCY REFERRAL

Department of Transport, Energy and Infrastructure:	<ul style="list-style-type: none"> It is DPTI Policy to minimise the number of access points on the arterial road network in the interests of road safety, therefore the retention of the existing ingress via Sturt Road and egress via Glamis Avenue is supported. It is recommended that line marking and/or signage be provided to encourage the desired traffic flow. The ingress should provide a clear area of a minimum of 6m inbound into the property to allow vehicles to store off-street while waiting for another vehicle to exit the property. Whilst it appears that a clear area could be provided, it is compromised by the presence of the disabled park which would require vehicles to manoeuvre within the clear area and potentially into the path of vehicles entering the site leading to vehicular conflict adjacent Sturt Road. Further, it is noted that the disabled park does not meet the requirements of AS/NZS 2890.6:2009. Subsequently, it is recommended that the disabled park be removed/relocated.
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	<ul style="list-style-type: none"> • With regard to the remaining on-site car parking, it appears that sufficient space has been incorporated for B85 vehicles utilising the proposed car parks to manoeuvre on-site and exit in a forward direction. • Council should be satisfied that an appropriate amount of car parks has been provided to service the proposed use. • DPTI does not object in-principle to the proposed development, subject to conditions (provided).
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Refer Attachment VI

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>Happy to keep current car park arrangement because:</p> <ul style="list-style-type: none"> • The existing use is without a structural change, if there was a technical change of use then we could not rely on this planning rule and we should insist on a complying disabled car park. • There is at least 7 metres between the disabled parking bay and the Sturt Rd carriageway, due to presence of an on road parking bay and cycle lane.
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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>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
PDC 1	<p><i>The following forms of development are envisaged in the zone:</i></p> <ul style="list-style-type: none"> ▪ affordable housing ▪ domestic outbuilding in association with a dwelling ▪ domestic structure ▪ dwelling ▪ dwelling addition ▪ small scale non-residential uses that serve the local community, for example <p><i>Child care facilities Health and welfare services Open space Primary and secondary schools Recreation areas Shops, offices and consulting rooms</i></p>	<p>Complies</p> <p>The proposed use is considered to be a small scale non-residential use that serves the local community. The proposed business has operated in the Marion Centre and wish to continue serving their patrons at a nearby site outside the centre.</p>
PDC 2	<p><i>Development listed as non-complying is generally inappropriate.</i></p>	<p>Does not comply</p> <p>The proposed use is non-complying due to its location on an arterial road. Council</p>

		<p>staff have determined it appropriate to process the application further as there is considered to be some merit in the proposed use as will be discussed throughout this report.</p>
PDC 3	<p><i>Vacant or underutilised land should be developed in an efficient and co-ordinated manner to increase housing choice by providing dwellings at densities higher than, but compatible with adjoining residential development.</i></p>	<p>Does not comply</p> <p>The application does not propose residential development, however seeks to resurrect a vacant site in a manner that minimises impacts on adjacent residential properties.</p>
PDC 4	<p><i>Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that:</i></p> <ul style="list-style-type: none"> <i>(a) Serves the needs of the local community</i> <i>(b) Is consistent with the character of the locality</i> <i>(c) Does not detrimentally impact on the amenity of nearby residents.</i> 	<p>Complies</p> <p>It is considered that the proposed use which provides optometry and eyewear has the capacity to serve the needs of the local community. The use is proposed to be located in a purposefully built commercial building amongst an area of Sturt Road which contains a number of commercial premises. Its impacts on the amenity of nearby residents will be discussed later in the report.</p>

Regeneration Policy Area 16

Objectives

- 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.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ dwelling including a residential flat building ▪ student accommodation ▪ supported accommodation. 	Does Not Comply
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Assessment

The desired character statement is silent on non-residential uses within the Policy Area and it is apparent that the proposed development is not an expressly envisaged use.

The proposed development seeks to utilise a building which was constructed some time ago for commercial purposes and maintains existing use rights as a commercial enterprise in the form of a bank.

The subject site and the 5 other consecutive allotments to the west are all clearly retail or consulting room type uses within the Residential Zone. The zoning of the sites appears to be an anomaly given that the appearance and internal layout of the buildings seem inappropriate for residential use.

Given the unique circumstances of the site, there is some merit in considering the proposed use further, with its appropriateness being determined by how the proposed use will impact on neighbouring residential properties with respect to noise, traffic, pollution and other operational matters.

None of the physical characteristics of the building will change, therefore all existing setbacks and building's scale and appearance will remain and will not invoke greater impacts on the adjoining properties in this regard.

To this end, whilst the Policy Area does not necessarily encourage non-residential uses, Residential Zone Principle 4 provides some clarity that non-residential land uses could be contemplated in Residential Zones if they are unlikely to unreasonably impact on the amenity of the locality.

DEVELOPMENT ASSESSMENT

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

Principles of Development Control	Assessment
Retail Development	
<p><i>Other than in relation to the Suburban Activity Node Zone, a shop or group of shops located outside of zones that allow for retail development should:</i></p> <p><i>(a) be of a size and type that will not hinder the development, function or viability of any centre zone</i></p> <p><i>(b) not demonstrably lead to the physical deterioration of any designated centre</i></p> <p><i>(c) be developed taking into consideration its effect on adjacent development</i></p> <p><i>(d) incorporate a road or thoroughfare at the rear for the use of vehicles which is not less than 6 metres wide and which communicates with a public road at each end</i></p> <p><i>(e) incorporate a site having a depth of not less than 24 metres.</i></p> <p><i>General Section: Centres and Retail Development: PDC 7</i></p>	<p>Complies</p> <p>(a) and (b) It is acknowledged that the proposed use will be located outside of the Regional Centre Zone which is directly opposite the subject site. However, it is my view that it is unlikely to hinder the function, viability or lead to the deterioration of the nearby Westfield Marion as that centre will always offer a greater range of choice for shopping needs and attract a wider catchment of customers.</p> <p>(c) Further discussion into the effect on adjacent residential development will be discussed in the section 'interface between land uses'.</p> <p>(d) There will be two access points to the site, one at the front of the site and one to the rear. The arrangement will be such that access to the site is gained from Sturt Road while egress out of the site is from the rear on to Glamis Avenue.</p> <p>(e) The depth of the site is approximately 36m.</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) verandahs, eaves, parapets and window screens.*

General Section: Design & Appearance: PDC 1

Relationship to the Street and Public Realm

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

Complies

The external appearance of the site will not significantly change and will maintain the scale of development consistent with both the existing commercial premises and the single storey residential buildings adjacent the site.

The entrance to the site presents to Sturt Road and the large entry doors and verandah over makes it an easily identifiable part of the building.

Outdoor Storage and Service Areas

Outdoor storage, loading and service areas should be:

- (a) screened from public view by a combination of built form, solid fencing and/or landscaping*
- (b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles*
- (c) sited away from sensitive land uses.*

General Section: Design & Appearance: PDC 22

Complies

It is unlikely that goods will be stored externally of the site, with the exception of waste bins.

Conditions have been recommended on the Planning Consent which restricts the storage of goods and materials within the car parking areas and for waste to be stored in an orderly fashion.

Interface Between Land Uses

Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:

- (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants*
- (b) noise*
- (c) vibration*
- (d) electrical interference*
- (e) light spill*
- (f) glare*
- (g) hours of operation*
- (h) traffic impacts.*

General Section: Interface Between Land Uses: PDC 1

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

General Section: Interface Between Land Uses: PDC 2

Sensitive uses likely to conflict with the continuation of lawfully existing developments and land uses desired for the zone should be designed to minimise negative impacts.

General Section: Interface Between Land Uses: PDC 5

Non-residential development on land abutting a residential zone should be designed to minimise noise impacts to achieve adequate levels of compatibility between existing and proposed uses.

General Section: Interface Between Land Uses: PDC 6

Complies

It is not considered that the proposed development will have significantly greater impacts on adjacent residential properties than when the site operated as a bank.

The use will not emit pollutants or odours and all activities are undertaken from within the premises and therefore it is unlikely that noise will emanate from beyond the building's walls.

The hours of operation are primarily during the day, being Monday, Tuesday, Wednesday and Friday from 9am to 5.30pm and Saturdays from 9am to 5pm. The latest the business will open until is Thursdays where it will operate from 9am to 9pm, however this is considered to still be outside the general sleep disturbance hours.

Deliveries are likely to be during the day when someone is present in the building to collect them and will generally involve small vehicles rather than large trucks.

To this end, I am satisfied that the proposed use will not have detrimental impacts upon the amenity of neighbouring residential properties given the low intensity of the activities taking place and that operating times generally match business hours when occupants are less likely to be home.

	Note: Traffic impacts are discussed in the 'Transportation and Access' section to avoid repetition.
<p><i>Development adjacent to a Residential Zone should be designed to minimise overlooking and overshadowing of adjacent dwellings and private open space.</i></p> <p>General Section: Interface Between Land Uses: PDC 3</p>	<p>Complies</p> <p>Given that the setbacks and building height will not change, the development will not result in overlooking or increased overshadowing.</p>
Transportation and Access	
<p>Land Use</p> <p><i>Land uses arranged to support the efficient provision of sustainable transport networks and encourage their use.</i></p> <p>General Section: Transportation and Access: PDC 1</p>	<p>Complies</p> <p>The location of the proposed use, although being located outside Westfield Marion, is still of a proximity such that its customers are able to utilise the same public transport networks. The site is located directly opposite the bus exchange which services a number of routes around the immediate area and beyond. As such, the movement of the proposed use outside of the Regional Centre is not considered to be a hindrance to potential customers who are unable to access the site by a personal vehicle.</p>
<p>Movement Systems</p> <p><i>Development should be integrated with existing transport networks, particularly major rail, road and public transport corridors as shown on Location Maps and Overlay Maps - Transport, and designed to minimise its potential impact on the functional performance of the transport network.</i></p> <p>General Section: Transportation and Access: PDC 2</p>	
<p><i>Development generating high levels of traffic, such as schools, shopping centres and other retail areas, and entertainment and sporting facilities should incorporate passenger pick-up and set-down areas. The design of such areas should minimise interference to existing traffic and give priority to pedestrians, cyclists and public and community transport users.</i></p> <p>General Section: Transportation and Access: PDC 6</p>	<p>Complies</p> <p>As well as being accessible by public transport, the site is located adjacent a bicycle lane and the nearby streets are in the form of a 'grid' pattern, thereby fostering greater opportunities for walking within the neighbourhood. The site also provides 11 on site car parks with sufficient space to enter and exit the site without substantially impacting upon the flow of traffic on the adjacent road network.</p>
<p><i>Development should provide safe and convenient access for all anticipated modes of transport.</i></p> <p>General Section: Transportation and Access: PDC 8</p>	
<p><i>Development should be designed to discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive land uses.</i></p> <p>General Section: Transportation and Access: PDC 12</p>	<p>Complies</p> <p>The site's location on a main road minimises the need for commercial vehicles to access the site by navigating through the residential 'back' streets, thereby minimising impacts of increased traffic and noise to the neighbouring residential properties.</p>
<p><i>Industrial/commercial vehicle movements should be separated from passenger vehicle car parking areas.</i></p> <p>General Section: Transportation and Access: PDC 13</p>	<p>Does Not Comply</p> <p>Due to the size of the site, there is no capacity to separate commercial vehicle movements from the car parking areas.</p> <p>However, the applicant has indicated that there is unlikely to be large commercial vehicles such as trucks entering the site.</p> <p>The delivery of goods is likely to be restricted to courier vans and the like and will be able to easily manoeuvre within the site and quickly unload without restricting movement on the site.</p>

	<p>As such, I am of the view that the separation of parking areas with commercial vehicle movements is not necessary in this instance.</p>
<p><i>Development should provide for the on-site loading, unloading and turning of all traffic likely to be generated.</i></p> <p><i>General Section: Transportation and Access: PDC 14</i></p>	<p>Complies</p> <p>As mentioned, delivery vehicles will be small vehicles and will access the site in the same manner as private vehicles, that is, enter the site via Sturt Road and exit via Glamis Avenue.</p> <p>Vehicles would be able to park briefly on the site for unloading of goods and exit the site in a forward direction.</p> <p>It is worthy to note, that the deliveries to the site when the business operated in Westfield would not have had the convenience of directly unloading from vehicles to the site. As such, it is my view that if a vehicle was required to park in the adjacent parking bays to unload goods, the distribution of goods would not cause undue impacts on the adjacent road network or to the public utilising the footpaths.</p>
<p>Access</p> <p><i>Development should have direct access from an all-weather public road.</i></p> <p><i>General Section: Transportation and Access: PDC 22</i></p>	<p>Complies</p> <p>The site achieves direct access from Sturt Road.</p>
<p><i>Development should be provided with safe and convenient access which:</i></p> <ul style="list-style-type: none"> <i>(a) avoids unreasonable interference with the flow of traffic on adjoining roads</i> <i>(b) provides appropriate separation distances from existing roads or level crossings</i> <i>(c) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision</i> <i>(d) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.</i> <p><i>General Section: Transportation and Access: PDC 23</i></p>	<p>Complies</p> <p>See table discussion below.</p>
<p><i>The number of vehicle access points onto arterial roads shown on Overlay Maps - Transport should be minimised and, where possible, access points should be:</i></p> <ul style="list-style-type: none"> <i>(a) limited to local roads (including rear lane access)</i> <i>(b) shared between developments.</i> <p><i>General Section: Transportation and Access: PDC 25</i></p>	<p>Complies</p> <p>There is one vehicle access point on Sturt Road, limited to entry only movements. Access is available on the secondary street to cater for vehicles exiting the site.</p>
<p><i>Development with access from roads with existing or projected traffic volumes exceeding 6000 vehicles per day should be sited to avoid the need for vehicles to reverse onto or from the road.</i></p> <p><i>General Section: Transportation and Access: PDC 26</i></p>	<p>Complies</p> <p>The arrangement on the site which only allows one-way vehicle movement should facilitate the vehicle flow in a manner that only allows vehicles to enter and exit the site in a forward manner on to the adjacent roads.</p>
<p><i>Development with access from arterial roads or roads as shown on Overlay Maps – Transport should be sited to avoid the need for vehicles to reverse onto or from the road.</i></p> <p><i>General Section: Transportation and Access: PDC 27</i></p>	
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Complies</p> <p>The site currently maintains one vehicle access on each of the two public roads that it faces.</p>

<p><i>Driveways, access tracks and parking areas should be designed and constructed to:</i></p> <ul style="list-style-type: none"> <i>(a) follow the natural contours of the land</i> <i>(b) minimise excavation and/or fill</i> <i>(c) minimise the potential for erosion from surface runoff</i> <i>(d) avoid the removal of existing vegetation</i> <i>(e) be consistent with Australian Standard AS: 2890 - Parking facilities.</i> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 30</i></p>	<p>Partially Complies</p> <p>The proposal will not see changes to the nature and layout of the existing car park. However, the disabled car park fails to comply with the current standards for disability parking (see commentary on next Principle).</p>
<p>Access for People with Disabilities</p> <p><i>Development should be sited and designed to provide convenient access for people with a disability.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 32</i></p>	<p>Partially Complies</p> <p>It is acknowledged that the existing disabled car park does not meet the current Australian Standards for its size.</p> <p>However, the applicant is unwilling to compromise the convenience of the car park so close to the entrance of the building nor lose the availability of one car park given the current shortfall.</p> <p>Given that the site has operated in the manner for some time and the access is still wide enough for vehicles to pass through if a car was to be parked in that location, the non-compliance in its size is not considered to result in significant consequences relative to the convenience that the car parking spaces offers for people utilising this space.</p>
<p>Vehicle Parking</p> <p><i>Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 34</i></p>	<p>Does Not Comply</p> <p>See table discussion below.</p>
<p><i>Development should be consistent with Australian Standard AS: 2890 - Parking facilities.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 35</i></p>	<p>Partially Complies</p> <p>Car parks 2 to 11 denoted on the plan comply with the current standards for AS 2890 for parking facilities.</p> <p>The disabled car park does not comply with the current standards for its size but has existed in this manner for a number of years and is conveniently located next to the entrance of the building.</p> <p>It is not considered that it will have severe implications to access given the use is considered to be low intensity.</p>
<p><i>Driveway crossovers should be separated and the number minimised to optimise the provision of on-street visitor parking (where on-street parking is appropriate).</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 11</i></p>	<p>Partially Complies</p> <p>The access to the site on Sturt Road still enables one on-street car park in front of the site, however, the access point on to Glamis Avenue has no impact as car parking is restricted directly adjacent the building on the western side by a yellow line.</p> <p>Notably, additional on-street car parking is available further west on Sturt Road on the same side as the subject site and on the eastern side of Glamis Avenue adjacent the subject site.</p>

<p><i>Vehicle parking areas should be sited and designed to:</i></p> <ul style="list-style-type: none"> <i>(a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development</i> <i>(b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network</i> <i>(c) not inhibit safe and convenient traffic circulation</i> <i>(d) result in minimal conflict between customer and service vehicles</i> <i>(e) avoid the necessity to use public roads when moving from one part of a parking area to another</i> <i>(f) minimise the number of vehicle access points onto public roads</i> <i>(g) avoid the need for vehicles to reverse onto public roads</i> <i>(h) where practical, provide the opportunity for shared use of car parking and integration of car parking areas with adjoining development to reduce the total extent of vehicle parking areas and the requirement for access points</i> <i>(i) not dominate the character and appearance of a site when viewed from public roads and spaces</i> <i>(j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas</i> <i>(k) include infrastructure such as underground cabling and connections to power infrastructure that will enable the recharging of electric vehicles.</i> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 36</i></p>	<p>Complies</p> <p>(a) The site is located adjacent Westfield Marion, allowing patrons of the proposed business to undertake a number of activities within the vicinity of the site.</p> <p>(b) The site is located adjacent a bicycle path.</p> <p>(c) Traffic circulation on the site is considered safe and convenient.</p> <p>(d) Service vehicles on the site are likely to be limited to vans and should not conflict with customer vehicles.</p> <p>(e) All car parking is located on the site of the building and will not require the use of public roads to access on-site parking.</p> <p>(f) One access point is provided on each of the site's adjacent streets.</p> <p>(g) Vehicles are unlikely to need to reverse on to the adjacent roads.</p> <p>(i) The car park area is not considered to dominate the appearance on the site as it takes up less than half of the frontage with the associated building.</p> <p>Does not comply</p> <p>(h) The site is the only tenancy on the site and therefore does not share any of its parking with the neighbouring commercial sites.</p> <p>(j) No landscaping has been provided or is proposed on the existing site.</p> <p>(k) The proposal does not include the infrastructure to enable recharging of electric vehicles and it is not deemed necessary at this time.</p>
<p><i>Vehicle parking areas should be sealed or paved to minimise dust and mud nuisance.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 39</i></p>	<p>Complies</p> <p>The car parking area is sealed with bitumen and this will remain unchanged.</p>
<p><i>To assist with stormwater detention and reduce heat loads in summer, outdoor vehicle parking areas should include landscaping.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 40</i></p>	<p>Does Not Comply</p> <p>The site does not include any landscaping but has existed in this manner for some time. In my view, the site does have some limitations with providing additional landscaping which may impact on the provision of car parking or inhibit vehicle manoeuvring on the site.</p>
<p><i>Vehicle parking areas should be line-marked to delineate parking bays, movement aisles and direction of traffic flow.</i></p> <p style="text-align: right;"><i>General Section: Transportation and Access: PDC 41</i></p>	<p>Complies</p> <p>The site's existing car parking is currently line marked and a condition will be recommended on the planning consent that line marking be maintained in a clear and visible condition at all times.</p>

Advertisements	
<p><i>The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <p><i>(a) consistent with the predominant character of the urban or rural landscape</i></p> <p><i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i></p> <p><i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 1</i></p>	<p>The application does not include signage; however the existing freestanding sign is intended to be retained as part of the proposed development. Any signage that does not meet the requirements of Schedule 3, Part 1 will be subject of a separate application.</p>
Waste	
<p><i>Development should be sited and designed to prevent or minimise the generation of waste (including wastewater) by applying the following waste management hierarchy in the order of priority as shown below:</i></p> <p><i>(a) avoiding the production of waste</i></p> <p><i>(b) minimising waste production</i></p> <p><i>(c) reusing waste</i></p> <p><i>(d) recycling waste</i></p> <p><i>(e) recovering part of the waste for re-use</i></p> <p><i>(f) treating waste to reduce the potentially degrading impacts</i></p> <p><i>(g) disposing of waste in an environmentally sound manner.</i></p> <p style="text-align: right;"><i>General Section: Waste: PDC 1</i></p>	<p>Complies</p> <p>The applicant has indicated that waste generated by the proposed use will primarily be paper and cardboard. On-site recycling and re-use will form part of the waste management system on-site and where necessary will be disposed of through regular waste collection services.</p>
<p><i>The storage, treatment and disposal of waste materials from any development should be achieved without risk to health or impairment of the environment.</i></p> <p style="text-align: right;"><i>General Section: Waste: PDC 2</i></p>	<p>Complies</p> <p>The storage of bins is achievable directly behind the building, albeit it is unlikely that that they would be able to be screened from public view. Whilst it is not anticipated that the amount of waste generated will be excessive, conditions will be recommended on the Planning Consent for waste to be stored on site so that it does not create insanitary conditions and in a manner that prevents materials entering the stormwater by wind or water action.</p>
<p><i>Development should avoid as far as practical, the discharge or deposit of waste (including wastewater) onto land or into any waters (including processes such as seepage, infiltration or carriage by wind, rain, sea spray, stormwater or by the rising of the water table).</i></p> <p style="text-align: right;"><i>General Section: Waste: PDC 3</i></p>	
<p><i>Development should include appropriately sized area to facilitate the storage of receptacles that will enable the efficient recycling of waste.</i></p> <p style="text-align: right;"><i>General Section: Waste: PDC 6</i></p>	
<p>Wastewater</p> <p><i>The disposal of wastewater to land should only occur where methods of wastewater reduction and reuse are unable to remove the need for its disposal, and where its application to the land is environmentally sustainable.</i></p> <p style="text-align: right;"><i>General Section: Waste: PDC 8</i></p>	<p>Complies</p> <p>Existing stormwater collection and disposal systems will be retained and will not change as a result of the proposed change of use.</p>
Orderly and Sustainable Development	
<p><i>Development should not prejudice the development of a zone for its intended purpose.</i></p> <p style="text-align: right;"><i>General Section: Orderly and Sustainable Development: PDC 1</i></p>	<p>Complies</p> <p>The continuation of the subject site as a commercial premises will not, in my view, prejudice the adjacent land to undertake activities of a residential nature.</p>
<p><i>Neighbourhood identity should be reinforced by locating local employment opportunities and a range of community, retail, recreational and commercial facilities at focal points.</i></p> <p style="text-align: right;"><i>General Section: Orderly and Sustainable Development: PDC 2</i></p>	<p>Complies</p> <p>The proposed development provides an opportunity to retain an existing business in the local area and minimise the loss of employment for the locality.</p>

<p><i>The economic base of the region should be expanded in a sustainable manner.</i></p> <p><i>General Section: Orderly and Sustainable Development: PDC 4</i></p>	<p>Complies</p> <p>The proposed development will revive an existing commercial building which has been vacant for some time.</p>
<p><i>Vacant or underutilised land should be developed in an efficient and co-ordinated manner to not prejudice the orderly development of adjacent land.</i></p> <p><i>General Section: Orderly and Sustainable Development: PDC 9</i></p>	<p>It will maintain employment in the area and bring people to the site which has the capacity to have flow-on benefits to adjacent commercial uses.</p> <p>The proposed use is considered to be low scale and operate in a manner that will not create unreasonable impacts on the amenity of the residential area nor impede future orderly development of the residential properties.</p>
<p>Landscaping, Fences and Walls</p>	
<p><i>Development should incorporate open space and landscaping in order to:</i></p> <ul style="list-style-type: none"> <i>(a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)</i> <i>(b) enhance the appearance of road frontages</i> <i>(c) screen service yards, loading areas and outdoor storage areas</i> <i>(d) minimise maintenance and watering requirements</i> <i>(e) enhance and define outdoor spaces, including car parking areas</i> <i>(f) provide shade and shelter</i> <i>(g) assist in climate control within buildings</i> <i>(h) maintain privacy</i> <i>(i) maximise stormwater re-use</i> <i>(j) complement existing native vegetation</i> <i>(k) contribute to the viability of ecosystems and species</i> <i>(l) promote water and biodiversity conservation.</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 1</i></p>	<p>Does Not Comply</p> <p>Whilst it would be ideal for the applicant to provide additional landscaping on site, it is acknowledged that with the existing situation, whereby the entire site is sealed with bitumen, does restrict the possibilities.</p> <p>However, the site has maintained this appearance for a number of years and the applicants have indicated a desire to move into the site without altering the site's appearance to a large degree. Therefore, although there is a failure to comply with this provision of the Development Plan, there are reasonable circumstances to suggest that this is not critical to the overall merits of the proposal.</p>
<p><i>Landscaping should:</i></p> <ul style="list-style-type: none"> <i>(a) include the planting of locally indigenous species where appropriate</i> <i>(b) be oriented towards the street frontage</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 2</i></p>	
<p><i>Fences and walls, including retaining walls, should:</i></p> <ul style="list-style-type: none"> <i>(a) not result in damage to neighbouring trees</i> <i>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</i> <i>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</i> <i>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</i> <i>(e) assist in highlighting building entrances</i> <i>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</i> <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> <i>(h) be constructed of non-flammable materials.</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 5</i></p>	<p>Complies</p> <p>It is not anticipated that the existing fencing is going to be altered and any changes are unlikely to be deemed to be 'Development' pursuant to the Development Act and Regulations.</p>

TABLE DISCUSSION

The proposal satisfies a number of the applicable principles of development control contained within the Marion Council Development Plan. However, the following aspects of the proposal are discussed in further detail below:

- Access; and
- Car parking

Access

It is acknowledged that the proposal has not been amended to meet DPTI's recommendation that a minimum 6m clear area be provided at the entrance of the site to allow for the storage of vehicles whilst another vehicle exits the property.

It is the applicant's preference to maintain the existing car parking arrangement so that it does not result in a loss of on-site car parking.

Having considered the implications of the car parking layout on access and the flow of traffic, I am satisfied that this will not create significant impacts.

Feedback provided by Council's traffic engineer suggests that with at least 7m between the bicycle lane and the disabled car park, there is sufficient space for a vehicle to wait for a vehicle to reverse out of the disabled car park and car park 2, meaning that vehicle overhang onto the Sturt Road carriageway is unlikely.

In order to further minimise the risk of vehicle overflow on to Sturt Road, the applicant is willing to agree to a condition that car park 2 be a dedicated staff car park, which would significantly reduce the number of vehicle movements out of this car park and provide greater space to allow for vehicles to wait when other vehicles reverse out of the remaining car parks towards the south of the site, particularly in the event that there were two vehicles entering the site.

To this end, I am satisfied that there is sufficient space at the entrance, even in the rare event that a vehicle was to exit out of the disabled car park as another was entering the site. Restricting car park 2 to staff will provide a greater buffer area in a situation where there is more than one vehicle to enter the site at the one time.

Car Parking

Table Mar/2 in the Development Plan specifies the following car parking rate for the proposed use:

Shop: 7 per 100 square metres

Consulting Room: 10 per 100 square metres.

As the primary use of the site is considered to be retail, the shop rate has been applied to the front of house retail space, ancillary office and the rear area which comprises training rooms, storage and staff amenities. The floor area of the two consulting rooms has been calculated using the relevant applicable rate for consulting rooms.

The internal gross leasable floor area is approximately 214m² which results in a car parking requirement of 15 spaces for the shop component. The consulting rooms will occupy a floor area of approximately 21.33m², which would result in a requirement of 2 spaces. Therefore, the total number of car parks required for the proposed use is 17, of which the existing car parking falls short by 6 spaces.

It is a widely held view that the car parking rate provided in the Development Plan for some land uses can be somewhat out-dated and does not take into consideration the deregulation of

shopping hours, whereby the increased hours available to the public has reduced the peak parking periods for uses of this nature.

Furthermore, there are considered to be locational circumstances to suggest that the number of car parks provided is adequate.

Council has recently been granted access to a document entitled '*Parking Spaces for Urban Places: Car Park Study; Guideline for Greater Adelaide*' (dated 28 October 2013), undertaken by Aurecon and assisted by the Local Government Research & Development Scheme. Although the document has not been formerly endorsed, it nonetheless provides a basis to review the existing Development Plan parking rates using well thought-out research and reasoning.

The document suggests that allowable discounts can be applied to uses that meet certain locational attributes such as the site's proximity to public transport, shared car parking and cycling infrastructure.

The following discount rates identified in the document which apply to the proposed use are as follows:

- 10% discount where located within 200m of a train station, tram station, a bus stop with five or more public transport routes, or a bus stop within a 'Go Zone';
- 5% discount where located within 200m of a dedicated off-road or on-road bicycle path or bicycle lane; and
- 10% discount where development is within 200m walking distance of one or more existing off-street public car parking places with combined total of 100 car parking spaces or more.

This would result in an overall car parking discount rate of 25%, therefore providing an amended rate as follows:

Shop: 5.6 car parks per 100m²

Consulting room: 8 car parks per 100m².

The discounted rate of parking is calculated at 12 car parks for the shop use and 1.7 spaces for the consulting room, totalling a figure of 13.7 spaces, or 14 rounded up to the nearest whole number. The shortfall of car parking is reduced to 3.

I am of the view however, that this shortfall will not result in traffic implications on the site or the adjacent road network.

Firstly, it is my opinion that a for a proportion of visitors to the site, it will be a multi-purpose destination insofar as a visit to Westfield Marion will also include a visit to the subject site or vice versa. The subject site is a short walk from the Centre and there is a significant likelihood that vehicles will park in the Westfield carpark where it is closer to pack groceries and the like and walk over to the subject site.

Secondly, in the event that the car park is full, there is still opportunity to park close to the site on the street without encroaching into vehicle lanes or into the residential side streets. There is a parking bay between the kerb of the site and the bike lane which will provide one car park in front of the site. Parking bays located to the west of the site can also accommodate additional vehicles as well as to the east, past Glamis Avenue.

The Development Plan stipulates a car parking rate for a bank at 5 per 100m², therefore the previous use required 12 car parks, one more than actually provided on site. Whilst the shortfall in car parking for the bank is not as great as that for the proposed use, there are considered to be differences in the demand requirements for the two uses.

Banks are generally open for less hours during the week (i.e. not in the evenings or weekends) and are more frequently visited by customers during the year, whilst the proposed use will be open longer hours during the week and the purchase of glasses and optometry appointments tend to be yearly to every two years.

Therefore, given the different operating circumstances of the previous and current uses, the disparity in each of their shortfalls is not considered to be significant. It is likely that the bank, during its use of the premises was able to manage car parking demand for similar reasons outlined above.

Accordingly, my view is that the proposed use is likely to be less intense than the previous use of a bank, with respect to both the number of staff and customers and should not result in vehicles overflowing onto the adjacent residential streets or in queuing along the main road. The site's locational attributes adjacent a regional shopping centre and good transport links are also likely to further reduce the demand for car parking on the site itself.

ANALYSIS/CONCLUSION

The building on the subject site has, for a number of years, operated in a commercial capacity and the appearance and layout of the building and the land makes this apparent.

Whilst the zoning of the subject site within Residential Policy Area 16 results in the application being treated as non-complying, the commercial nature of the built form which also includes the provision of on-site car parking, provides sufficient circumstances whereby the merits of the application should be further considered.

Given that the Residential Zone contemplates small scale non-residential uses, justification on the appropriateness of the proposed use will be determined by whether there are unreasonable impacts on the amenity on the adjacent residential land and whether the site functions appropriately in its own right without impacting upon the adjacent road network.

The proposed business operations are, in my view low impact and unlikely to unreasonably impact on the adjacent residential land. The business is proposed to operate outside of sleep disturbance hours and the proposed use as an optometrist and glasses dispensary will not produce excessive noise, odours or pollution.

The proposal's non-compliances are generally as a result of the site's existing layout, particularly relating to car parking, access (DPTI's recommendations) and landscaping.

However, alterations to accommodate any one of these aspects would result in further shortfalls in other areas, such as a reduction of car parks or affect vehicle manoeuvring within the site. The site has maintained the existing layout for a number of years and will not significantly change from its previous use, therefore, I do not expect that these shortfalls will result in severe impacts on the flow of traffic from the adjacent road network nor on the streetscape appearance.

The proposed use in my view, will extend the life of an underutilised building without hindering the function of the nearby regional centre or prejudicing the development of adjacent residential land.

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

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1315 for a change of use from bank to shop and consulting rooms with ancillary offices at 209 Sturt Road, Seacombe Gardens be GRANTED subject to concurrence from the Development Assessment Commission and 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. 100/2014/1315, except when varied by the following conditions of consent.
2. The Sturt Road access shall cater for ingress movements only. All egress movements shall be via the Glamis Avenue access.
3. The Sturt Road ingress and Glamis Avenue egress shall be appropriately signed and/or line marked to encourage the desired traffic flow outlined in Condition 2.
4. Car park no. 2 as delineated on the site plan, shall be allocated as a staff car park and marked accordingly.
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. All vehicles visiting the site shall enter and exit the land in a forward direction.
7. Wheel stopping devices shall be placed within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council.
8. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
9. Any new car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard AS2890 – Parking facilities.
10. 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.
11. The driveways, parking areas and vehicle manoeuvring areas must be maintained in a good condition at all times.

12. All car parking spaces shall be linemarked or delineated in a distinctive fashion prior to occupation of the premises, with the marking maintained in a clear and visible condition at all times.
13. All external lighting of the site, including car parking areas and buildings, shall be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not to cause nuisance or loss of amenity to any person beyond the site to the reasonable satisfaction of the Council.
14. At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.
15. All deliveries to and from the site (including waste collection) shall be restricted to the following times
 - 7am to 7pm Monday to Friday
16. The hours of operation of the premises shall be restricted to the following times:
 - 9am to 5.30pm on Monday, Tuesday, Wednesday and Friday (Excluding public holidays)
 - 9am to 9pm Thursday (Excluding public holidays)
 - 9am to 5pm Saturday (Excluding public holidays)
 - 11am to 5pm Sundays and public holidays.
17. All waste and other rubbish shall be stored in a manner so that it does not create insanitary conditions, unreasonable nuisance or pollution to the environment to the reasonable satisfaction of the Council.
18. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.

NOTES

1. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time. This includes noise generated from plant and equipment (including those servicing the building such as air-conditioning), as well as noise generated from activities such as loading and unloading of goods and/or waste. 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. The applicant is advised that this approval does not include permission for signage that is deemed 'development' pursuant to Schedule 3 of the Development Regulations. 2008. Should you decide to proceed with this work you will need to seek a separate Development Approval.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.7
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Gawler Mobile Conveyancers
Development Description:	Residential land division (Community Title) 1 into 4 allotments
Site Location:	16 Kelmscott Street, Oaklands Park
Zone:	Residential Zone
Policy Area:	Regeneration Policy Area 16
Application Type:	Category 1 / Consent
Lodgement Date:	08/10/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1782 (DAC Reference 100/C219/14)
Recommendation:	Development Plan Consent and Development Approval (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: clause 5) of the Development Regulations 2008, which assigns land division which is consistent with the objective of the zone or area under the relevant Development Plan and will not change the nature or function of an existing road.

As the owner of the land is an Elected Member of Marion Council, to remove the potential for a conflict of interest, perceived or otherwise, the subject application is presented to the Development Assessment Panel for a decision.

A corresponding land use application for the construction of four, two storey row dwellings on the land has been assessed by an independent planning consultant, Mr Ben Green. The Development Assessment Panel is to consider this application at this meeting.

SUBJECT LAND & LOCALITY

The subject land is approximately 869m² in area and is irregular in shape with a frontage of 27.43 metres to Kelmscott Street. The rear boundary is 15.24 metres wide and the western side boundary (at 90° to the front boundary) is 39.85 metres long and the eastern boundary is

angled at 41.63 metres long. An existing dwelling in modest condition is located centrally on the site with a detached garage adjacent to the west.

The site is effectively flat, incorporating lawned areas at the front and rear of the property and a number of mature trees, none of which are 'regulated' or 'significant'.

The existing driveway crossover is located towards the western end of the site adjacent to a stobie pole on the Council verge. The verge also incorporates a footpath and two street trees directly in front of the subject land.

The locality is residential in nature with a transforming character from single storey detached dwellings constructed on large allotments as part of the original development of the 1950's and 1960's intermixed with a growing number of redeveloped sites. The redeveloped sites generally incorporate three to four dwellings on what were the original allotments with single and two storey row dwellings, group dwellings and residential flat buildings.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application seeks to divide the existing site into four allotments for the purpose of row dwellings. Party-walls have been nominated between each allotment. The associated land use application (Development Application 100/2014/1267) reflects the proposed boundary and party-wall alignment.

Refer Attachment III

INTERNAL DEPARTMENT COMMENTS

Open Space:	As part of the land use application, Council's Planning Officer – Arboriculture has reviewed the health and condition of the existing street trees and advised that removal is acceptable, subject to appropriate remuneration to Council. If the trees are to remain, a minimum of 2.0 metres clearance should be provided.
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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
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.

Regeneration Policy Area 16

Objectives

- 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.

The proposed development provides a medium density form of development, making efficient use of the land in close proximity to the Regional Centre. The Oaklands Train Station and Marion Sports Grounds are within reasonable walking distance of the site. The proposed division (and accompanying land use application) will result in increasing the mix and variety of housing forms within the locality.

The proposal finds general compliance with the above Zone and Policy Area Objectives.

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.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ dwelling including a residential flat building ▪ student accommodation ▪ supported accommodation. 	<p>Complies Comments</p>
PDC 2	<p>Residential development should include higher concentrations of dwellings in suitable locations, in particular:</p> <ul style="list-style-type: none"> (a) within 400 metres walking distance of a neighbourhood, district or local centre (b) within 800 metres walking distance of a regional centre (c) close to public transport or major employment nodes (d) adjacent to public open space. 	<p>Complies The subject site is within 200m of the Regional Centre Zone, 850m of the Oaklands Train Station and 500m to the Marion Sports Grounds</p>

PDC 4	<i>Minimum Site Area: 170 square metres</i>	Complies
	<i>Minimum Frontage: 7.0m</i>	Complies Lot 4: 10.30m Does Not Comply Lot 1: 4.55m Lot 2: 5.90m Lot 3: 5.90m
	<i>Minimum Depth: 20m</i>	Complies

Assessment

The shortfall in frontage width for Lots 1, 2 and 3, is substantial. Without an accompanying land use application to demonstrate how the streetscape appearance will be treated, I would be unlikely to support such a division.

For the Panel's reference, if the whole of the frontage of the site was divided evenly, the average frontage width equates to 6.85 metres; 150mm short of the 7.0 metres sought in the Policy Area.

As demonstrated in Development Application 100/2014/1267, the proposal results in an acceptable built form, as the narrowness of the frontages will be made less apparent by the abutting two storey buildings. As such, the general compliance of that proposal with Council's Development Plan demonstrates the shortfall in frontage width for Lots 1, 2 and 3 is not detrimental to the overall merit of the proposal, nor this application.

To this end, it is my view the failure of the application to satisfy frontage widths is not of such a severity as to warrant refusal of the application, given the associated land use application demonstrates an appropriate streetscape outcome will be achieved.

DEVELOPMENT ASSESSMENT

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

Land Division	
Objectives <i>1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.</i>	Complies
<i>2 Land division that creates allotments appropriate for the intended use.</i>	Complies
<i>3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.</i>	Complies

<p>Principles of Development Control</p> <p>1 When land is divided:</p> <p>(a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner</p> <p>(b) a sufficient water supply should be made available for each allotment</p> <p>(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</p> <p>(d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.</p>	<p>Complies</p>
<p>2 Land should not be divided if any of the following apply:</p> <p>(a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use</p> <p>(b) any allotment will not have a frontage to one of the following:</p> <ul style="list-style-type: none"> (i) an existing road (ii) a proposed public road (iii) access to a public road via an internal roadway in a plan of community division <p>(c) the intended use of the land is likely to require excessive cut and/or fill</p> <p>(d) it is likely to lead to undue erosion of the subject land or land within the locality</p> <p>(e) the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development</p> <p>(f) the intended use of the land would be contrary to the zone objectives</p> <p>(g) any allotments will straddle more than one zone, policy area or precinct.</p>	<p>Complies</p>
<p>Design and Layout</p> <p>3 Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.</p>	<p>Does Not Comply</p> <p>Lots 1, 2 and 3 comprise a depth greater than four times the width of the allotment</p>
<p>7 The design of a land division should incorporate:</p> <p>(a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities</p> <p>(b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare</p> <p>(c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones</p> <p>(d) suitable land set aside for useable local open space</p> <p>(e) public utility services within road reserves and where necessary within dedicated easements</p> <p>(f) the preservation of significant natural, cultural or landscape features including State and local heritage places</p> <p>(g) protection for existing vegetation and drainage lines</p> <p>(h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development</p> <p>(i) the preservation of significant trees.</p>	<p>Complies</p>
<p>10 Allotments should have an orientation, size and configuration to encourage development that:</p> <p>(a) minimises the need for earthworks and retaining walls</p> <p>(b) maintains natural drainage systems</p> <p>(c) faces abutting streets and open spaces</p> <p>(d) does not require the removal of existing native vegetation to facilitate that development</p> <p>(e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.</p>	<p>Complies</p>

11 The layout of a land division should provide for efficient solar access.	Does Not Comply Allotments will result in south-facing private open space areas
Roads and Access 21 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of: (a) the size of proposed allotments and sites and opportunities for on-site parking (b) the availability and frequency of public and community transport (c) on-street parking demand likely to be generated by nearby uses.	Does Not Comply See comments below and in Table Discussion
22 A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).	Does Not Comply Due to the frontage widths and location of driveways, the proposal fails to provide any on-street parking in front of the site

TABLE DISCUSSION

The proposal satisfies a number of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- The depth of Lots 1, 2 and 3 is more than four times the frontage width;
- The division will result in south-facing private open space areas; and
- Lack of on-street parking.

The depth of Lots 1, 2 and 3 is more than four times the frontage width

Lots 1, 2 and 3 comprise a depth between 6 – 8 times the width of the allotment. It is understood Land Division Principle 3 is intended to limit narrow allotments, whereby the dimensions of that land may prejudice the achievement of relevant Development Plan provisions.

In this instance, the associated land use application has demonstrated the dimensions of the allotments are relevant and appropriate for the dwellings proposed to be constructed. Whilst the division will result in south-facing private open space areas (discussed below), the dimensions of the allotments do not result in a poor streetscape, nor compromised amenity for the future occupants of the dwellings.

The division will result in south-facing private open space areas

All allotments comprise the primary area of private open space (POS) to the rear (south) of the associated two storey dwelling.

Whilst this is the case, with the exception of Lot 4, a usable amount of POS will be available towards the rear of each site, free from likely shadow cast by the two storey dwellings. As demonstrated in the associated land use application, the dwelling on Lot 4 will comprise a usable area of POS to the side (east) of the dwelling, maintaining at least 3 hours of direct solar access.

As such, despite the southerly orientation of the POS areas, adequate solar access will be available to a portion of these areas during winter months.

Lack of on-street parking

As demonstrated in the associated land use application, the proposal may enable one on-street parking space in front of the site (east of the Dwelling 4 driveway), although this is based upon the double-width driveway being tapered to avoid the street tree, which has been assessed as appropriate for removal.

As a 1.0 metre setback to this street tree is inadequate, appropriate clearance will prevent safe and convenient access to the garage. As such, as per the recommended condition of consent for the associated land use application, this driveway will be tapered to provide a minimum 6.0 metres clearance to the driveway servicing Dwelling 3; providing one on-street parking space.

As such, if this condition is adopted, the proposal will demonstrate a shortfall of one on-street parking space. This shortfall is partly a result of the narrow frontage widths of Lots 1, 2 and 3 and the proposed double garage servicing the dwelling proposed to be sited on Lot 4.

Whilst the shortfall in on-street parking is undesirable, Dwelling 4 does provide an additional on-site parking space than sought by Council's Development Plan, whilst the site's proximity to the Regional Centre Zone and public transport links may reduce the number of vehicles per household.

ANALYSIS/CONCLUSION

The proposed division demonstrates reasonable compliance with the relevant provisions of Council's Development Plan.

Despite the shortfall in frontage widths, the streetscape outcome as demonstrated in the associated land use application finds reasonable compliance with Council's Development Plan.

South-facing private open space areas are not ideal, however, are generally a result of those properties on the southern side of an east-west running street. Nonetheless, the associated land use application demonstrates that adequate private open space areas will be free from shadow in winter months.

On-street parking will be limited as a result of the proposal. One, on-street parking space will be available in front of the subject site. The application fails to provide the desired ratio of one on-street parking space for every two allotments. This is not desirable, but not of such a severity to warrant refusal of the application.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Development Plan. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Approval, subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent and Development Approval for Development Application No: 100/2014/1782 for Residential land division (Community Title) 1 into 4 allotments at 16 Kelmscott Street, Oaklands Park be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1782, except when varied by the following conditions of consent.
- 2. Party/common walls associated with the development proposed to be built on the land shall be accurately identified on the plan of division prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 3. All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- 4. The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

LAND DIVISION CONSENT

GRANTED

Conditions of Consent

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. The internal drains shall be altered to the satisfaction of the SA Water Corporation.
- (2) Payment of \$19464 into the Planning and Development Fund (3 lots @ \$6488/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide.
- (3) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

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

NOTES:

General:

- (1)** This approval has been granted on the basis of the suitability of the land for four row dwellings as demonstrated in Development Application No: 100/1267/2014. Existence of a party wall should therefore be shown on the plan of division to be lodged with the Land Titles Office. However should the proposed allotments be created and sold without the construction of that development occurring or different dwellings are proposed, new applicants/owners should be aware that new Development Application(s) need to be lodged with and assessed by the Council, noting that the proposed allotments may not meet Council's standard minimum allotment sizes for other forms of dwellings (e.g. the Development Plan requires a larger site area for detached dwellings than it does for semi-detached dwellings or group dwellings) and other dwelling layouts may be difficult to site on the proposed allotments.
- (2)** The applicant is reminded to contact the Council when all of the Council's conditions have been complied with and accordingly, the Council will advise the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.8
Originating Officer:	Ben Green Consultant Planner
Applicant:	Weeks & Macklin Homes
Development Description:	A two storey building comprising four dwellings, one of which incorporates a garage wall on the western side boundary
Site Location:	16 Kelmscott Street, Oaklands Park
Zone:	Residential Zone
Policy Area:	Regeneration Policy Area 16
Application Type:	Category 2 / Consent
Lodgement Date:	23/07/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1267
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

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

No representations were received by Council and as such the proposal could ordinarily be assessed delegation. In this instance, however, the owner of the land is an Elected Member of Marion Council and as such to remove the potential for a conflict of interest, perceived or otherwise, Council staff have sought my independent assessment and recommendation for a decision by the Council's Development Assessment Panel.

SUBJECT LAND & LOCALITY

The subject land is approximately 869m² in area and is irregular in shape with a frontage of 27.43 metres to Kelmscott Street. The rear boundary is 15.24 metres wide and the western side boundary (at 90° to the front boundary) is 39.85 metres long and the eastern boundary is angled at 41.63 metres long. An existing dwelling in modest condition is located centrally on the site with a detached garage adjacent to the west.

The site is effectively flat, incorporating lawned areas at the front and rear of the property and a number of mature trees, none of which are 'regulated' or 'significant'.

The existing driveway crossover is located towards the western end of the site adjacent to a stobie pole on the Council verge. The verge also incorporates a footpath and two street trees directly in front of the subject land.

The locality is residential in nature with a transforming character from single storey detached dwellings constructed on large allotments as part of the original development of the 1950's and 1960's intermixed with a growing number of redeveloped sites. The redeveloped sites generally incorporate three to four dwellings on what were the original allotments with single and two storey row dwellings, group dwellings and residential flat buildings.

Refer Attachments I & II

PROPOSED DEVELOPMENT

It is proposed to construct four, two storey row dwellings on the subject land. More particularly:

- All four dwellings include three bedrooms and two bathrooms on the upper level;
- Living rooms, WC, laundry, alfresco and front porch on the ground floor;
- Lots 1, 2 and 3 include a single garage under the main roof for which the garage wall for lot 1 is located on the western boundary;
- Lot 4 includes a double garage with vehicle access via two separate panel lift doors;
- Three new driveway crossovers and modification of the existing crossover to suit; and
- The removal of two Council street trees to accommodate the new driveway crossovers.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	8 properties were notified during the Category 2 public notification process.
Representations:	No representations were received by Council.

INTERNAL DEPARTMENT COMMENTS

Arborist:	A one metre separation distance between the Council verge tree and the new driveway is considered too close as it is anticipated that as the tree grows the roots will damage the concrete, resulting in having to remove a larger tree in the future. It may be preferred to remove both trees now and replant after works are completed. This would be at a cost to the applicant of \$200 per tree plus \$150 each for replacement, a total of \$700 + GST.
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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

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.

Regeneration Policy Area 16

Objectives

- 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.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ dwelling including a residential flat building ▪ student accommodation ▪ supported accommodation. 	<p>Complies</p> <p>The row dwellings are a form of 'dwelling'.</p>
PDC 2	<p>Residential development should include higher concentrations of dwellings in suitable locations, in particular:</p> <ol style="list-style-type: none"> (a) within 400 metres walking distance of a neighbourhood, district or local centre (b) within 800 metres walking distance of a regional centre (c) close to public transport or major employment nodes (d) adjacent to public open space. 	<p>Partially Complies</p> <p>The proposal complies with (a), (b) and (c) given its close proximity to the Marion Regional Centre. The site, however, is not adjacent to a public open space.</p>

PDC 4	Minimum Site Area: 170 square metres	Complies Lot 1: 226.78m ² Lot 2: 189.85m ² Lot 3: 189.85m ² Lot 4: 262.78m ²
	Minimum Frontage: 7 metres	Complies Lot 4: 11.08m Does Not Comply Lot 3: 5.90m Lot 2: 5.90m Lot 1: 4.55m
	Minimum Depth: 20 metres	Complies 39.85 m

Assessment

The two storey row dwellings are a form of development envisaged within the Regeneration Policy Area 16 in that they represent an integrated, medium density proposal in close proximity to the Marion Regional Centre. Furthermore, the proposal is consistent with the quantifiable requirements listed above, with the exception of not being located adjacent to a public open space and three of the dwellings do not comply with the minimum frontage requirement.

In terms of the presentation to the street, the dwellings are suitably provided with numerous architectural elements characteristic of modern design whilst providing various forms of articulation in both horizontal and vertical proportions to provide visual interest. A variety of materials are used in such a way so as to present a consistent and uniformed development while including variations between the dwellings, allowing an individual presence. This is particularly the case in relation to the varied roof forms and pitches with a mix of central skillion and side pitched roof ends therein encompassing a whole of building form. This is a design concept considered more contemporary, and not that common, but in which does not detract from the overall built form.

The street presentation is an important element of the proposal, particularly given the shortfall in frontage width for lots 1, 2 and 3. This shortfall is to be assessed in relation to how it impacts the overall street presentation of the proposal, in particular, the visual impact of the associated garages, the ability to incorporate landscaping and passive surveillance of the street. These elements will be reviewed further when considering the proposal's design and appearance.

On balance, the proposed development is considered to appropriately accord with the relevant Objectives, Principles and Desired Character of the Residential Zone and Regeneration Policy Area 16

DEVELOPMENT ASSESSMENT

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

Principles of Development Control

Assessment

Site Coverage	
<p>Maximum site coverage: <i>Site area between 220 and 269 m²: 100 m² or 40% (whichever is the greater)</i> <i>Site area less than 220 m²: 80 m² or 45% (whichever is the greater)</i></p> <p><i>(100m² is relevant for Lot 1) (45% is relevant for Lots 2 and 3) (40% is relevant for Lot 4)</i></p> <p><i>Regeneration Policy Area 16: PDC 5</i></p>	<p>Complies Lot 1: 100m²</p> <p>Does Not Comply Lot 2: 50.2% Lot 3: 50.2% Lot 4: 106m²</p> <p>The excess in floor area for Lots 2 & 3 is 9.9m² and for Lot 4, 8.8m². Given the site coverage for these lots is only slightly over that required in PDC 5, the discrepancy is considered minor in the context of the allotment.</p>
<p>Maximum floor area ratio: <i>Site area less than 270 m²: 0.7</i></p> <p><i>Regeneration Policy Area 16: PDC 5</i></p>	<p>Does Not Comply Lot 1: 178.53m² = 0.79 Lot 2: 176.01m² = 0.93 Lot 3: 178.01m² = 0.94 Lot 4: 198.75m² = 0.76 (The average floor area ratio = 0.86)</p> <p>A high floor area ratio is closely aligned with the bulk, scale and design assessment of a building in how the built form sits on the site and complements the existing character in the locality. This non compliance is to be considered in relation to the design and appearance aspects of the proposal.</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i> (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><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies Ample space is available for each of the domestic requirements listed.</p>
<p><i>A minimum of 20 per cent of the total site area should be pervious and remain undeveloped including driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>	<p>Complies The pervious area for the total site = 24%.</p>

Private Open Space

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

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

General Section: Residential Development: PDC 15

Partially Complies

The POS for each dwelling is located at ground level to the rear and is directly accessible from the main living area.

Given the subject site faces due north, POS with a northern aspect at ground level is not a functional practicality without compromising the street presentation of the dwellings. The POS, however, is quite deep in each case which will allow direct access to the sun all year round towards the rear of the space avoiding the overshadowing impacts of the two storey row dwellings.

The POS for each dwelling is considered to be appropriately located adjacent to a living area and of sufficient dimensions to adequately perform its function. While it does not include a northerly aspect, the area is considered to receive appropriate levels of direct sunlight all year round.

The POS for Lot 4 tapers out from the dwelling to a narrow corner but is balanced out by a second side courtyard space.

Site Area 250 m² 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 m²:

20% of the site area or 35 m², whichever is the greater

Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.

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

(20% is relevant for Lots 1, 2 and 3)

General Section: Residential Development: PDC 17

Partly Complies

Lot 4: 21.9% (53.26m²), minimum dimension 4m

Complies

Lot 1: 44.5% (99.3m²), minimum dimension 6m

Lot 2: 37.5% (71.3m²), minimum dimension 4.38m

Lot 3: 37.6% (71.5m²), minimum dimension 4.38m

The minimum dimension of private open space for Lot 4 should be 5.0 metres

Street Setbacks

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

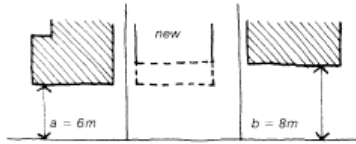
- (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality*
- (b) contribute positively to the function, appearance and/or desired character of the locality.*

General Section: Design and Appearance: PDC 23

Partially Complies

The front setback of 5.2 metres is forward of the dwellings on adjoining allotments, however, recently-constructed and recently-approved dwellings within the immediate locality incorporate lesser setbacks than the existing housing. Please refer to Table Discussion for further comment.

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

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

General Section: Design and Appearance: PDC 25

Does Not Comply

The setback of both dwellings on adjoining land is 6.0 metres to Kelmscott Street

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

The 5.0m front setback is considered sufficient to maintain appropriate internal amenity levels.

Side Setbacks

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

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

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

Where the wall height is greater than 6 metres:

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

Residential Zone: PDC 7

Does Not Comply

Lot 1: the ground level garage wall is located on the boundary for a length of 8.0m. The upper level wall is setback 0.755m from the boundary at its closest point.

Lot 4: the ground level garage wall is setback 0.6m from the boundary at the closest point.

The western elevation of Lot 1 includes a single storey wall located on the boundary for a length of 8.0 metres and an upper level wall setback 0.755m for a length of 5.3m, which then steps inwards to have a setback 1.1m for a length of 1.96m.

The setback intrusion on the western elevation is limited to a small section of wall which incorporates some articulation given it is stepped and includes a window. The visual impact of this element of the proposal is considered minor in the context of the site and locality.

The remainder of the western elevation is setback 1.8 metres from the side boundary, 0.2m closer than that required in PDC 7. This aspect is also considered a minor divergence.

<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>Complies</p> <p>(a) The only boundary development occurs on the western side boundary.</p> <p>(b) N/A</p> <p>Complies</p> <p>(c)(iii) The garage and laundry wall on the boundary is 2.8 m high</p> <p>(iv) A hammerhead driveway is located adjacent to the boundary wall</p> <p>Does Not Comply</p> <p>(c)(i) Garage wall 0.5m forward of adjacent dwelling</p> <p>(c)(ii) The garage and laundry wall is 8.02 metres in length</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies</p> <p>The western boundary development is located adjacent a hammerhead driveway, which is currently fenced on either side with mature landscaping located on the neighbouring allotment adjacent to the driveway. Views of the boundary development from the adjacent dwelling are considered to be minimised as they are screened by the existing landscaping and retention of the second (western) fence.</p> <p>The north/south orientation of the subject land will allow an appropriate level of direct afternoon sun light to reach the western side of the boundary wall.</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>Complies</p> <p>Each dwelling is setback 16.2 metres from the rear boundary.</p>
<p><i>6 metres for a 2 or more storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>Each dwelling is setback 16.2 metres from the rear boundary</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>Complies</p> <p>Each dwelling is setback 16.2 metres from the rear boundary.</p>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>3 storeys of not more than 12 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>The maximum height of the proposal to the top of the skillion roof is 7 metres (scaled).</p>

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

Each garage is setback 5.5 metres (rounded) from the front boundary while the setback distance of the building's upper level front facade ranges from 4.9m to 5m (rounded).

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 consistent front setback of the proposal allows for appropriate sight lines when reversing from each of the garages. The four driveways are of a modest gradient and located to provide safe entry and exit from the site.

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 four garages are constructed of materials consistent with that of the dwellings and have been integrated into the design so as not to represent a dominant feature.

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

Lot 2 & 3 incorporate a 2.4 metre wide garage doors representing 41% of the frontage.

Lot 4 incorporates two garage doors totalling 4.8 metres in width representing 43% of the frontage.

Does not comply

Lot 1 incorporates a 2.4 metre wide garage door which represents 53% of the frontage; considered a very minor discrepancy.

Car Parking

Minimum number of on site car parking spaces (one of which should be covered) :

2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.

3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.

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

Residential Zone: PDC 7

Complies

Each dwelling includes an undercover car parking space (Lot 4 includes two) and a second space in the driveway.

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

It is anticipated that three on street car parking spaces will be removed due to the additional driveways associated with the proposal. While this will restrict on street parking directly in front of the subject site, numerous on street parks will remain in the immediate vicinity. Furthermore, each dwelling will be sufficiently serviced with two car parking spaces per dwelling (three for Lot 4), limiting the requirement for on street parking.

<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 style="text-align: right;"><i>General Section: Land Division: PDC 22</i></p>	<p>Complies Numerous on street car parking spaces are available along Kelmscott Street in the immediate vicinity of the subject site.</p> <p>See Team Leader Comments Section for further discussion</p>
<h2>Access</h2>	
<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 style="text-align: right;"><i>General Section: Residential Development: PDC 39</i></p>	<p>Complies Lots 1, 2 & 3 incorporate a 3m wide single driveway. Lot 4 incorporates a double width driveway.</p> <p>See Team Leader Comments Section for further discussion</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 style="text-align: right;"><i>General Section: Residential Development: PDC 40</i></p>	<p>Complies The driveway crossover for Lot 1 is setback one metre from the stobie pole located in front of the western boundary.</p> <p>Does Not Comply Two Council street trees will be impacted by the additional driveways proposed for the dwellings. One tree is directly in the way of the driveway for Lot 3 (which will require removal), and a second tree is located one metre away from the driveway for Lot 4. It is the opinion of Council's Planning Officer - Arboriculture that given the tree is relatively small, it may be preferable to remove both trees and replant after works are completed (requiring a total cost to the applicant of \$700+GST). With consideration of this advice, removal of the two relatively immature trees and their replanting in a more appropriate location is considered to represent a positive outcome for the amenity of the street.</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 style="text-align: right;"><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Does Not Comply Each dwelling is afforded one vehicle access point.</p> <p>See Team Leader Comments Section for further discussion</p>
<h2>Design & Appearance</h2>	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i> <i>(a) building height, mass and proportion</i> <i>(b) external materials, patterns, colours and decorative elements</i> <i>(c) roof form and pitch</i> <i>(d) façade articulation and detailing</i> <i>(e) verandas, eaves, parapets and window screens.</i></p> <p style="text-align: right;"><i>General Section: Design & Appearance: PDC 1</i></p> <p><i>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</i></p> <p style="text-align: right;"><i>General Section: Design & Appearance: PDC 3</i></p> <p><i>Balconies should:</i> <i>(a) be integrated with the overall form and detail of the building</i> <i>(b) include balustrade detailing that enables line of sight to the street</i> <i>(c) be recessed where wind would otherwise make the space unusable.</i></p> <p style="text-align: right;"><i>General Section: Design & Appearance: PDC 5</i></p>	<p>Complies The main frontage of the proposal incorporates a rendered finish, large upper level bedroom windows, two thin entrance and stairwell windows (which extend for a height of four metres) and varied roof forms including skillion and hipped. In addition, the upper level bedrooms extend 500mm forward of the ground level resulting in a frontage which incorporates visual depth, shading and variation.</p> <p>While the roof and render colours have not been identified on the plans, the use of colorbond has been verified which is not considered to be a material of unreasonably high reflectivity.</p>

<p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p><i>General Section: Design & Appearance: PDC 17</i></p>	<p>Partially Complies</p> <p>The proposal includes an 8 metre length of walling along the western boundary of the subject land. While this section of walling is exposed to public view, given its length of 8 metres and positioning adjacent to a hammerhead driveway, the wall is not considered to represent an unreasonable 'extensive area of uninterrupted walling'.</p>
<p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p><i>General Section: Design & Appearance: PDC 15</i></p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design & Appearance: PDC 18</i></p> <p><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>Complies</p> <p>Each of the dwellings presents to Kelmscott Street and features an entry door and portico which provides a perceptible entrance point allowing direct pedestrian access from the Council footpath.</p> <p>While there are no living rooms with a direct outlook onto the street, the inclusion of large bedroom and stairwell windows facilitate both an attractive street frontage and passive surveillance, consistent with the underlining intent of PDC 6.</p>
<p>Overshadowing</p>	
<p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i></p> <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 & Appearance: PDC 9</i></p>	<p>Complies</p> <p>The north/south orientation of the subject land limits the overshadowing impact of the dwellings either side of the proposal. The required 3 hours of sunlight on 21 June will be received by the eastern neighbour between the hours of 9am and 12pm, and by the western neighbour between the hours of 12pm and 3pm. Furthermore, given the proposal's substantial rear setback of 12.8 metres, there will be no shadow cast from the two storey row dwellings on to the adjacent allotment to the south.</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 & Appearance: PDC 10</i></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

All upper level windows on the eastern, southern and western elevations have been obscured up to 1.7 metres above floor level. Obscuring the windows to this height is considered to sufficiently address overlooking into both neighbouring properties and the internal POS of the development.

See Team Leader Comments Section for further discussion

Noise

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

General Section: Residential Development: PDC 26

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

General Section: Residential Development: PDC 27

Complies

The subject land does not abut a major road and is not located close and alternate high noise source.

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

All bedrooms are located on the upper level away from parking and service equipment areas.

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

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

Partially Complies

The main living areas and POS of the dwellings face south towards the rear of the property, inconsistent with the desired northern orientation.

Given the northern orientation of the subject land, the siting of the main living areas towards the street frontage is considered impractical as they would lose the direct connection with the POS located at the rear (south).

Accordingly, the lack of northern living areas is not considered to be fatal to the merit of the proposal.

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

Does Not Comply

There has been no landscaping plan has been received as part of the proposal. As such, should the Panel support the proposal, conditions addressing the shortfall in landscaping detail have been included in the recommended conditions of approval.

TABLE DISCUSSION

The proposal satisfies a number of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- Lots 1, 2 & 3 do not meet the minimum frontage requirement of 7 metres;
- Lots 2, 3 & 4 are marginally over the site coverage requirements;
- Each dwelling exceeds the maximum floor area ratio of 0.7;
- Lots 1 & 4 are marginally under the side setback requirements and include boundary development; and
- Vehicle access points with a separation distance of less than 6 metres.

The most significant shortfall for the proposal in terms of a quantifiable Development Plan requirement is that of the minimum frontage for Lots 1, 2 & 3.

When considering a quantitative departure from a provision, the Courts give some guidance as to when it is appropriate, such as comments made in the matter of AG Building and Development Pty Ltd v City of Holdfast Bay & Tanti (16 January 2009) which include:

“.....it does not follow that because some minimum quantitative standards or guidelines are not met, the proposal must be rejected...”

“It required an assessment not of particular issues in watertight compartments, but rather as part of a single complex planning problem – whether the proposal as a whole should be approved.”

The policy intent for including minimum frontage requirements is generally to support and encourage appropriate street presentation, in particular to limit the visual dominance of garages, which are often emphasised with thin allotments. Wider allotments also enable greater opportunity for the facade of a dwelling to include articulated elements, depth, shading and variation, adding to the streetscape appeal and the opportunity for passive visual surveillance.

While three of the dwellings are under the minimum frontage requirement of 7 metres, the proposal on balance compensates for that shortfall with a high level of architectural design which includes depth, shading and variation. It is also noteworthy that the average frontage width of the four dwellings is 6.85 metres, 0.15 metres less than the 7 metre requirement. With this consideration and the appropriate design, bulk and scale of the dwellings, the shortfall in frontage width for three of the dwellings on balance is not considered to be fatal for the proposal.

ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the proposed development satisfies the majority of applicable Development Plan provisions.

The essential nature of the development remains complementary to the Objectives, Principles and Desired Character of the Regeneration Policy Area 16. Although three of the dwellings fail to satisfy the minimum prescribed frontage width for row dwellings, the dwelling density, dimensions, function and design are nonetheless suitable for the proposed dwellings. This suitability is demonstrated by the proposal's ability to satisfy a number of the other applicable design criteria.

It is noted that the proposal maintains several discrepancies in site coverage, floor area ratio, side setbacks, boundary walls, orientation and energy efficiency, however, these shortfalls are not considered to be of such severity to jeopardise the underlying merit of the proposal. Indeed, further consideration of these shortfalls in relation to their scope and consequence demonstrates that the proposal should not unreasonably impact on the amenity of adjacent land, detract from the character of the locality, or impede the design and function of the proposed development.

As a result of the above considerations, 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 warrants Development Plan Consent subject to conditions.

TEAM LEADER DISCUSSION

There are three matters the Panel may wish to consider, in addition to the assessment by Mr Green above. These are as follows;

On-street parking

As demonstrated in the Ginos Engineers Site and Drainage Plan, the proposal may enable one on-street parking space in front of the site (east of the Dwelling 4 driveway), although this is based upon the double-width driveway being tapered 1.7 metres to avoid the street tree, which has been assessed as appropriate for removal.

Alternatively, if the driveway was tapered 1.6 metres in from its western side (and the eastern side remain perpendicular to the kerb), a 6.0 metre separation distance would be provided between the driveways of Dwellings 3 and 4.

As such, if supportive of the application, the Panel may wish to consider a condition of consent which requires either; the development to be undertaken in accordance with the Ginos Engineers Site and Drainage Plan or that the proposal be amended to provide a minimum 6.0 metre clearance between the driveways servicing Dwellings 3 and 4.

Resident amenity

Bedroom 2 of Dwellings 2 and 3 are limited in area. As such, this room is likely to require artificial lighting for a majority of the day. Further, the amenity of this room will be reduced. Given the size of the window, and limited the view of the adjoining property's yard areas, the Panel may wish to consider a condition of consent that would allow these windows to comprise clear glass.

From my assessment, given the separation distance between the window and private open space areas of the adjoining property, combined with the pitched roof of the alfresco, it is unlikely that a meaningful loss of privacy will be experienced by persons within the yard areas of Lots 2 and/or 3.

Colours and Materials

The proposal plans do not detail the proposed colours of the building. Whilst appropriate articulation has been provided to the street façade of the building, it is appropriate to have regard to the colour scheme of a building to ensure no unreasonable impacts upon adjoining land or the streetscape.

As such, the Panel may wish to include a condition of consent that requires the provision of a colour and material schedule for the consideration of administration, prior to the issuance of Development Approval.

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; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1267 for a two storey building comprising four dwellings, one of which incorporates a garage wall on the western side boundary at 16 Kelmscott Street, Oaklands Park be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1267, being drawing numbers WD 01, 02, 03, 04, 05 Revision B and 26761 (inclusive) prepared by Weeks and Macklin Homes, except when varied by the following conditions of consent.
- 2. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

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

- 3. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
- 4. A detailed landscaping plan specifying the species and location of plantings on the site shall be provided for consideration and approval, prior to Development Approval being issued. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 5. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
- 6. 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.
9. All mortar joints on any face brickwork and/or render work on the property boundary are to be finished in a professional manner, similar to other external finishes 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

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.9
Originating Officer:	Stephen Both Senior Development Officer - Planning
Applicant:	Mr Nicholas Budin
Development Description:	To seek retrospective approval for the erection of additional advertising signage and to establish an outdoor display area to the front of an existing retail showroom tenancy – Outdoor Furniture Specialists.
Site Location:	1/838-842 Marion Road, Marion
Zone:	Industry Zone
Policy Area:	Industry/Commerce Policy Area 4
Application Type:	Category 1 / Consent
Lodgement Date:	2 September 2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1545
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development by virtue of Schedule 9 of the Development Regulations 2008, as the proposed signage and outdoor display area are both considered to be of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.

The subject application requires the determination of the Development Assessment Panel pursuant to the City of Marion Schedule of Delegations, as the proposal comprises an outdoor advertising sign which is attached to a building or structure where the face of the advertising structure exceeds 10 m² in display area.

BACKGROUND

Members are advised that this application is seeking retrospective approval for the inclusion of additional signage which was noted as being erected along the northern and eastern sides of the above premises. The owner of the land was advised that Council approval would be required for this new signage as well as a small outside display area which had also been established to the front of the building - adjacent the Marion Road property boundary. The report that follows provides an assessment in relation to the merits of the application.

The attached signage constitutes a merit form of development within the Industry Zone as it meets the following exceptions listed within the non-complying table;

Advertisement and/or advertising hoarding;

Except where the advertisement and/or advertising hoarding achieves any one of the following:

(a) it is attached to a building or structure where the height of the advertisement does not exceed the height of the roof of the walls or parapet of the building or structure by more than 2 metres

(b) it is freestanding and has a height not exceeding 10 metres

(c) it is located on a side or rear wall facing and not within 50 metres of an abutting residential zone.

SUBJECT LAND & LOCALITY

The subject land is located on the western side of Marion Road at 838-842 Marion Road, Marion. The subject land comprises a regular shaped allotment with a 45.7 metre frontage to Marion Road and a depth of 133 metres, thereby providing a total site area of approximately 2,605 square metres. The land is devoid of any existing significant trees or easements.

The subject land is developed with an existing commercial building which provides multiple tenancies for both retail showroom and storage use at ground and first floor level. The subject premises is the only single storey tenancy on the land and is located within the south-eastern corner of the subject land adjacent the southern boundary of the site.

The subject land provides low level landscaping along the northern and eastern boundaries. A total of 66 on-site parking spaces are provided for both customer and staff use with vehicular access to the subject land gained via an existing triple width driveway connecting Marion Road.

The wider locality is characterised by a combination of different land uses with retail and bulky goods outlets being the most prominent land use along both sides of Marion Road. Some small scale light industrial and commercial premises also exist within the locality and are to be specifically found to the north and south of the subject land along the western side of the road.

Similar premises are also located to the north and south of the existing Council Depot site which is situated directly across from the subject land on the eastern side of Marion Road. The Council Depot sits on a large parcel of land and is fronted by a prominent stand of mature gum trees forming a notable landscape feature within the locality.

Refer Attachment I & II

PROPOSED DEVELOPMENT

As previously mentioned, the applicant is seeking retrospective approval for the following;

- Structurally extending the existing fascia along the building's eastern and northern façades of the front tenancy (Outdoor Furniture Specialists), thereby increasing the height of the top to the existing curved parapets.
- Fixing advertising signage to the fascia by cladding the fascia with 3.66 metres x 1.22 metre x 3 mm aluminium composite probond sheeting. The advertising panel is blue in colour and features three company logos for the "Outdoor Furniture Specialists" (one facing east and two facing north) ; and
- Adding an outdoor display area of 50 square metres to the front of the tenancy adjacent the Marion Road property boundary being associated with the existing retail showroom use – "Outdoor Furniture Specialists".

In respect to the attached signage, the applicant has confirmed that the actual advertising component or display area comprises the text within the confines of the orange bordering containing the corporate logo as illustrated, and does not incorporate any area comprising the blue fascia panelling affixed along the top of the building.

The following table summarises the type and size of the individual logo signs that are to be displayed in relation to the subject tenancy;

Form of Signage	Dimension	Number	Illumination
Fascia	2.75 metres by 9.0 metres (24.7 square metre display area per sign) Total Display Area = 74.2 square metres	3	No

Refer Attachment III

GOVERNMENT AGENCY REFERRAL

Department of Transport, Energy and Infrastructure:	No referral to the Transport Services Branch of DPTI was considered necessary pursuant to Schedule 8 of the Development Regulation 2008.
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ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Industry Zone and Industry/Commerce Policy Area 4 are listed in the following table and discussed in further detail below:

Industry Zone		
<i>Objective 1</i>	<i>A zone primarily accommodating a wide range of industrial, warehouse, storage and transport land uses.</i>	Complies
<i>PDC 1</i>	<i>The following forms of development are envisaged in the zone:</i> <ul style="list-style-type: none"> ▪ <i>industry</i> ▪ <i>transport distribution</i> ▪ <i>warehouse.</i> 	Complies The attached signage and external retail display area are associated with an existing retail showroom use.
<i>PDC 7</i>	<i>Advertisements and advertising hoardings should not include any of the following:</i> <ul style="list-style-type: none"> (a) <i>flashing or animated signs</i> (b) <i>bunting, streamers, flags, or wind vanes</i> (c) <i>roof-mounted advertisements projected above the roofline</i> (d) <i>parapet-mounted advertisements projecting above the top of the parapet</i> 	Complies The attached signage does not flash and is not to be internally illuminated. The attached signage does not offend any of the stipulations set out in (a – d).

Industry/Commerce Policy Area 4

<p>Objectives</p> <ol style="list-style-type: none"> 1 A policy area accommodating a range of light and service industry, depots and commercial activities. 2 Development having traffic generating characteristics and design so as to not compromise the arterial road function of Marion Road. 3 A policy area where development minimises impacts on residential uses in adjoining zones, especially to the west of Marion Road. 4 Development that contributes to the desired character of the policy area. 	<p>Complies</p> <p>The attached signage and external retail display area are intended to support an existing commercial land use.</p> <p>The addition of 50 m2 of additional external retail display area is unlikely to generate a significant increase in traffic to the site.</p>
<p>Desired Character</p> <p><i>It is intended that the policy area be consolidated and further developed with a mixture of small to medium-scale industry and commercial uses, preferably integrated within the one site. The environmental performance of new development needs to take account of the amenity of adjoining localities, by incorporating improved emission controls, management measures, building appearance treatments, landscaping and other design measures, to ensure minimal adverse impact.</i></p> <p><i>The intensity, floor size, scale and height of development needs to provide for an appropriate transition to residential uses, with medium levels away from residential zoning and low levels in near proximity to residential zones.</i></p> <p><i>Development is expected to promote attractive frontages and park-like settings to enhance the visual qualities and streetscape of the Marion Road corridor. Building styles may be varied and display high aesthetic qualities to enhance the visual character of the locality.</i></p>	<p>Complies</p> <p>In terms of design and appearance, it is considered that the structural changes to the building including the external retail display area and recently planted low level vegetation within this space, will help to enhance the street presentation of the premises when viewed from Marion Road.</p>

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

Advertisements	
<p><i>The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <p><i>(a) consistent with the predominant character of the urban or rural landscape</i></p> <p><i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i></p> <p><i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 1</i></p>	<p>Partially Complies</p> <p>It is considered that the attached signage does not complement the scale and extent of the advertising panels or existing advertising scheme that currently adorns the external walls of other adjacent tenancies on the land.</p> <p>That having been said, the display area allocated for <u>each</u> logo is considered to be comparable in size and scale to that of other fascia signage which is displayed on adjacent commercial buildings within the immediate locality.</p> <p>However, collectively, it is considered the signage is somewhat excessive and is quite prominent when viewed from the north of the site.</p>

<p><i>The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:</i></p> <p>(a) clutter (b) disorder (c) untidiness of buildings and their surrounds (d) driver distraction.</p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 2</i></p>	<p>Complies</p> <p>The attached signage along both elevations is considered to be clear and easy to read from a distance without appearing cluttered or being adversely dominant from a visual perspective.</p>
<p><i>Buildings occupied by a number of tenants should exhibit co-ordinated and complementary advertisements and/or advertising hoardings to identify the tenants and their type of business.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 3</i></p>	<p>Does Not Comply</p> <p>The photographs contained in Attachment (IV) confirm the building has been designed with a series of curved parapets along the top of the building in an attempt to provide a co-ordinated approach to the provision of advertising for each individual tenancy.</p> <p>The application plans indicate that the applicant has not sought to replicate the same architectural design by providing a box like structure which extends above the roofline covering the curved parapets above the verandah.</p> <p>As such, it is considered the attached signage does not accord with the intent of PDC 3.</p>
<p><i>The content of advertisements should be limited to information relating to the legitimate use of the associated land.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 4</i></p>	<p>Complies</p> <p>The attached signage is limited to information relating to the legitimate use of the subject tenancy – “The Outdoor Furniture Specialists” which has existing use rights to operate from the subject tenancy.</p>
<p><i>Advertisements and/or advertising hoardings should:</i></p> <p>(a) be completely contained within the boundaries of the subject allotment (b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees (c) not obscure views to vistas or objects of high amenity value.</p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 5</i></p>	<p>Complies</p> <p>The attached signage is completely contained within the boundaries of the subject land with all signage to be attached along the northern and eastern fascias of the subject tenancy.</p>
<p><i>Advertisements and/or advertising hoardings should not be erected on:</i></p> <p>(a) a public footpath or veranda post (b) a road, median strip or traffic island (c) a vehicle adapted and exhibited primarily as an advertisement (d) residential land.</p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 6</i></p>	<p>Complies</p>
<p><i>Advertisements and/or advertising hoardings attached to buildings should not be sited on the roof or higher than the walls of a building, unless the advertisement or advertising hoarding is appropriately designed to form an integrated and complementary extension of the existing building.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 7</i></p>	<p>Does Not Comply</p> <p>The attached signage extends to the same height as the existing curved parapets located along the northern elevation but extends above the height of the parapet wall along the eastern elevation, thereby adding to the bulk and scale of the advertising hoarding fronting Marion Road.</p>
<p><i>Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 9</i></p>	<p>Partially Complies</p> <p>As previously mentioned, the attached signage projects beyond the architectural outline of the building especially along the eastern elevation fronting Marion Road where the attached signage projects 1.1 metres in height above the existing parapet wall.</p>
<p><i>Advertisements should be designed to conceal their supporting advertising hoarding from view.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 10</i></p>	<p>Complies</p>

<p><i>Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.</i></p> <p><i>General Section: Advertisements: PDC 11</i></p>	<p>Complies</p> <p>The attached signage comprises three individual logos signs utilising white, orange and yellow lettering on a blue fascia panel that has been affixed along the top of the building.</p> <p>The attached signage advertises “The Outdoor Furniture Specialists” and provides a clear message identifying the business and merchandise that is to be offered for sale from the premises.</p>
<p>Safety</p> <p><i>Advertisements and/or advertising hoardings should not create a hazard by:</i></p> <p><i>(a) being so highly illuminated as to cause discomfort to an approaching driver, or to create difficulty in the driver’s perception of the road or persons or objects on the road</i></p> <p><i>(b) being liable to interpretation by drivers as an official traffic sign, or convey to drivers information that might be confused with instructions given by traffic signals or other control devices, or impair the conspicuous nature of traffic signs or signals</i></p> <p><i>(c) distracting drivers from the primary driving task at a location especially where the demands on driver concentration are high</i></p> <p><i>(d) obscuring a driver’s view of other road or rail vehicles at/or approaching level crossings, or of pedestrians or of features of the road that are potentially hazardous (e.g. junctions, bends, changes in width, traffic control devices).</i></p> <p><i>General Section: Advertisements: PDC 15</i></p>	<p>Complies</p> <p>The attached signage will not be so highly illuminated so as to create difficulty to drivers nor will it comprise any elements that are designed to either flash or be animated in any way so as to distract or cause a potential hazard to motorists travelling along Marion Road.</p>
<p><i>Advertisements should not be erected in positions close to existing electricity mains so that potentially hazardous situations are created.</i></p> <p><i>General Section: Advertisements: PDC 16</i></p>	<p>Complies</p>
<p><i>Any internally illuminated advertising signs and/or advertising hoardings which utilise LED, LCD or other similar technologies should be located a minimum of 80 metres from traffic signals, level crossings and other important traffic control devices.</i></p> <p><i>General Section: Advertisements: PDC 17</i></p>	<p>Complies</p> <p>The attached signage will not be internally illuminated but is to be lit from an alternative light source designed to shine up onto the signage at night.</p>
<p>Flags, Bunting and Streamers</p> <p><i>Advertisements and/or advertising hoardings should not comprise bunting, streamers or attached floating objects.</i></p> <p><i>General Section: Advertisements: PDC 23</i></p>	<p>Complies</p> <p>The attached advertising signage does not include bunting, streamers or any floating objects.</p> <p>The applicant is not proposing any additional advertising devices including those mentioned above.</p>
<p>Advertising along Arterial Roads</p> <p><i>Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.</i></p> <p><i>General Section: Advertisements: PDC 24</i></p>	<p>Complies</p> <p>This section of Marion Road adjacent the subject land has a maximum speed limit of 60km/h.</p>

ANALYSIS/CONCLUSION

The preceding analysis against the relevant provisions of the Marion (Council) Development Plan has demonstrated that the unauthorised signage erected on the subject premises does not conform with the architectural style of the building, nor is it considered consistent with the level of advertising allocated each individual tenancy. As such, the scale and extent of the advertising associated in relation to the subject tenancy, is proportionally greater than that allocated to that of other individual tenancies on the land.

The applicant was advised of this shortfall with Council recommending changes be made to the design and level of advertising to be attached to the building by reducing the amount of advertising on the building. The applicant has been reluctant to make such changes, advising that the small extension to the parapets will essentially result in the levelling and 'squaring off' of the parapets, to provide a clean and simple appearance which echoes nearby built form befitting the appearance of other commercial buildings within the locality.

In having regard to the wider locality and the extent of advertising that adorns other commercial buildings along Marion Road, I am of the opinion that the applicant makes a fair point. Whilst the attached advertising does not conform with the architectural theme of the building, it is not considered to be out of character with the scale and extent of advertising that currently adorns the external walls of many existing commercial tenancies within the immediate locality. Having said this, seeking three signs each of some 26 square metres in area, is likely to result in one of the largest 'group' of signs for any tenancy/land use within the locality.

In addition to the above, it is also considered that the extent and level of advertising to be well spaced along the fascia of the building, orderly in nature with one logo facing Marion Road and two facing the internal driveway. Furthermore, the attached signage is restricted to advertising the name of the franchise and is clear and concise whilst not posing any undue distraction to motorists travelling along Marion Road. Notwithstanding that above mentioned shortfall, the attached advertising generally accords with the majority of the relevant provisions of the Councils Development Plan and warrants the support of the Panel.

In respect to the unauthorised use of the outdoor display area located to the front of the subject premises, this 50 square metre area is considered to be ancillary to the retail function of the existing premises and is of a size and dimension that is unlikely to generate a significant increase in traffic to the subject land. As such, the use of this portion of the site for the display of outside furniture is considered appropriate and will help to reinforce the existing commercial character which predominates along this section of Marion Road.

In terms of design and appearance, it is considered that the structural changes made to the building to incorporate the attached signage provides the front of the building with a modern appearance more in keeping with recently constructed commercial buildings within the locality. In addition, the recently planted low level vegetation to the front of the site within the outdoor display area will in time enhance the appearance of the site when viewed from Marion Road.

As a result of the above considerations, 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 warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1545 seeking retrospective approval for the erection of additional advertising signage and to establish an outdoor display area to the front of an existing retail showroom tenancy at 838-842 Marion Road Marion be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the plans and details stamped dated received 1 September 2014 and 22 September 2014 all submitted with and forming part of Development Application No. 100/2014/1545, except where varied by the following conditions of consent.
2. A landscaping plan shall be submitted to Council for consideration prior to Development Approval being issued, detailing a mix of native medium and low-level plantings within the external outdoor display area.
3. Landscaping shall be maintained so as to not obstruct the views of drivers or pedestrians entering or exiting the site, to the reasonable satisfaction of Council.
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 Council.
5. All goods and materials placed in the area designated for the outside display of goods and materials shall be kept in a tidy manner and condition at all times.

NOTES

1. The advertising signage hereby approved comprises all text, including the text and symbols outlined within the confines of the orange bordering as illustrated on the approved plans dated received 22 September 2014, and does not incorporate or include any area comprising the blue fascia panelling affixed along the top of the northern and eastern sides of the building.
2. No hoardings, flags, flashing lights, bunting or other advertising devices or signs are to be erected or displayed on the site unless Development Approval is obtained from the Council pursuant to the Development Act 1993.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.10
Originating Officer	Steve Hooper Manager Development Services
Applicant:	Haidee Louise Bound
Development Description:	Alterations and additions to the existing “Boatshed Café” building including an expansion to the upper level deck and provision of disabled access via new lift and stairs.
Site Location:	1A Heron Way, Hallett Cove
Zone:	Coastal Open Space Zone
Application Type:	Category 1/Consent
Development Plan:	Consolidated – 19 January 2012
Application No:	100/2013/1466
Recommendation:	Development Plan Consent (Granted)

BACKGROUND:

The Hallett Cove Surf Life Saving Club was converted into a Kiosk and Function Centre in 2008 and is currently known as “The Boatshed Café”. Between 2008 and 2014 various applications have been approved that have upgraded the facility, including upper level deck, ground floor terrace, new kitchen and the introduction of the sale of liquor from the premises.

The subject application has been determined as a Category 1 form of development by virtue of Schedule 9(2)(g) of the Development Regulations 2008, as the application is a kind of development which is considered to be of a minor nature only. This opinion has been formed for the following reasons:

- the additions will not be visible from adjacent residential properties;
- the café already provides outdoor dining via the ground floor terrace; and
- the total capacity of the facility is not proposed to be increased.

The application is being referred to the Development Assessment Panel as the proposal is likely to include an amendment to an existing liquor licence (expanded deck area). Council has determined that these applications are delegated to the Development Assessment Panel.

SUBJECT LAND AND LOCALITY:

The subject land is situated adjacent to the foreshore at Heron Way, Hallett Cove, Allotment 244 in DP9978, Hundred of Noarlunga being Certificate of Title Volume 5553 Folio 375.

The immediate area is dominated by four distinct features: the coast and foreshore area with walking trails, shelters and grassed picnic areas; the Boatshed Café (formerly the Hallett Cove Surf Life Saving Club facility) and adjacent carpark; two-storey residential dwellings along the eastern side of Heron Way, then extending back towards Lonsdale Road; and the Hallett Cove Conservation Park (a State Heritage Area) located to the immediate north of the subject building.

The subject land maintains an east-to-west downward slope. The subject building is a split level building of brick construction, which is setback into the slope of the land such that the roof maintains a similar level of the road on Heron Way. Accordingly, the building is not readily visible from residential dwellings east of the subject land. The building currently incorporates an entrance and lower and first floor windows facing west to the ocean.

A carpark is sited immediately west of the building; providing a dedicated off-street parking area of 25 standard and 2 disabled parking spaces for visitors to the café, foreshore and the nearby Conservation Park. A further 70 on-street parking spaces are available between 2 and 10 Heron Way and 30 spaces between Dutchman Drive and Grand Central Avenue.

Refer Attachment I

PROPOSED DEVELOPMENT:

The proposal provides for alterations and additions to the existing Boatshed Café comprising as follows:

- expansion of an existing upper level deck (65 square metres) at the north-western end of the building;
- additions to the south-western end of the building to accommodate new stairwell and platform lift to facilitate disabled access into the building;
- demolition of an existing retaining wall at the southern end of the building;
- other minor alterations and additions including chimney flue, changes to disabled toilets, new roof over existing balcony and new bi-fold servery from upper level kitchen to expanded deck.

The additions to the building have been designed so as to blend in with the existing building in terms of external materials, colours and finishes. Details of the proposal are provided at Appendix II.

Refer Attachment II

INTERNAL DEPARTMENT COMMENTS:

Property:	The building is owned by Council. As the additions to the deck are proposed over an existing stormwater Inspection Point (IP), Council proposes to relocate the IP at Council's cost. Should the application be approved a variation to the existing "leased area" will be required. There are no objections to the proposal.
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DEVELOPMENT ASSESSMENT:

ZONE OBJECTIVES AND PRINCIPLES

The primary Objectives and Principles of the Coastal Open Space Zone are as follows:

OBJECTIVES

Objective 1: Coastal land protected from development other than that necessary for conservation, recreational activity and public facilities.

Objective 2: Preservation and upgrading of the scenic character of the coastal landscape and foreshore areas fronting urban areas, townships or settlements.

Objective 3: Development of foreshore areas for a range of passive and active outdoor recreation activities and open space development, conservation and revegetation, in a parkland setting.

PRINCIPLES OF DEVELOPMENT CONTROL

Principle 1: The following forms of development are considered appropriate in the zone:

- Coastal protection works;
- Conservation works;
- Recreation area;
- Community recreation facility directly related to water activities (such as sailing clubs, boat ramps, toilet blocks and barbeque facilities);
- Public car parking.

Principle 2: The provision of facilities should be related to the demand for such facilities so as to prevent oversupply and inappropriate siting.

Principle 3: Development should be for public purposes and use.

Principle 4: Development that does not require a coastal zone should not be located in the zone.

Principle 5: Development should not diminish the ability of the public to use and enjoy the coast or to gain access to the foreshore.

Principle 6: Development should be of a high standard or co-ordinated design with an emphasis on the creation of pedestrian areas.

Principle 7: Community facilities including shelters, public conveniences and kiosks, should be sited in convenient and accessible locations linked to the surrounding vehicular and pedestrian movement networks.

Principle 8: Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone.

The Boatshed Café is an existing facility that has operated successfully from the building for the past 5-6 years. The café provides a focal point for the surrounding residential community as well as for visitors to Hallett Cove Beach and visitors to the adjacent Conservation Park and/or utilising the Coastal Trail which terminates to the immediate north of the subject building.

The building was previously used by the Former Hallett Cove Surf Life Saving Club, however, immediately prior to the current use was empty for some years, therefore being vulnerable to vandalism and disrepair.

The use of the building as a licenced café is not an expressly anticipated land-use within the zone, however, the use of the building is not changing and accordingly the merit or otherwise of the existing land-use is not relevant to the planning assessment of the application. It is however noted that the facility is a focal point within the adjacent coastal setting and it is considered that the on-going viable use of the building is not contrary to the overarching zone objectives and principles and is a form of development akin to the “kiosk” use envisaged under Principle 7, albeit, of a larger scale than a traditional kiosk.

As the use incorporates relatively minor additions primarily within the existing footprint or curtilage of the building, there will be no adverse impact on the scenic character of the coastal landscape nor will the proposal diminish the ability of the public to gain access to the coastal foreshore. The additions have also been designed to complement the existing building and so will be consistent with Principle 6.

I have concluded that the application is not at variance with the zone objectives and principles such as to generate any planning concerns.

COUNCIL WIDE:

INTERFACE BETWEEN LAND-USES

OBJECTIVE

Objective 1: Development located and designed to prevent adverse impact and conflict between land uses.

PRINCIPLES OF DEVELOPMENT CONTROL

Principle 1: Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:

- (a) The emission of effluent, odour, smoke, fumes, dust or other airborne pollutants;
- (b) Noise
- (c) Vibration
- (d) Electrical interference
- (e) Light spill
- (f) Glare
- (g) Hours of operation;
- (h) Traffic impacts.

Principle 2: Development should be designed and sited to minimise negative impact on existing and potential future land uses considered appropriate in the locality.

Principle 3: Development adjacent to a Residential Zone should be designed to minimise overlooking and overshadowing of nearby residential properties.

SITING AND VISIBILITY

OBJECTIVE

Objective 1: Protection of scenically attractive areas, particularly natural rural and coastal landscapes.

PRINCIPLE OF DEVELOPMENT CONTROL

Principle 1: Development should be sited and designed to minimise its visual impact on:

- (a) The natural, rural or heritage character of the area
- (b) Areas of high visual or scenic value, particularly rural and coastal areas;
- (c) Views from the coast, near-shore waters, public reserves, tourist routes and walking trails;
- (d) The amenity of public beaches.

TRANSPORTATION AND ACCESS

PRINCIPLE OF DEVELOPMENT CONTROL

Principle 13: Development should make sufficient provision on site for the loading, unloading and turning of all traffic likely to be generated.

Principle 33: Development should provide off-street vehicle parking and specifically marked disabled car parking places to meet anticipated demand in accordance with Table Mar/2 – Off Street Vehicle Parking Requirements.

Car-parking/Capacity

The key planning consideration relates to parking provision. The site (and the assessment of various applications associated with the café in recent years) has often generated concerns from surrounding residents in relation to the lack of off-street parking provided for the current use.

The site adjoins a public parking area owned and managed by the Council which accommodates 25 off-street parking spaces. This car-park is shared by users of the café as well as visitors to the foreshore and Conservation Park. Parking reports have been provided for previous applications which have noted the established parking area together with on-street parking located between the Boatshed Café entry road and the cul-de-sac directly behind the subject site, as well as along Heron Way and Dutchman Drive and which exceeds 100 spaces.

Related to the car-parking provision, the capacity of the café has also previously been the subject of careful consideration having regard to resident concerns with previous applications. In this respect, condition 16 of the current restaurant liquor licence provides as follows:

16. *Capacities of no greater than as follows:*

- | | | |
|------|-----------------------------------|-------------|
| 16.1 | Ground floor (internal) - Area 1: | 26 persons; |
| 16.2 | Ground floor (external) - Area 2: | 12 persons; |
| 16.3 | Outdoor licenced area - Area 3: | 16 persons; |
| 16.4 | First Floor – Area 4: | 80 persons. |

The subject application proposes an expansion of the upper floor deck area by 65 square metres. However, the applicant has indicated in the submitted documentation that the capacity of the first floor (and for that matter the ground floor) is not proposed to be increased. The upper floor capacity will remain at a maximum of 80 persons.

The proposal will therefore not generate an additional parking demand on the off-street or on-street parking areas. A condition on the approval will reinforce this requirement. Having regard to the above, the proposal is not considered to generate any parking concerns such as to warrant refusal of the application.

Residential Amenity/Noise/Interface between land-uses

There are a number of other conditions on the existing restaurant liquor licence approval designed to preserve the amenity of the locality having regard to the site's proximity to residential properties to the immediate east and the potential for comparatively large gatherings for functions at the premises. The following conditions (note: not all of the conditions) are included in the current restaurant liquor licence:

1. *The hours of operation of the premises shall be restricted as follows:*
 - 1.1 *Monday to Thursday 9:00am to 9:30pm*
 - 1.2 *Friday, Saturday, Sunday and any day preceding a public holiday 9:00am to 10:00pm.*
2. *Hours of the service of alcohol shall be restricted to between 9am and 9pm on any day.*
3. *The prime use of the premises shall be that of a restaurant with liquor consumption being ancillary to that prime use.*
7. *The premises shall not be used for functions where amplified music is required for entertainment such as parties and receptions.*
8. *Music shall only be played through the in-house sound system, by way of background music.*
9. *There shall be no live or recorded or other entertainment, including a performance, show, live music, disk jockey or karaoke music or other similar type of noise, in any part of the premises.*
10. *There shall be no loud speakers placed on or in the fascia of the premises, any external balcony or any adjacent outdoor area or footpath (whether temporary or secure).*
11. *The licensee shall at all times ensure that noise levels are in accord with EPA Guidelines and the Liquor Licensing Regulations.*
13. *The licensee shall have displayed at all exits from the premises clearly visible signs with wording that reflects that patrons shall leave the premises as quickly and quietly as possible to reduce the disturbance to nearby residents.*
14. *At any given function held on the first floor of the premises (Area 4) where liquor is being served and which extends beyond 8:00pm, security shall be provided until one hour after close time to patrol the car-park and surrounds and this condition to be reviewed after a 12 month period.*
18. *No bring your Own (BYO) liquor is to be permitted at functions held on the premises under Section 34(1)©(ii).*
19. *No 16th, 18th or 21st birthday parties or private parties that may have a detrimental effect on neighbouring properties.*
20. *No greater than 3 functions per week which trade beyond 6:00pm will be held on the first floor of the premises (Area 4).*

It is my opinion that the existing conditions serve to ensure that the use of the upper floor as a function area will not be detrimental to the immediate locality. It is noted that these conditions have been operational for two years, and I am not aware of any complaints over this period from adjacent residents.

The proposal will increase the deck area and therefore the potential for noise generation outside the building. However, I am satisfied that the conditions on the liquor licence adequately address these concerns. If anything, the conditions are, in my opinion overly conservative and given the lack of complaint from neighbouring properties in the two years since they were first imposed, could be reviewed so as to be less onerous on the proponent. However, that is a matter for a future liquor licence to consider.

I note also that the deck in being located west of the building, results in the building itself serving as an acoustic barrier between the deck and residential properties.

In the interests of demonstrating that this application will not exacerbate noise and amenity concerns, I have reinforced those conditions I consider to be most relevant and effective, in particular, the condition which restricts the hours of operation so as to not go beyond 10pm should ensure there is no sleep disturbance to adjacent residents.

Design/Siting/Access

The proposed additions have been sympathetically designed to blend with the existing building with materials and finishes that complement and match the existing building. The proposed additions do not substantially increase the bulk and scale of the building such as to be detrimental to the coastal setting and/or scenic views.

The proposal improves access into the building via the provision of a lift and new stairs to the first floor and provides disabled toilet facilities. Occupiers of the deck will not be able to look into adjoining residential properties to the east and will instead be looking north and west onto scenic vistas.

The proposal is considered to satisfy relevant provisions with respect to design, siting and access.

ANALYSIS/CONCLUSION:

The proposal ensures the on-going viability of an existing focal point within the local community which represents an existing use notwithstanding the coastal setting and one which arguably enhances the enjoyment of those undertaking legitimate coastal activities such as coastal trail walking, sight-seeing and enjoying the beach.

The deck is well-designed, will not increase the capacity of the facility and subject to conditions should not generate an amenity impact on adjacent residential properties. The additions are sympathetic with the existing building and promote disabled access into the first floor.

It is my view that the proposed development is not seriously at variance to the Development Plan and as such warrants Development Plan Consent, subject to conditions.

RECOMMENDATION:

- (a) The Panel note this report, have considered all relevant planning matters and concurs with the findings and reasons for the recommendation;
- (b) The proposed development is not seriously at variance to the Marion (City) Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2013/1466 proposing alterations and additions to the existing "Boatshed Café" building including an expansion to the upper level deck and provision of disabled access via new lift and stairs at 1A Heron Way Hallett Cove be GRANTED subject to the following conditions:

CONDITIONS:

1. That except where minor amendments may be required by other relevant Acts, or by conditions imposed by this application, the development shall be established in strict accordance with the details and plans as submitted in Development Application Number 100/1466/2013.
2. That all stormwater design and construction shall be in accordance with Australian Standards and recognised engineering best practices to ensure that stormwater does not adversely affect any adjoining property or public road.
3. That 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
4. That all external materials and finishes of the new building work shall match or complement those of the existing building to the reasonable satisfaction of the Council.
5. That the building shall be maintained in a serviceable condition and operated in an orderly and tidy manner at all times.
6. That all trade waste and other rubbish shall be stored inc covered containers kept screened from public view and collected on a regular basis to avoid nuisance to adjoining owners and occupiers of land, patrons of the kiosk / functions area and visitors to the foreshore.
7. That all external lighting affixed to the building shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance, overspill or loss of amenity is caused to any person beyond the site.
8. That no additional signs shall be displayed upon the subject land other than those identifying the parking area access points and those shown on the approved plans. If any further signs are required, these shall be the subject of a separate application.
9. The capacity of the first floor shall not exceed 80 persons at any one time.
10. The hours of operation of the premises shall be restricted as follows:
 - a) Monday to Thursday 9:00am to 9:30pm
 - b) Friday, Saturday, Sunday and any day preceding a public holiday 9:00am to 10:00pm.

11. The premises shall not be used for functions where amplified music is required for entertainment such as parties and receptions.
12. Music shall only be played through the in-house sound system, by way of background music.
13. There shall be no live or recorded or other entertainment, including a performance, show, live music, disk jockey or karaoke music or other similar type of noise, in any part of the premises.
14. There shall be no loud speakers placed on or in the fascia of the premises, any external balcony or any adjacent outdoor area or footpath (whether temporary or secure).
15. The licensee shall at all times ensure that noise levels are in accord with EPA Guidelines and the Liquor Licencing Regulations.
16. The licensee shall have displayed at all exits from the premises clearly visible signs with wording that reflects that patrons shall leave the premises as quickly and quietly as possible to reduce the disturbance to nearby residents.

Attachments

Attachment I: Aerial Photograph/Site Locality Plan

Attachment II: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.11
Originating Officer:	Dylan O'Brien Development Officer - Planning
Applicant:	Lock Surveys
Development Description:	Land Division Residential Community and Residential Torrens comprising 1 into a total of 3 allotments being 1 x Torrens Tittle allotment and 2 x Community Title allotments.
Site Location:	10 Plymouth Avenue, Sturt
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 1 / Consent
Lodgement Date:	14/08/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1417 (DAC Reference:100/C181/14) 100/2014/1418 (DAC Reference:100/D180/14)
Recommendation:	Development Plan Consent & Development Approval (Granted)

CATEGORISATION & DELEGATION

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

The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed new allotments supporting areas less than the minimum of 375 square metres required for a detached dwelling and less than the minimum 300 square metres required for group dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

Modifications to the proposal were not requested during the assessment process as the proposed division relates to a land use application (100/1250/2013) being concurrently assessed by administration and is to be considered by the Panel at the same meeting.

SUBJECT LAND & LOCALITY

The subject land is located at 10 Plymouth Avenue, Sturt, and is situated on the southern side of the street. The subject land comprises a large regular shaped allotment which has a 19.81 metre frontage to Portland Avenue and a depth of 45.72 metres to provide a total site area of 905.7 square metres.

The subject land features a gentle slope falling by approximately 1.9 metres over a distance of approximately 45.0 metres from the rear to the front boundary and is developed 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.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The two applications seek to divide the existing allotment to create 2 (two) Community Title and 1 (one) Torrens title residential allotment.

A greater level of detail of how the land will be developed is detailed in Development Application 100/1250/2013, which is to be considered by the Panel at the same meeting as the subject application.

Refer Attachment III

ZONE & POLICY AREA ASSESSMENT

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

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

<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"> ▪ <i>affordable housing</i> ▪ <i>detached dwelling</i> ▪ <i>group dwelling</i> ▪ <i>residential flat building</i> ▪ <i>row dwelling</i> ▪ <i>semi-detached dwelling</i> ▪ <i>supported accommodation.</i> 	Complies
<i>PDC 3</i>	<p><i>Minimum Site Area:</i></p> <p><i>Dwellings 1: 375 square metres (detached dwelling)</i> <i>Dwellings 2 & 3: 300 square metres (Group Dwellings)</i></p>	<p>Does Not Comply Lot 45 - Dwelling 1(detached): 260 m²</p> <p>Lot 47 (group dwelling) 213 m²</p> <p>Complies Lot 48 - (group dwelling) 322m²</p> <p>Note: the average site area of lot 47 and 48 = 326 m² (including common driveway)</p>
	<p><i>Minimum Frontage:</i></p> <p><i>Dwellings 1: 12 metres detached dwellings)</i> <i>Dwellings 2 & 3: 4 metres (Hammerhead Allotments)</i></p>	<p>Complies Dwelling 1: 13.81m Dwellings 2 and 3: 6.0m</p>
	<p><i>Minimum Depth:</i></p> <p><i>Dwellings 1: 20 metres (Detached dwellings)</i> <i>Dwellings 2 & 3: 45 metres (Group Dwellings)</i></p>	<p>Does Not Comply Dwelling 1: 16.75m</p> <p>Complies Dwelling 2 & 3:45.72m</p>

Assessment

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

Allotment 45 (Dwelling 1) incorporates a site area significantly under the minimum 375 square metres required for detached dwellings within the Northern Policy Area 13, equating to 260 square metres, 115 square metres less than that sought within the Northern Policy Area 13 and an allotment depth less than the minimum 20 metres espoused for detached dwellings.

Further, allotments 47 and 48 incorporate site areas of 213 and 322 square metres, respectively. To this end, lot 47 is well under the 300 square metres sought for group dwellings within the Policy Area,

Nevertheless, the Desired Character of the Northern Policy Area 13 envisages low to medium density dwellings at a higher density compared to that typical of the original dwelling stock in the area. Although the proposed site areas for allotments 45 and 47 are significantly less than that sought for their proposed dwelling types, the subject land is of an appropriate area, depth and dimension to yield 3 dwellings in the form of 3 group or residential flat dwellings (average site area of 302 square metres per dwelling). As such, it is considered the undersized nature of the allotments and lack of site depth for allotment 45 are not fatal to the proposal, as the associated land use application indicates reasonable compliance with Council's qualitative/quantitative

criteria is achieved and the total number of dwellings sought does not exceed that envisaged for the Policy Area.

The proposal is considered to sufficiently satisfy the Desired Character for the Northern Policy Area 13, as the allotments will enable the construction of “one and two storey, low-to-medium density dwellings of a variety of architectural styles”.

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

Land Division	
Objectives <i>1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.</i>	Complies
<i>2 Land division that creates allotments appropriate for the intended use.</i>	Complies The proposed site areas are considered appropriate for the dwellings as proposed in Development Application 100/1250/2013.
<i>3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.</i>	Complies The land division is likely to be supported by the necessary infrastructure, and is located within walking distance of several bus routes.
Principles of Development Control <i>1 When land is divided:</i> (a) <i>stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner</i> (b) <i>a sufficient water supply should be made available for each allotment</i> (c) <i>provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</i> (d) <i>proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.</i>	Complies The proposed development is likely to result in stormwater being drained safely from the land. Water and sewer supply will be available.
<i>2 Land should not be divided if any of the following apply:</i> (a) <i>the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use</i> (b) <i>any allotment will not have a frontage to one of the following:</i> (i) <i>an existing road</i> (ii) <i>a proposed public road</i> (iii) <i>access to a public road via an internal roadway in a plan of community division</i> (c) <i>the intended use of the land is likely to require excessive cut and/or fill</i> (d) <i>it is likely to lead to undue erosion of the subject land or land within the locality</i> (e) <i>the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development</i> (f) <i>the intended use of the land would be contrary to the zone objectives</i> (g) <i>any allotments will straddle more than one zone, policy area or precinct.</i>	Complies

<p>Design and Layout</p> <p>3 Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.</p>	<p>Complies</p>
<p>7 The design of a land division should incorporate:</p> <p>(a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities</p> <p>(b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare</p> <p>(c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones</p> <p>(d) suitable land set aside for useable local open space</p> <p>(e) public utility services within road reserves and where necessary within dedicated easements</p> <p>(f) the preservation of significant natural, cultural or landscape features including State and local heritage places</p> <p>(g) protection for existing vegetation and drainage lines</p> <p>(h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development</p> <p>(i) the preservation of significant trees.</p>	<p>Complies</p>
<p>10 Allotments should have an orientation, size and configuration to encourage development that:</p> <p>(a) minimises the need for earthworks and retaining walls</p> <p>(b) maintains natural drainage systems</p> <p>(c) faces abutting streets and open spaces</p> <p>(d) does not require the removal of existing native vegetation to facilitate that development</p> <p>(e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.</p>	<p>Complies</p>
<p>11 The layout of a land division should provide for efficient solar access.</p>	<p>Does not comply</p> <p>In this instance the front boundary (only) maintains a northern orientation. Whilst this is not ideal it is typical for allotment on the southern side of a street.</p> <p>Nevertheless, this is reflective of the associated land use application (100/1250/2013) where issues surrounding solar efficiency are discussed further.</p>
<p>Roads and Access</p> <p>21 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of:</p> <p>(a) the size of proposed allotments and sites and opportunities for on-site parking</p> <p>(b) the availability and frequency of public and community transport</p> <p>(c) on-street parking demand likely to be generated by nearby uses.</p> <p>22 A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</p>	<p>Partially complies</p> <p>Reflecting the land use application (100/1250/2013), approximately 11metres of existing kerb shall be retained for on-street parking which is sufficient room for at least one on-street parking space and possibly up to two spaces depending on the size of the vehicles. Having regard to the onsite parking provisions and considering up to two on-street spaces may be available (subject to car size) the proposal sufficiently accommodates the provisions relating to on-street parking.</p>

ANALYSIS/CONCLUSION

The subject proposal seeks land division for residential purposes. Given the site is situated within the Residential Zone, has access to sewer and potable water and will not result in substantial earthworks, the proposal is considered an acceptable form of development.

Despite the significant shortfall in two of the three allotments proposed, the total site area of the land (906 square metres) is of sufficient area and dimension to yield 3 dwellings in the form of group or residential flat dwellings (average site area of 302 square metres per dwelling).

The proposal is considered to reasonably satisfy the Desired Character of the Northern Policy Area 13, as the allotments will enable the construction of appropriately designed "one and two storey, low to medium density dwellings of a variety of architectural styles."

As a result of the above considerations, 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 warrants Development Approval subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan;
- (c) That Development Plan Consent and Development Approval for Development Application No: 100/2014/1418 for a Residential Land Division - Torrens Title 1 into 2 allotments at 10 Plymouth Avenue, Sturt be GRANTED subject to conditions; and
- (d) That Development Plan Consent and Development Approval for Development Application No: 100/2014/1417 for a Residential Land Division - Community Title 1 into 2 allotments at 10 Plymouth Avenue, Sturt be GRANTED subject to conditions

CONDITIONS (Development Application No. 100/2014/1418)

- (1) The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1418 being drawing reference number 13038 prepared by Lock Surveys (Licensed Engineering Surveys) except when varied by the following conditions of consent.
- (2) All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- (3) The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- (4) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services. The developer must inform potential purchasers of the community lots of the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

LAND DIVISION CONSENT

Conditions of Consent

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water and sewerage services (SA Water H0021678).
- (2) Payment of \$12976 into the Planning and Development fund (2 lots(s) @ \$6488 /lot). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide.

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

NOTES:

Conditions of Consent

- (1) This approval has been granted on the basis of the suitability of the land for a two story dwelling and two single storey dwellings with associated landscaping as demonstrated in Development Application No 100/1250/2013. However should the proposed allotments be created and sold without the construction of that development occurring or different dwellings are proposed, new applicants/owners should be aware that new Development Application(s) need to be lodged with and assessed by the Council, noting that other dwelling layouts may be difficult to site on the proposed allotments.
- (2) The applicant is reminded to contact the Council when all of the Council's conditions have been complied with and accordingly, the Council will advise the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

CONDITIONS (Development Application No. 100/2014/1417)

- (1) The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2014/1417 being drawing reference number 13038 prepared by Lock Surveys (Licensed Engineering Surveys) except when varied by the following conditions of consent.
- (2) All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- (3) The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
- (4) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services. The developer must inform potential purchasers of the community lots of the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

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- (2) The applicant is reminded to contact the Council when all of the Council's conditions have been complied with and accordingly, the Council will advise the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No: DAP051114 – 3.12

Originating Officer: Dylan O'Brien
Development Officer - Planning

Applicant: Carumag Corporation

Development Description: To construct a two storey dwelling and two single storey dwellings to the rear in a hammer head configuration with associated driveways, parking and landscaping.

Site Location: 10 Plymouth Avenue, Sturt

Zone: Residential Zone

Policy Area: Northern Policy Area 13

Development Plan: Consolidated – 19 January 2012

Application No: 100/2013/1250

Recommendation: Development Plan Consent be sub-delegated to the Manager Development Services, pending deposit of the Plan of Division with the Lands Titles Office.

BACKGROUND

The subject application is supported by two concurrent land division applications, which indicate separate allotments associated with each dwelling (refer DA 100/D180/14 and 100/C181/14).

The subject application is required to be assessed by the Development Assessment Panel by virtue of the proposed dwellings all supporting allotment areas that are less than the minimum of 375 square metres for detached dwellings and 300 square metres required for group dwellings within Northern Policy Area 13.

Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

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

Amendments Requested	Amendments Made
The proposal involves three (3) two storey dwellings in a hammer head configuration where, the Development Plan stipulates:	Dwellings 2 and 3, were initially lodged as two storey dwellings, to the rear of Dwelling 1. These dwellings have been altered to now form single storey dwellings.

"buildings on battleaxe allotments or the like should be single storey and be designed to maintain the privacy of adjoining properties".	
Private open space for Dwelling 1 is deficient in area / dimension to meet the likely needs of future occupants and located mostly forward of the main building line within the front yard area.	Private open space associated with Dwelling 1 has been redesigned located wholly to the rear of the dwelling with an appropriate minimum dimension.
Site areas excluding the common driveway are technically undersize.	No changes
The upper and lower rear setback of Dwelling 3 fails to accord with Council's minimum setback requirements. Council provisions stipulates a minimum 6 metre rear setback, whereas, only a portion of the building can be as close as 3 metres for no more 50% of the allotment width, whereas, upper levels should achieve a rear setback of no less than 8m.	The proposal has been amended to accord with the rear setback provisions, although changes have resulted in Dwelling 1 now failing to comply with Council's upper, and to a lesser extent, lower level rear setback standards.
The proposal will result in overlooking from the upper level windows into adjoining allotments.	Dwellings 2 and 3 have been amended to be single storey only. Upper level windows and upper level balconies associated with Dwelling 1 that face a side or rear boundary include screening to ensure privacy of adjacent dwellings' habitable room windows and any usable private open space areas are maintained.

SUBJECT LAND AND LOCALITY

The subject land is located at 10 Plymouth Avenue, Sturt; situated on the southern side of the street. The subject land comprises a large regular shaped allotment which has a 19.81 metre frontage to Portland Avenue and a depth of 45.72 metres to provide a total site area of 905.7 square metres.

The subject land features a gentle slope falling by approximately 1.9 metres over a distance of 45.72 metres from the rear to the front boundary and is developed 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 diverse range of housing stock comprising single and double storey detached and some semi-detached dwellings at low to medium densities. The locality also contains some “hammer-head” allotments as exhibited immediately to the north of the subject land at 9, 11 and 13 Plymouth Avenue, and abutting the site to the south at 13 Lincoln Avenue, Sturt.

Refer Attachment I

PROPOSED DEVELOPMENT

The applicant proposes to demolish the existing detached dwelling and other associated structures on the land and construct a double storey dwelling (Dwelling 1) to the front of the site and two single storey dwellings (Dwellings 2 & 3) to the rear of the land, in a hammer head configuration with associated driveways, parking and landscaping.

Dwelling 1 which will face Plymouth Avenue is to be constructed on a rectangular shaped allotment providing a total site area of 260 square metres, whilst Dwellings 2 and 3 are to be constructed on a “hammerhead” shaped allotment, which is to provide a combined building envelope of approximately 526 square metres (excluding the proposed driveway area) to the rear.

In respect to vehicular access, a new single width crossover and driveway is to be constructed on the western side of the subject land to service Dwelling 1, whilst vehicular access to Dwellings 2 and 3 will be provided via the existing crossover and driveway on the eastern side property.

The existing driveway is to be extended along the eastern boundary of the subject land to the rear and will measure 4 metres in width and is to include extended turning areas. As with the proposed driveway for Dwelling 1, the extended driveway is to be landscaped and is to incorporate strip landscaping measuring 500 millimetres in width along both sides.

Dwellings 1 and 3 will provide three bedrooms each, whereas, Dwelling 2 provides only two bedrooms. All three dwellings include a master bedroom with en-suite together with bath/shower, laundry and open plan kitchen/dining/living areas, directly accessible to/from private yard areas located to the rear of each dwelling.

In respect to on-site car parking provision, all dwellings will be provided with a single width carport under the main roof as the only undercover parking space, whilst visitor parking is to be provided to the front of each dwelling within the individual driveways.

All dwellings will feature a combination of face brick and rendered finished (comprising a combination of colours) in the external appearance. Dwelling 1 which is two storey will have a total building height of approximately 7.5 metres, whereas, Dwellings 2 and 3 are single storey each having a total building height of approximately 4.5 metres.

All dwellings will include tiled roofs set at a pitch of approximately 22.5 degrees.

Refer Attachment II

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>The internal vehicle manoeuvring area and individual driveways for all dwellings have been assessed by Council's Engineering Department and have been deemed to be satisfactory.</p> <p>The drainage and siteworks plan has been assessed by Council's Engineer who raised no issues of concern regarding the finished floor levels for the individual dwellings or any particular drainage or flooding issues.</p>
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DEVELOPMENT ASSESSMENT

The Objectives of the Residential Zone, and the relevant Objectives, Principles and Desired Character of the Northern Policy Area 13 are as follows:

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.

Northern Policy Area 13

Objectives

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

Principles of Development Control

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

Desired Character

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

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

In relation to the above provisions and desired character statement, the proposed development seeks to construct three new dwellings on land where one dwelling currently exists to provide an envisaged form of housing comprising both detached and group dwellings at greater densities 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 Diagonal Road to the east and Seacombe Road to the south. The subject land is also located within walking distance (less than 500 metres) to a small group of shops located on the southern side of Seacombe Road within an existing Neighbourhood Centre Zone. Given the above, it is considered that the subject land is a suitable site for redevelopment meeting two of the criteria prescribed by Objective 2 of the Residential Zone.

In terms of design and appearance, the proposed dwellings will be modern in appearance and display a sufficient degree of visual interest via varying setbacks and the use of different materials in the external finishes. As such, it is considered that the proposed dwellings will make a reasonably positive visual impact within the locality, whilst the provision of additional landscaping along the driveways 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 Northern Policy Area 13.

Overall, it is considered that the Objectives and Desired Character of the Northern Policy Area 13 are adequately represented by the proposed development.

QUANTITATIVE ASSESSMENT

The following table assesses the proposal's compliance with quantitative provisions from the Marion Council Development Plan:

MARION COUNCIL DEVELOPMENT PLAN PROVISIONS		ASSESSMENT
Residential Zone – Northern Policy Area 13		
SITE AREA <i>Northern Policy Area 13: Principle 3</i>	<i>Detached Dwellings 375 m²</i> <i>Group Dwellings (300 m²)</i>	Does Not Comply Dwelling 1(detached): 260m ² Dwelling 2 (group): 221 m ² Complies Dwelling 3 (group): 305m ²
SITE FRONTAGE <i>Northern Policy Area 13: Principle 3</i>	12 m (detached) <i>Access ways serving allotments in the form of a battle-axe configuration should: (a) provide for an access onto a public road, with the driveway 'handle' being not more than 35 metres in length and the width being not less than one of the following: (i) 4 metres for an allotment that accommodates no more than 3 dwellings</i>	Complies Dwelling 1 (detached): 15.81m Complies Dwellings 2 & 3 (group): 4.0m
SITE DEPTH <i>Northern Policy Area 13: Principle 3</i>	20 m	Does Not Comply Dwelling 1: 16.75m Complies Dwellings 2 & 3: 45.7m
SITE COVERAGE <i>Northern Policy Area 13: Principle 4</i>	40%	Complies Dwelling 1: 31.5% Does Not Comply Dwelling 2: 50% Dwelling 3: 45% (34% average including common driveway)
FLOOR AREA RATIO <i>Northern Policy Area 13: Principle 4</i>	0.6	Complies Dwelling 1: 0.54

<p>REAR SETBACKS</p> <p><i>General Section: Residential Development: Principle 21</i></p> <p><i>General Section: Residential Development: Principle 22</i></p>	<p><i>The rear boundary setback for single storey dwellings should be a minimum of 6 metres however 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>Two storey components of dwellings should be setback a minimum of 8 metres from the rear allotment boundary.</i></p>	<p>Does Not Comply Dwelling 1: minimum 5.0m for 56% of site width and maximum setback 8.0metres.</p> <p>Dwelling 2: 5.0m for entire site width</p> <p>Complies Dwelling 3: minimum 4.0m for 36%</p> <p>Does Not Comply Dwelling 1: 5.0 metres.</p> <p>Dwellings 2 & 3: (N/A)</p>
<p>SIDE SETBACKS</p> <p><i>Residential Zone: Principle 7</i></p>	<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> <ul style="list-style-type: none"> (a) 3 metres if adjacent southern boundary (b) 2 metres in all other circumstances. <p><i>Where the wall height is greater than 6 metres:</i></p> <ul style="list-style-type: none"> (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><i>Minimum setback from secondary road frontage: 3 metres.</i></p>	<p>Complies: Dwellings 2 & 3 are single storey and feature side setbacks greater than 1.0m</p> <p>Complies Dwelling 1: two storey provides a 3.2m western side setback.</p> <p>Not Applicable</p>
<p><i>General Section: Residential Development: Principle 23</i></p>	<p><i>Dwelling walls should not abut more than one side allotment boundary.</i></p>	<p>Complies: Apart from a small section of boundary wall associated with Dwelling 3 located internally between Dwellings 2 and 3, the proposal will not result in solid walls abutting any existing site boundaries.</p>
<p>BUILDING HEIGHT</p> <p><i>Residential Zone: Principle 7</i></p>	<p><i>2 storeys of not more than 9 metres.</i></p>	<p>Complies Dwellings 2 & 3 are single storey in height.</p> <p>Dwelling 1: is two storey with a total height of approximately 7.5m.</p>

<p>ON-SITE CAR-PARKING & ACCESS</p> <p><i>Residential Zone: Principle 7</i></p>	<p><i>Detached, semi-detached, or row dwellings: 3 bedrooms: 2 spaces (one of which is covered)</i></p> <p>And</p> <p><i>Group dwelling or residential flat building: 1.5 per dwelling plus 1 visitor space per 3 dwellings</i></p>	<p>Complies All dwellings</p> <p>Dwelling 1 is provided with 2 parking spaces, including 1 undercover & 1 visitor.</p> <p>Dwellings 2 & 3 are each provided with 2 parking spaces including 1 undercover & 1 visitor.</p> <p>A total of 1 on-street park space is provided to the front of the subject land between the existing and proposed driveways.</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 Area: (Dwellings 1 & 2)
- Site Depth: (Dwelling 1)
- Site Coverage: (Dwellings 1, 2 & 3)
- South-Facing P.O.S: (Dwellings 1 & 3)
- Rear Setback: (Dwelling 1)

Site Area/Site Depth (Dwellings 1, 2 & 3)

The site areas achieved in respect to Dwellings 1 and 2, falls short of the respective minimum areas prescribed within Northern Policy Area 13. In respect to Dwelling 1, a site area of 259 square metres is achieved where the minimum requirement for detached dwellings is 375 square metres, a shortfall of 116 square metres.

Notwithstanding the above, the proposed site area for Dwelling 1 provides a suitable building envelope upon which to construct the dwelling, which achieves reasonable setbacks from buildings together with provision for usable areas of private open space to the rear. What this indicates is that the site area proposed for Dwelling 1 is not necessarily restrictive and will satisfactorily accommodate the dwelling as proposed.

The shortfall in the site area for Dwelling 2 which is a group dwelling at 221 square metres does not meet the required minimum of 300 square metres, representing a shortfall of 79 square metres. That being said, it should be noted that when calculating the site area for dwellings of this type (group), the associated shared driveway and manoeuvring areas is excluded from the individual site curtilage. This is different to when calculating the site area for detached dwellings where these areas are included.

Putting this argument to one side, it is noted that the land would be capable of accommodating three dwellings at 3 x 300 square metres for group or residential flat buildings given the site provides an overall site area of 907 square metres.

Furthermore, the building envelope for Dwelling 2 achieves a reasonable setback from boundaries together with provision for a usable area of private open space between the proposed rear boundary, which is the existing side boundary.

In summary, whilst the individual site areas for Dwelling 1 and 2 may not accord with the requirements prescribed by Council's Development Plan, the development as a whole does not result in a density greater than that envisaged within Policy Area 13.

Although the site maintains a shortfall in depth for Dwelling 1, of 3.25 metres, the allotment maintains a width of 15.81 metres along the rear boundary, where a width of 12 metres is anticipated for detached dwellings. Furthermore as discussed in this report Dwelling 1 is considered to achieve sufficient compliance with applicable criteria. Accordingly, the shortfall in site depth is sufficiently compensated by the overall dimensions of the site and general compliance with the Development Plan.

Site Coverage (Dwellings 2 & 3)

The site coverage for Dwellings 2 and 3 with respect to each of the dwelling's own curtilage equates to 50% and 45% (respectively) thereby exceeding the required maximum provision of 40% as prescribed. Whilst over the maximum measure, this calculation excludes the shared driveway and manoeuvring areas. Should these areas be included, the average site coverage achieved would be in the order of 38.5% just below the prescribed maximum of 40%, which is in keeping with the site coverage prescribed by Council's Development Plan. Furthermore, each dwelling achieves a sufficient level of compliance surrounding side/rear setbacks, private open space area/dimension and vehicle access/manoeuvrability and onsite parking.

Therefore, whilst exceeding the requirements set out within the Council's Development Plan, the site coverage achieved per dwelling/allotment is not considered significant or fatal to the overall merits of the application, with each dwelling demonstrating a sufficient level of compliance with the quantitative criteria set out in above assessment table.

Overshadowing of South Facing P.O.S. Areas Dwellings 1 and 3

Whilst it is acknowledged that the overshadowing of adjacent land and buildings is unlikely to be significant given the siting of the proposed dwellings on the subject land, the same cannot be said for Dwelling 1 and to a lesser extent Dwelling 3 which will experience overshadowing over associated south facing private open space areas.

In this instance, the creation of north facing yard areas for the individual dwellings is not considered feasible, given that the subject land is located on the southern side of Plymouth Avenue. Notwithstanding, it is noted that the proposed dwellings each provide reasonably well dimensioned areas of private open space to the rear which will allow some solar access from eastern and western sunlight in the mornings and mid to late afternoon during winter, which will improve through the summer months.

Furthermore Dwellings 1 and 3 provide northern facing living areas which will benefit from available sunlight throughout the winter months. Whilst the impact of overshadowing on the south facing private open space areas is not ideal, the impact from overshadowing will have a negligible effect with respect to internal living areas. As such, it is anticipated that the amenity value of Dwellings 1 and 3 should not be significantly reduced by the southern orientation of the associated private open space areas.

Rear Setback for Dwellings 1 and 2

To apply the rear setback criteria to all dwellings proposed is difficult given that the proposal will result in the orientation of Dwelling 2, so that the existing side boundary becomes the rear

boundary. In this instance a rear setback (existing side setback) of 5.0 metres is achieved. Given the single storey nature of the dwelling and the relationship with the existing side boundary where a lesser side setback would be anticipated, it is my opinion that adequate separation is achieved.

The proposed minimum lower and upper level rear setback of Dwelling 1 is 5.0 metres. Whilst this is generally compliant with the lower level standards (falling short by only 1 metre), the upper level setback falls approximately 3.0 metres falls significantly short of the minimum 8.0 metre standard.

Whilst this arrangement is not ideal, the visual and overshadowing impacts upon the neighbouring dwelling to the rear (Dwelling 2) which will be most affected, is considered negligible, as the main living area and outlook of Dwelling 2 faces predominantly west away from Dwelling 1. Dwelling 2 also features a carport structure to the side, situated between the rear boundary of Dwelling 1, which will further obscure views of Dwelling 1 from living and private open space areas, while providing up to 8.0 metres of separation between each dwelling.

The existing neighbouring dwellings on either side of the subject land feature private open space areas in line with proposed Dwelling 3, located to the very rear of the subject land with a southern outlook from internal living areas. To this end, the rear elevation of Dwelling 1 is unlikely to be readily visible as the level of separation (over 15metres) is considered reasonably generous.

For these reasons, the upper level setback shortfall is considered acceptable as the likely visual and overshadowing impacts on the immediate existing and proposed, neighbouring amenity is considered negligible.

QUALITATIVE ASSESSMENT

The following sections of the report assess the proposal's compliance with qualitative provisions from the General Section of the Marion Council Development Plan.

RESIDENTIAL DEVELOPMENT:

- 2 *Buildings on battleaxe allotments or the like should be single storey and be designed to maintain the privacy of adjoining properties.*

The dwellings to be built to the rear on the proposed "hammerhead" allotment will be constructed on relatively flat land and will be single storey in height in accordance with Principle of Development Control 2.

The proposed dwellings do not incorporate any windows which would overlook into the private rear yard areas of any adjoining properties and are suitably situated to the rear of the allotment well away from the internal living areas of adjacent dwellings.

Overshadowing

- 8 *The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to:*
- (a) windows of habitable rooms, particularly living areas*
 - (b) ground-level private open space*
 - (c) upper-level private balconies that provide the primary open space area for any dwelling*
 - (d) access to solar energy.*

- 10 *Development should ensure that 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 9:00 am and 5:00 pm on the 21 June.*
- 11 *Development should ensure that ground-level open space of existing buildings receives direct sunlight for a minimum of two hours between 9.00 am and 3.00 pm on 21 June to at least the smaller of the following:*
(a) half of this space
(b) 35 square metres of this space (with at least one of the area's dimensions measuring 2.5 metres).
In cases where overshadowing already exceeds these requirements, development must not increase the overshadowed area.

The upper level rear setback of Dwelling 1 which is proposed at 5.0 metres, falls considerably short of the 8.0 metre minimum standard, and given this setback relates to a rear southern boundary the level of overshadowing over the rear yard is thought to increase substantially throughout the winter months.

However, when calculating the shadow projections at midday (at midwinter), surprisingly, the impact beyond the proposed site area appears relatively minor, only extending marginally above and beyond what would ordinarily be produced by the anticipated boundary fence alone, which can be built, as of right, up to 2.1metres without consent from Council.

To this end, only a small portion of the private open space area associated with Dwelling 2 is likely to be affected if at all, whereas, all north facing habitable room windows, roof areas and private open space areas of both proposed dwellings on the same site and existing dwellings on neighbouring land to the east and west will be unaffected.

Given the single storey nature of Dwellings 2 and 3 to the rear, the topography of the land where these dwellings comprise more cut than fill and the level of separation achieved between the subject dwellings and private yard areas, impacts with respect to the overshadowing of adjoining properties from these dwellings are considered negligible.

For these reasons, the proposal is considered to accord sufficiently with the above provisions.

Garages, Carports and Outbuildings

- 12 *Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complement the associated dwelling.*
- 13 *Garages and carports facing the street should not dominate the streetscape.*
- 14 *Double carports or garages clearly visible to streets should be designed to reduce the apparent total width of the doorway, which should be no wider in dimension than 50 per cent of the frontage of the allotment.*
- 20 *Carports and garages should be setback from road and building frontages so as to:*
(a) contribute to the desired character of the area
(b) not adversely impact on the safety of road users
(c) provide safe entry and exit
(d) not dominate the appearance of dwellings from the street.

Dwelling 1 which faces directly to Plymouth Avenue, features an open sided single width carport (less than 20% of the total frontage width), incorporates a hipped/gabled roof design similar to the associated dwelling, situated 0.7 metres back behind the front wall of the associated dwelling, some 6.7 metres from the front property boundary. To this end the carport is unlikely to dominate the streetscape.

The carports associated with Dwellings 2 and 3, to the rear of the subject land will not be readily visible from the front of the subject land and will have no impact on the existing streetscape.

Site Facilities and Storage

- 33 *Site facilities for group 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*
 - (c) *household waste and recyclable material storage areas away from dwellings*
 - (d) *external clothes drying areas, which are readily accessible to each dwelling and complement the development and streetscape character for dwellings which do not incorporate ground level private open space.*

All mail box facilities are sited adjacent the front boundary, close to the entrance to the site. Dwellings 2 and 3 (anticipated group dwellings) are designed and sited in a manner which allows them to function as independent dwellings, incorporating rear yards with gate access to permit the individual storage of bins, bicycle storage, etc. To this end, the provision of common facilities is not considered necessary.

On balance the proposal is considered to accord sufficiently with the above provision.

Visual Privacy

- 34 *Direct overlooking into habitable room windows and onto the useable private open spaces of other dwellings from windows, especially from upper-level habitable rooms and external balconies, terraces and decks, should be minimised through the adoption of one or more of the following:*
- (a) *building layout*
 - (b) *location and design of windows and balconies*
 - (c) *screening devices*
 - (d) *landscaping*
 - (e) *adequate separation.*
- 35 *Permanently fixed external screening devices should be designed and coloured to blend with the associated building's external material and finishes.*

All upper level windows associated with Dwelling 1 and any associated upper level balconies that do not face directly towards Plymouth Avenue are sufficiently screened to ensure privacy of dwellings' habitable room windows and any usable private open space areas maintained.

Dwellings 2 and 3 are located on battleaxe allotments, and are single storey to maintain the privacy of adjoining residential properties.

Noise

- 39 *External noise and light intrusion to 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.*
- 40 *Attached dwellings should be designed to protect habitable rooms from possible noise intrusion by minimising the transmission of sound between dwellings and ensuring that bedrooms in one dwelling do not share a wall with the living room or garage of the attached dwelling.*

Dwelling 2 incorporates bedroom windows on the front façade, sited adjacent the common driveway. These windows are generally facing the side boundary away from any direct headlights, and whilst there is likely to be some noise intrusion from passing vehicles accessing Dwelling 3, the level of separation is acceptable given the nature of the proposal and dimensional limitations of the site.

Dwelling 3 features the main living area on the front façade adjacent the end of the common driveway, whereas, the bedrooms will be located facing the opposite boundary. Furthermore,

Dwelling 3 is located at the end of the driveway and is less likely to be affected by vehicles accessing other parking areas.

Whilst the dwellings are not attached, it is worth noting that sufficient separation between bedrooms in one dwelling and neighbouring parking and private open space areas is provided.

Given the above the proposal is considered to accord sufficiently with the above provisions.

Access

- 41 *Driveway crossovers should be appropriately separated, and the number should be minimised to optimise the provision of on-street visitor parking.*
- 42 *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.
- 43 *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.*
- 49 *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 and for first 6 metres excluding access points onto arterial roads (metres)	Width at front property boundary and for first 6 metres for access points onto arterial roads (metres)	Width beyond first 6 metres (metres)	Widening required for passing	Minimum landscaped strip either side of driveway (metres)
1-2	3	6	3	N/A	0.5

In respect to Principle 42 above, Dwelling 1 will be provided with a newly constructed separate 2.5 metre wide driveway along the western side of the subject land thereby complying with the minimum 3.0 metre width prescribed by Principle 42(a).

In respect to Principle 49, the driveway leading to the rear of the subject land servicing Dwellings 2 and 3 will measure 3 metres in width at the entrance and also provides for an extra 500 mm wide strip of landscaping along the eastern side of the driveway for the length of the driveway, and garden bed areas on the western side surrounding the vehicle turning/manoeuvring areas. Vehicle turning areas are sufficient to allow vehicles the ability to enter and leave the site in a forward direction.

An inspection of the land confirms that one driveway is already in place (eastern side) whilst the second driveway to be constructed in relation to Dwelling 1 is sufficiently clear of any street trees or infrastructure.

Overall, the driveways and access crossovers have all been deemed to be acceptable by Council's Engineering Department.

Car Parking

- 44 *On-site 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 needs 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 (e.g. an increase in number of driveway crossovers).*
- 45 *Parking areas servicing more than one dwelling should be of a size and location to:*
(a) *serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely*
(b) *provide adequate space for vehicles to manoeuvre between the street and the parking area*
(c) *reinforce or contribute to attractive streetscapes.*
- 46 *On-site visitor parking spaces for group and multiple dwellings and residential flat buildings should be sited and designed to:*
(a) *serve users efficiently and safely*
(b) *not dominate internal site layout*
(c) *be clearly defined as visitor spaces not specifically associated with any particular dwelling*
(d) *ensure they are not sited behind locked garages and are accessible to visitors at all times.*

The proposed dwellings all provide the required number of on-site parking spaces prescribed for dwellings comprising up to three bedrooms, with each providing 1 under cover and 1 visitor parking space for a total of 2 on-site spaces per dwelling.

DESIGN & APPEARANCE:

- 2 *Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.*
- 3 *Buildings should be designed to reduce their visual bulk and provide visual interest through design elements such as:*
(a) *articulation*
(b) *colour and detailing*
(c) *small vertical and horizontal components*
(d) *design and placing of windows*
(e) *variations to facades.*
- 15 *Balconies should:*
(a) *be integrated with the overall architectural form and detail of the building*
(b) *be sited to face predominantly north, east or west to provide solar access*
(c) *have a minimum area of 2 square metres.*
- (General Section: Residential Development: Design and Appearance)*
- 5 *Where a dwelling has direct frontage to a street the dwelling should be designed to provide surveillance and address the street.*
- 7 *The design of residential flat buildings should:*
(a) *define individual dwellings in the external appearance of the building*
(b) *provide transitional space around the entry*
(c) *ensure building entrances provide shelter, are visible and easily identifiable from the street.*

The two-storey dwelling (Dwelling 1) incorporates three distinct materials/design elements in the façade, including half render and face brick through the front elevation. This is offset by the raised vertical rendered columns, as well as a parapet/portico and balcony structure, that will wrap around the east side elevation adjacent the common driveway and across a portion of the front façade where it forms both a verandah and portico over the main entrance of the dwelling. The roof will be a tiled/hipped design, set at an approximate 22.5 degrees with 450mm eave overhangs.

Notwithstanding the structural basis of Dwelling 1 is somewhat 'boxy', the generous level of separation from the each side boundary, and the use of different materials and design elements in the external finish, including balcony/portico, well-proportioned upper level windows and eave overhangs, sufficiently minimises the visual bulk and scale of the two-storey walls.

For these reasons the proposal achieves sufficient compliance with the provisions relating to design and appearance.

ENERGY EFFICIENCY:

- 1 *Development should provide for efficient solar access to buildings and open space all year around.*
- 2 *Buildings should be sited and designed so that the open spaces associated with the main activity areas face north for exposure to winter sun.*
- 3 *Buildings should be sited and designed to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings.*
- 4 *Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.*

The proposed dwellings all provide a hipped roof design with areas of roofing facing in either a northern or westerly orientation to allow for the installation of solar hot water services and or photovoltaic cells as required by Principle 4.

All dwellings incorporate eaves which provide a 450 millimetre overhang above windows which will assist with reduced heat loads during the summer months without requiring additional screening or tinting.

LANDSCAPING, FENCES & WALLS:

- 1 *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.*
- 5 *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.*

The proposed development includes the provision of additional landscaping comprising the inclusion of narrow vegetated strips along both sides of the two proposed driveways, and to the front/side and rear yard areas of all three dwellings.

The proposed landscaping is well dimensioned comprising a combination of small trees and medium to low level forms of vegetation. It is considered that once established, the proposed landscaping will help to break up the hard surface paving within the proposed driveway areas and will greatly enhance the appearance of the subject land.

As there are no front fences proposed as part of this application, clear lines of sight will be maintained for the benefit of future residents driving in and out of the individual driveways associated with each of the dwellings.

ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the proposed development reflects the low to medium density of development that is envisaged for Northern Policy Area 13. It has also been identified that the subject land is situated in close proximity to existing public transport links and within close walking distance to a small group of nearby shops. Given this, 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 acceptable building setbacks from adjoining properties, suitable areas of private open space and sufficient provision for at least two on-site car parking spaces per dwelling for use by both occupants and visitors to the site.

Where shortfalls have been identified with the proposed development, they have been found to have minor repercussions without having a detrimental impact on the function/amenity of the proposed or existing dwellings on neighbouring land.

The locality contains both single and two storey detached and semi-detached dwellings including some existing "hammerhead" allotments as exhibited to the north and south of the subject land. As such, it is considered that the proposal exhibits a similar density and pattern of development to that generally exhibited within the locality. Given this, the proposed development should not look out of place, nor detract from the low to medium density residential character which generally prevails within this area of Sturt.

For these reasons, 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 warrants Development Plan Consent subject to the deposit of the Plan of Division with the Lands Titles Office, in accordance with the judgement of Judge Cole in *Paor & Anor v City of Marion* [2014] SAERDC 42.

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; and
- (c) That Development Plan Consent for Development Application No: 100/2013/1250 for the construction a two storey dwelling and two single storey dwellings to the rear in a hammer head configuration with associated driveways parking and landscaping at 10 Plymouth Avenue, Sturt be sub-delegated to the Manager Development Services, pending deposit of the Plan of Division with the Lands Titles Office, 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. 100/2013/1250, being drawing number/revision(s) 13622 -01B and plans titled "Site Plans and Elevations", prepared by Carumag, received by Council on 12/5/2014, and plans titled "Drainage Plan" prepared by TMK Consulting Engineers, received by Council on 12/5/2014, except when varied by the following conditions of consent.
2. Stormwater from all structures approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's Information Sheet "Stormwater Detention" to the reasonable satisfaction of the Council (copies of relevant documents are attached).
3. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
4. The portion of the upper floor windows associated with Residence 1, to bedroom 2, the en-suite (south elevation) and the upper level balcony (east elevation) 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).
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 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. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).
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

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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No: DAP051114 – 3.13

Originating Officer: Joanne Reid
Development Officer - Planning

Applicant: Mr Raj Gounder

Development Description: A residential flat building, comprising three dwellings and removal of a significant tree (WA Willow Myrtle - Agonis Flexuosa)

Site Location: 121 Sturt Road, Dover Gardens

Zone: Residential Zone

Policy Area: Northern Policy Area 13

Application Type: Category 1 / Consent

Lodgement Date: 07/05/2014

Development Plan: Consolidated – 13 March 2014

Application No: 100/2014/749

Recommendation: Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: 2(a)(i)&(ii)) of the Development Regulations 2008, which assigns the construction of single storey dwellings as Category 1 development.

The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed new dwellings supporting an allotment area less than the minimum of 300 square metres required for Residential Flat dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

BACKGROUND

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

Amendments Requested	Amendments Made
Increase front setback to meet Principle 25 (Design and Appearance) to be the same as one of the adjacent buildings.	Front setback increased from 5m to 6.5m, in line with the adjacent dwelling to the west

Provide POS that meets the Development Plan requirement and meets the likely needs of the occupants.	POS for Dwelling 1 increased from 36m ² to 41m ² and dwelling altered from 3 bedrooms to 2 bedrooms. Dwelling 2 amended from 3 bedroom to 2 bedroom for POS to better suit likely occupant needs.
Amend Dwelling 3 to meet rear setback requirements of 6m with a 3m incursion for no more than 50% of the rear boundary.	Rear setback for Dwelling 3 increased from 900mm to 5.1m with a 3m incursion.
Provide a raised splitter island to limit vehicle access to left in/left out movements to satisfy DPTI.	Raised splitter island provided at driveway entrance.
External visitor spaces of Dwellings 1 and 2 did not provide a depth to accommodate vehicle.	Depth of visitor spaces increased to 5.5m to satisfy parking dimensions.
Increase finished floor levels by 200mm to be above 1 in 100 year flood level.	Finished floor level raised by 200mm to 100.4

SUBJECT LAND & LOCALITY

The subject site is located at 121 Sturt Road in Dover Gardens. It is a rectangular allotment with a frontage width of 19.9m and a depth of 42.06m, which equates to a total site area of approximately 837m².

A single storey detached dwelling and outbuilding currently exists on the site. The land does not display any discernable slope. There is a Significant tree located at the front of the site, a WA Willow Myrtle, which displays signs that the tree is not in the best physical condition. Other trees located at the rear of the site are not Significant or Regulated Trees.

The locality comprises a mixture of dwelling types. Whilst a large proportion of the existing dwelling stock still remains, redevelopment within the area has taken the form of group dwellings to the west of the subject site, and row dwellings and detached dwellings on smaller allotments to the east, past Winchester Street. The sites to the east of Winchester Street are located within Regeneration Policy Area 16. On the other side of Sturt Road, directly opposite the subject site the sites are located in Residential Northern Policy Area 13.

The site is situated approximately 600m from Westfield Marion and is sited directly adjacent a bus stop which services buses to Westfield Marion, Adelaide CBD, Brighton and Flinders University.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The development involves the proposed construction of a single storey residential flat building comprising three dwellings with shared common accessway and landscaping.

Dwellings 1 and 2 incorporate two bedrooms, open plan kitchen/living/dining and associated wet areas. Dwelling 3 provides an additional bedroom with an ensuite and walk-in-robe.

The proposed access will be located on the same side as the existing access, although it will be widened for safe and convenient movement off the arterial road.

The dwellings will be constructed of brick with a render applied to the façade of each dwelling. The roof will be clad in colorbond at a 22.5 degree pitch.

Refer Attachment III

GOVERNMENT AGENCY REFERRAL

Department of Planning, Transport & Infrastructure:	<ul style="list-style-type: none">• The site is located an arterial road and directly opposite a median break that serves Struan Avenue.• There is no location on the property frontage that would be consistent with Figure 3.1 in AS/NZS 2890.1:2004 – Prohibited locations of access driveways, therefore DPTI's strong preference is for the proposed access to be physically restricted to left-in/left-out movements in order to minimise the risk of vehicular conflict resulting from right turning movements to/from the access point.• The amended plans show a splitter island consistent with the previous comments; however they do not show how the access is proposed to match into the kerbline.• It is recommended that this be via separate crossovers that are each angled at 70 degrees to the road.• It appears that the amended access will allow for simultaneous two-way movements of passenger vehicles and whilst the garages have been moved to the west, it appears that vehicles parked in front of the garages will be able to manoeuvre on-site and exit in a forward direction, albeit that they may have to make multiple point turns to do so.• Council should be satisfied that sufficient on-site car parking is provided. On-street car parking adjacent the site is restricted by the presence of a PM peak bike lane, a bus stop and a pedestrian invert with refuge.• Access arrangements and shared areas required for driveways and manoeuvring will need to be formalised by the provision of common property or rights of way at the land division stage, ensuring that all residents have a legal right to utilise the access and manoeuvring areas.• DPTI does not object in-principle to the application as amended, subject to conditions (as stated in Attachment VI).
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Refer Attachment IV

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>The proposal satisfies the requirements for vehicle manoeuvring provided the landscape strip incorporates ground covers only.</p> <p>Finished floor levels should be 100.4 to be above the 1 in 100 year flood level and this should allow paving levels to be raised to avoid need for a sump/pump.</p>
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ZONE & POLICY AREA ASSESSMENT

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

Residential Zone		
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
Northern Policy Area 13		
<p>Objectives</p> <p>1 A policy area primarily accommodating low scale, low to medium density housing. 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities. 3 Development that contributes to the desired character of the policy area.</p>		
<p>Desired Character</p> <p>The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.</p> <p>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building ▪ row dwelling ▪ semi-detached dwelling ▪ supported accommodation. 	Complies
PDC 3	<p>Minimum Site Area: 300m² average</p>	<p>Does Not Comply Dwelling 1 – 230m² Dwelling 2 – 157.4m² Dwelling 3 – 202m² 196.5m² Average</p>
	<p>Minimum Frontage: 20m</p>	<p>Complies 20m</p>
	<p>Minimum Depth: 45m</p>	<p>Does Not Comply 42.06m</p>

Assessment

The proposed development is considered to be characterised as low to medium density housing and replaces one dwelling in fair condition with three dwellings, thereby representing an increase in density sought by the Desired Character Statement.

It is noted that a significant tree is proposed to be removed as part of the application. However, the tree has been assessed as having poor structure, demonstrating that it is not a tree at the peak of its condition. Council's arborist has deemed it acceptable for the tree to be removed.

It is acknowledged that site area for each of the dwellings falls short of meeting the average site area of 300m² minimum requirement specified in the Development Plan by approximately 103.5m². This method of calculating site area has been employed in accordance with Principle 8 in the General Section: Land Division which states:

Allotments in the form of a battleaxe configuration should:

(a) 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).

Whilst this appears to be a significant departure from the Development Plan, when the driveway is included in the calculations, the dwellings maintain an average site area of 279m², which is closer to the required total, albeit, still a shortfall.

However, I am of the view that there is merit in accepting the density proposed with regard being had for the following:

1. The site is located less than 1km away from a Regional Centre, maintains easy access to public transport, being situated next to a bus stop, and is located in close proximity to the Warradale Park Reserve which incorporates open space and recreational facilities. Objective 1 of the Residential Zone encourages increased densities in close proximity to centres, public transport routes and public open spaces.
2. Each of the dwellings are relatively modest in size, with two of the three dwellings offering two bedrooms and the other offering three bedrooms, thereby providing a mix of dwelling types appealing to different demographics. An increase in the range of dwelling types to meet a variety of accommodation needs is an outcome contemplated within the Desired Character Statement. A reduction in the number of dwellings to two is likely to result in two larger dwellings with a high probability that the dwellings' would incorporate similar floor plans.
3. In terms of the total site area, the site would numerically be able to accommodate three row dwellings, however, the site displays a shortfall in frontage for this to occur as well as being on a main arterial road. Notwithstanding that row dwellings are considered a more efficient use of land (i.e. land is available for the exclusive use of each dwelling with no 'wasted' land for use of the common driveway) it does demonstrate that three dwellings on a site this size is a density contemplated within the Policy Area. Further, the layout proposed is considered appropriate for the locality as the provision of a common driveway enables vehicles to enter and exit in a forward direction, which is requirement sought by DPTI.
4. The Regeneration Policy Area is located one street over (80m) to the east of the subject site, where significantly higher densities are sought. To the west of the subject site are two, group dwelling developments containing 10 and 6 dwellings respectively. The proposal is characteristic of the medium density development in the immediate vicinity of the site and on the southern side of Sturt Road and will not appear out of place within the context of its setting.

5. The dwellings' ability to meet the relevant Development Plan requirements is considered acceptable.

It is acknowledged that the site does fall 3m short in the site depth, however it will be determined, throughout the report that the dwellings are provided with adequate site coverage, setbacks and POS to meet the likely needs of the occupants.

To this end, it is my opinion that the proposal displays sufficient merit to suggest that the shortfall in site area is not fatal in its assessment and warrants further consideration against the remaining quantitative and qualitative provisions of the Development Plan.

DEVELOPMENT ASSESSMENT

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

Principles of Development Control

Assessment

Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Does Not Comply Dwelling 1 – 40.4% Dwelling 2 – 53.6% Dwelling 3 – 60.6%</p> <p>Total site area inclusive of driveway – 37%</p> <p>The site coverage of the dwellings exceeds the 40% requirement by 0.4% for Dwelling 1, 13.6% for Dwelling 2 and 20.6% for Dwelling 3. Whilst for Dwellings 2 and 3, the excess site coverage appears to be substantial, when taking the total site into consideration, the site coverage, inclusive of the driveway, equates to 38% and therefore within the standards of the Development Plan.</p> <p>Further, given that the dwellings provide sufficient private open space and are relatively compliant in setbacks, this is not considered to be critical to the merits of the proposal.</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i> (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><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies Each dwelling is considered to be afforded with sufficient space for domestic storage, clothes drying, rainwater tanks and bins to serve the likely needs of the occupant.</p>

Private Open Space

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

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

General Section: Residential Development: PDC 15

Partially Complies

All dwellings provide POS at ground level and directly accessed from habitable rooms of the dwellings. The areas are adequately separated from bedrooms, maintain the privacy of adjoining properties and are considered to be functional areas.

Dwellings 1 and 2 are north facing and will receive sunlight during the winter months, however Dwelling 3's area will be overshadowed by the dwelling and associated fencing, although, this is an unfortunate limitation of the site's orientation and having the POS to the rear of the dwelling.

Site area less than 250 m²:

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

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

General Section: Residential Development: PDC 17

Complies

Dwelling 1 – 41.5m² (21%)
Dwelling 2 – 42.9m² (22%)
Dwelling 3 – 90.33 (46%)

Each dwelling provides an area with a minimum dimension of 4m x 4m with a maximum gradient of 1-in-10.

Street Setbacks

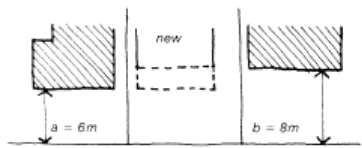
Except in areas where a new character is desired, the setback of buildings from public roads should:

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

General Section: Design and Appearance: PDC 23

Complies

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

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

General Section: Design and Appearance: PDC 25

Complies

Adjacent dwelling to west 6.5m
Adjacent dwelling to east 8.5m (approx.)

Proposed setback - 6.5m

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

The setback of the habitable rooms is considered adequate to provide visual privacy to occupants.

Side Setbacks	
<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>Complies Dwelling 1 – 2.5m minimum Dwelling 2 – 3.46m minimum Dwelling 3 – 1m minimum</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i> (a) <i>the visual impact of the building as viewed from adjacent properties</i> (b) <i>overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies The single storey nature of the dwellings and the setbacks proposed are considered to be sufficient such that they are unlikely to cause unreasonable visual or overshadowing impacts upon adjacent dwellings.</p>
Rear Setbacks	
<p><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Does Not Comply Dwellings 1 and 2 abut the wall of the adjoining dwelling.</p>
<p><i>Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:</i> (a) <i>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> (b) <i>a minimum of 8 metres for two storey components of dwellings</i></p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p>Does Not Comply Dwelling 3 – 5m for 45% of the rear boundary with a 3m incursion for 26% of the rear boundary.</p> <p>Although the rear setback does not extend as far as 6m, the part of the dwelling that is as close as 3m is well below 50% of the rear boundary.</p> <p>Therefore, a 1m variation in the rear setback is not considered to result in unreasonable visual impacts when viewed from the adjoining properties given that for the majority of the rear boundary, the minimum setback is exceeded.</p>
Building Height	
<p><i>Maximum building height (from natural ground level):</i> 2 storeys of not more than 9 metres</p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies Single storey up to 4.5m.</p>
Garages, Carports and Outbuildings	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage:</i> 8 metres for a freestanding structure. 5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies The garages are not located so that they present to the primary street.</p>

<p>Carports and garages should be setback from road and building frontages so as to:</p> <p>(a) not adversely impact on the safety of road users</p> <p>(b) provide safe entry and exit.</p> <p>General Section: Residential Development: PDC 12</p>	<p>Complies</p>
<p>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</p> <p>General Section: Residential Development: PDC8</p>	<p>Complies</p> <p>Garages are located underneath the main roof and integrated with the dwelling.</p>
<p>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</p> <p>Residential Zone: PDC 6</p>	<p>Complies</p> <p>Garages will have limited exposure to the street frontage.</p>
<h2>Car Parking</h2>	
<p>Minimum number of on site car parking spaces (one of which should be covered) :</p> <p>2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</p> <p>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</p> <p>1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.</p> <p>Residential Zone: PDC 7</p>	<p>Complies</p> <p>Each dwelling provides one undercover space and one external visitor space in front.</p>
<p>On-site vehicle parking should be provided having regard to:</p> <p>(a) the number, nature and size of proposed dwellings</p> <p>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</p> <p>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</p> <p>(d) availability of on-street car parking</p> <p>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</p> <p>General Section: Transportation & Access: PDC 43</p>	<p>Complies</p>
<p>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</p> <p>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</p> <p>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</p> <p>(c) reinforce or contribute to attractive streetscapes.</p> <p>General Section: Transportation & Access: PDC 44</p>	<p>Complies</p>
<p>Ground level vehicle parking areas servicing multiple dwellings, including associated garages and carports (other than where located along a rear lane access way), should:</p> <p>(a) not face the primary street frontage</p> <p>(b) be located to the rear of buildings with access from a shared internal laneway</p> <p>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</p> <p>General Section: Transportation & Access: PDC 45</p>	<p>Complies</p> <p>All dwellings have their garages located behind the main face of Dwelling 1 and do not face the primary street.</p>
<p>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</p> <p>General Section: Land Division: PDC 22</p>	<p>Partially Complies</p> <p>Only one car park is available in front of the site, however, for only half a day in the morning.</p> <p>Two on-site car parks have been provided for each dwelling.</p>

Access

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

Complies

One vehicle access point has been provided to accommodate entrance and egress movements for vehicles associated with all three dwellings.

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 on to arterial roads	Width beyond first 6 metres	Widening required for passing	Minimum landscaped strip either side of driveway (metres)
3	6m	3m	Only if the driveway length is greater than 30 metres	0.5

General Section: Residential Development: PDC 41

Complies

The entrance width at the boundary is wider than 6m due to the DPTI requirement to provide a splitter island at the entrance for left-in/left-out movements.

A width in excess of 3m is provided for the driveway itself, plus a 0.5m landscape strip on the western side of 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) 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 dwellings are typical of new development in the locality, being constructed with face brick and the façade finished with render.

The roof is pitched and to be clad in colorbond. It is unlikely to result in glare or reflection to the extent that it will be a distraction to drivers or cyclists.

Where there are walls exposed to public view or adjacent properties, there are windows, doors or varying setbacks incorporated to negate any blankness in the wall.

The common roof line, although continuous, includes additional hips and valleys to vary the roof form and provide articulating elements to minimise the bulk.

To this end, the design and appearance of the dwellings is considered to meet the relevant provisions of the Development Plan.

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

Complies

The façade of Dwelling 1 presents to Sturt Road rather than the common access way and the entrances to each of the dwellings are considered to be easily identifiable, facing either the public street or the common accessway.

All living rooms have an outlook to the dwellings' private open space areas.

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 dwellings are single storey and Dwellings 1 and 2 are separated from both side boundaries a distance such that the dwellings will not cause unreasonable overshadowing to the eastern and western adjoining properties.

Dwelling 3, which is setback 1m from the eastern boundary, may overshadow a small portion of the adjoining land in the afternoon during the winter months. However, the majority of shadow is likely to be over the POS of the site itself and will not affect the adjoining property to such an extent that Principles 9 and 10 are not complied with.

Noise

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

General Section: Residential Development: PDC 26

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

General Section: Residential Development: PDC 27

Does not comply

Bedroom 2 of Dwelling 1 is located at the front of the dwelling which faces Sturt Road.

Although a fence or landscape buffering has not been provided, each of the front windows incorporate double glazing to minimise noise intrusion generated from vehicles on Sturt Road. I am of the view that this is an acceptable outcome.

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

All windows facing the common driveway are double glazed and setback from the common driveway to minimise noise transfer and vibration from the vehicles of other dwellings accessing the site.

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

Complies

There is sufficient space in front of Dwelling 1 to include a letter box facility for three dwellings.

The internal and outdoor space afforded to each of the dwellings is, in my view, sufficient to facilitate the storage of both personal items and household waste bins out of public view.

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

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

Partially Complies

Whilst Dwellings 1 and 2 have their POS with northern exposure for receipt of winter sunlight, the siting of Dwelling 3 is limited in this regard. The POS area of Dwelling 3 will succumb to shadow for the majority of the day during the winter months.

All three dwellings incorporate roofs with eaves 450mm overhang to assist in shading windows in summer and the pitched roofs will facilitate the installation of solar PVCs.

To this end, the development complies with some, but not all the Principles pertaining to Energy Efficiency.

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

Following a flood study recently undertaken by Council, records indicate that this site may be subject to inundation in a 1 in 100 year rain event.

The finished floor levels of the dwellings are located at the level recommended from Council's engineer to minimise risk of flooding into the dwellings and to allow a flow path to easily expel water from the site.

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 proposal plans show a landscaping strip is to be provided to the western side of the common driveway and to the eastern side where it will not affect vehicle manoeuvring.

The species proposed are low level shrubs so that vehicle movements are not impeded when reversing out of their respective car parking spaces.

Whilst it is noted that the development will include the removal of a significant tree in the front yard, the area will be re-planted with suitable, low maintenance species appropriate for the suburban garden.

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 proposal does not include the erection of fencing which would be deemed to be 'development' pursuant to Schedule 3 of the Development Regulations, 2008.

Significant Trees

Development should preserve the following attributes where a significant tree demonstrates at least one of the following attributes:

- (a) makes an important contribution to the character or amenity of the local area; or
- (b) is indigenous to the local area and its species is listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species
- (c) represents an important habitat for native fauna
- (d) is part of a wildlife corridor or a remnant area of native vegetation
- (e) is important to the maintenance of biodiversity in the local environment
- (f) forms a notable visual element to the landscape of the local area.

General Section: Significant Trees: PDC 1

Does Not Comply

The Significant Tree subject of this application is an Agonis Flexuosa, or Willow Myrtle. The species is native to Western Australia and is not part of a wildlife corridor or listed as a rare or endangered species.

The tree, in my view, appears to be lacking in vigour, with dead branches appearing in the foliage. The tree has a height of approximately 8m and although is situated in a prominent location at the front of the site, is unlikely to be seen from beyond the immediate vicinity of the site. The tree in my view, does not form a notable visual element nor is it considered to make an important contribution to the character or amenity of the local area.

The tree did not appear to represent an

	<p>important habitat for native fauna.</p> <p>As such, it is my opinion that the tree does not display any of the attributes listed in Principle 1 where the preservation of the tree should be ensured.</p>
<p><i>Significant trees should be preserved, and tree-damaging activity should not be undertaken, unless:</i></p> <p><i>(a) in the case of tree removal:</i></p> <p><i>(i) the tree is diseased and its life expectancy is short</i></p> <p><i>(ii) the tree represents an unacceptable risk to public or private safety</i></p> <p><i>(iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area</i></p> <p><i>(iv) the tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value</i></p> <p><i>(v) all other reasonable remedial treatments and measures have been determined to be ineffective</i></p> <p><i>(vi) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</i></p> <p><i>(b) in any other case, any of the following circumstances apply:</i></p> <p><i>(i) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree</i></p> <p><i>(ii) the work is required due to unacceptable risk to public or private safety</i></p> <p><i>(iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area</i></p> <p><i>(iv) the tree is shown to be causing or threatening to cause damage to a substantial building or structure of value</i></p> <p><i>(v) the aesthetic appearance and structural integrity of the tree is maintained</i></p> <p><i>(vi) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.</i></p> <p><i>General Section: Significant Trees: PDC 3</i></p>	<p>Complies</p> <p>Council's arborist has inspected the subject tree and is of the view that the tree is in reasonable condition but maintains a poor structure in the trunk with the scaffold branches crossing over each other.</p> <p>The trunk shows signs of included bark, increasing the potential for the tree to split.</p> <p>It is acknowledged that the presence of the tree would severely restrict the development to be undertaken in the form proposed.</p> <p>However, in my view, the tree is not considered to be in peak condition and displays some risk to the safety of occupants given its potential for the branches to split and fall.</p> <p>The tree's aesthetic appearance is not considered to have such appeal that it makes a significant contribution to the character and amenity of the locality or forms a notable landmark.</p>
<p><i>Land should not be divided or developed where the division or development would be likely to result in a substantial tree-damaging activity occurring to a significant tree.</i></p> <p><i>General Section: Significant Trees: PDC 5</i></p>	<p>To this end, the tree displays a substantial number of the characteristics identified in Principle 1 and Principle 3 of the Significant Trees section of the Development which makes the tree worthy of removal.</p>

ANALYSIS/CONCLUSION

The undersized nature of the development is not considered to inhibit the proposed dwellings to meet a majority of the Development Plan such as POS, setbacks, car parking and access.

The homes are functional and provide a range of dwelling types to meet a variety of accommodation needs, which is an outcome sought within the Desired Character of the Policy Areas.

In my view, the shortfalls, particularly relating to site area, site coverage and energy efficiency for Dwelling 3 are not so severe that they warrant refusal of the proposal.

Additionally, the significant tree is not considered to display characteristics that make it worthy of retention.

As a result of the above considerations, 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 warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/749 for a residential flat building, comprising three dwellings and removal of a significant tree (WA Willow Myrtle - *Agonis Flexuosa*) at 121 Sturt Road, Dover 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. 100/2014/749, being sheet numbers 1 of 3, 2 of 3 and 3 of 3 (inclusive) prepared by Softec Homes Pty Ltd, and received by Council on 24 October 2014, except when varied by the following conditions of consent.
2. The Sturt Road access shall be physically restricted to left-in/left-out movements only via the installation of a splitter island within the access, thereby reducing the risk of vehicular conflict at the Sturt Road/ Struan Avenue junction.
3. The Sturt Road access shall match into two crossovers that are each angled at 70 degrees to the road. The construction of these crossovers and reinstatement of any obsolete portion of the existing crossover to upright kerb and gutter shall be undertaken to Council standards at the applicant's cost.
4. All vehicles shall enter and exit the site in a forward direction.
5. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the arterial road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.
6. The landscaping strip along the western side boundary be planted with low level shrubs and be 500mm in width.
7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
8. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
9. 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.

10. 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

11. 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.
12. 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.
13. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
14. The windows on bedroom 2 and the dining room of Dwelling 1, bedrooms 1 and 2 of Dwelling 2 and bedroom 1 of Dwelling 3 shall be double glazed for sound attenuation purposes.
15. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.

NOTES

1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
2. All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system, to the reasonable satisfaction of the Council. (Acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).
3. 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.
4. 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.
5. 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 & Site Locality Plan</i> |
| <i>Attachment III:</i> | <i>Proposal Plan and supporting documentation</i> |
| <i>Attachment IV:</i> | <i>DPTI Comments</i> |

DEVELOPMENT ASSESSMENT PANEL

Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.14
Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Snooze Management Pty Ltd
Development Description:	Illuminated and non-illuminated fascia signage
Site Location:	816-820 Marion Road Marion
Zone:	Industry Zone
Policy Area:	Industry/Commerce Edwardstown Policy Area 5
Application Type:	Category 1 / Consent
Lodgement Date:	23/09/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1693
Recommendation:	Development Plan Consent (Granted)

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development by virtue of Schedule 9 of the Development Regulations 2008, as the proposed signage is considered to be of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.

The subject application requires determination by the Development Assessment Panel pursuant to the City of Marion Schedule of Delegations, as the proposal comprises an outdoor advertising sign comprises signage attached to a building or structure where the face of the advertising structure exceeds 10 m².

SUBJECT LAND & LOCALITY

The subject site is located at 816-820 Marion Road, Marion and relates to the building known as 'Tenancy 1', which is the northern side tenancy within the two tenancy building, both of which have land use approval for 'bulky goods' retail.

The locality consists of a range of commercial uses along Marion Road. Directly to the north and south of the site and continuing on further for several allotments are bulky goods/retail showroom outlets in operation. There is a wide variety of uses opposite the site, including Marion Council's City Services depot, a service trade premise, other retail, office and industrial uses.

The site adjoins residential uses to the rear including a group development comprising single and two storey dwellings.

Refer Attachment I & II

PROPOSED DEVELOPMENT

The applicant seeks to erect illuminated fascia signage attached to the parapet façade of the building in the form of the corporate logo of the tenant and promotional signage.

The sign proposed to be erected on the central parapet is 4.45m in width and 2.3m in depth, thereby maintaining a total area of 10.2m². The signage incorporates the word 'Snooze' in white lettering, with LED illuminated lighting installed to the inside of all lettering and a brown background.

Additional secondary signage is also proposed to be attached to the fascia either side of the central parapet, similar to a banner. The signage will display promotions and events and will be attached with tensioned elastic straps operated by a pulley system.

Refer Attachment III

ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Industry Zone and Industry/Commerce Policy Area 4 are listed in the following table and discussed in further detail below:

Industry Zone		
<i>PDC 7</i>	<i>Advertisements and advertising hoardings should not include any of the following:</i> <ul style="list-style-type: none"><i>(a) flashing or animated signs</i><i>(b) bunting, streamers, flags, or wind vanes</i><i>(c) roof-mounted advertisements projected above the roofline</i><i>(d) parapet-mounted advertisements projecting above the top of the parapet.</i>	Complies The proposed signage is attached to the fascia and will not extend beyond the parapet of the building. Although the signage incorporates illumination the signage will not flash or incorporate animation.

Industry/Commerce Policy Area 4

Objectives

- 1 A policy area accommodating a range of light and service industry, depots and commercial activities.*
- 2 Development having traffic generating characteristics and design so as to not compromise the arterial road function of Marion Road.*
- 3 A policy area where development minimises impacts on residential uses in adjoining zones, especially to the west of Marion Road.*
- 4 Development that contributes to the desired character of the policy area.*

Desired Character

It is intended that the policy area be consolidated and further developed with a mixture of small to medium-scale industry and commercial uses, preferably integrated within the one site. The environmental performance of new development needs to take account of the amenity of adjoining localities, by incorporating improved emission controls, management measures, building appearance treatments, landscaping and other design measures, to ensure minimal adverse impact.

The intensity, floor size, scale and height of development needs to provide for an appropriate transition to residential uses, with medium levels away from residential zoning and low levels in near proximity to residential zones.

Development is expected to promote attractive frontages and park-like settings to enhance the visual qualities and streetscape of the Marion Road corridor. Building styles may be varied and display high aesthetic qualities to enhance the visual character of the locality.

Principles of Development Control

- 1 The following forms of development are envisaged in the policy area:*
 - depot*
 - light industry*
 - service industry*
 - small-scale commercial activities*
 - warehousing.*

Assessment

The above Objectives, Desired Character statement and Principles provide little guidance for the assessment of the subject proposal. Having said this, the Desired Character Statement does specify that development is expected to promote attractive frontages to enhance the visual qualities and streetscape of the Marion Road Corridor.

However, the proposal's compliance with the 'General Section: Advertisements' provisions of the Development Plan will more appropriately determine if the development is consistent with this aspect of the Desired Character Statement.

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

Advertisements	
<p><i>The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:</i></p> <p><i>(a) consistent with the predominant character of the urban or rural landscape</i></p> <p><i>(b) in harmony with any buildings or sites of historic significance or heritage value in the area</i></p> <p><i>(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 1</i></p>	<p>Complies</p> <p>The size of the proposed illuminated signage is consistent with the approved signage for the site, however, the signage varies from the original approval due to the illuminated elements.</p> <p>Likewise, signage has previously been approved on the fascia that is to the side of the central parapet, with the main differences being that it is slightly longer, of a lightweight material and not directly abutting the wall.</p> <p>However, the size of both signs are consistent with signage on the other tenancies to the north of the building and in my view, the illumination of the central sign will not result in a disorderly or uncoordinated appearance when compared to the existing signage.</p> <p>The signage is considered to maintain a scale and design that will not appear out of character within the context of its setting and the wider locality.</p>
<p><i>The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:</i></p> <p><i>(a) clutter</i></p> <p><i>(b) disorder</i></p> <p><i>(c) untidiness of buildings and their surrounds</i></p> <p><i>(d) driver distraction.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 2</i></p>	<p>Complies</p> <p>There is only one signage attached to each fascia wall and therefore does not result in clutter, disorder or appear untidy in its display.</p> <p>The signs are a substantial distance from the road and it is unlikely to distract drivers from their primary task.</p>
<p><i>Buildings occupied by a number of tenants should exhibit co-ordinated and complementary advertisements and/or advertising hoardings to identify the tenants and their type of business.</i></p> <p style="text-align: right;"><i>General Section: Advertisements: PDC 3</i></p>	<p>Complies</p> <p>The signage maintains a consistent appearance in terms of its scale and design, with the three tenancies to the north of the site.</p> <p>The signage on the adjoining tenancy on the southern side, occupied by 'The Good Guys' is larger due to the tenancy exhibiting a wider frontage.</p> <p>It is therefore not expected that the proposed signage be coordinated in its design given that the scale of the buildings differ. The signage however, does display similarly in that it is situated centrally on the parapet of the building.</p>

<p><i>The content of advertisements should be limited to information relating to the legitimate use of the associated land.</i></p> <p><i>General Section: Advertisements: PDC 4</i></p>	<p>Complies</p> <p>The proposed signage is the company logo for the tenants who occupy a portion of the building. As such, the content of the signage is representative of the use of the site and the associated business.</p>
<p><i>Advertisements and/or advertising hoardings should:</i></p> <p><i>(a) be completely contained within the boundaries of the subject allotment</i></p> <p><i>(b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees</i></p> <p><i>(c) not obscure views to vistas or objects of high amenity value.</i></p> <p><i>General Section: Advertisements: PDC 5</i></p>	<p>Complies</p> <p>The proposed signage will not extend beyond the boundaries of the allotment, nor is likely to result in damage to landscaping or trees or obscure high amenity views or vistas.</p>
<p><i>Advertisements and/or advertising hoardings should not be erected on:</i></p> <p><i>(a) a public footpath or veranda post</i></p> <p><i>(b) a road, median strip or traffic island</i></p> <p><i>(c) a vehicle adapted and exhibited primarily as an advertisement</i></p> <p><i>(d) residential land.</i></p> <p><i>General Section: Advertisements: PDC 6</i></p>	<p>Complies</p> <p>The signage is to be erected on an existing commercial building which is not located on public land.</p>
<p><i>Advertisements and/or advertising hoardings attached to buildings should not be sited on the roof or higher than the walls of a building, unless the advertisement or advertising hoarding is appropriately designed to form an integrated and complementary extension of the existing building.</i></p> <p><i>General Section: Advertisements: PDC 7</i></p>	<p>Complies</p> <p>The sign will sit centrally on the existing parapet and not protrude higher than the roof of the building.</p>
<p><i>Advertisements and/or advertising hoardings erected on a veranda or that project from a building wall should:</i></p> <p><i>(a) have a minimum clearance above a footway of 2.5 metres to allow for safe and convenient pedestrian access</i></p> <p><i>(b) where erected on the side of a veranda, not exceed the width of the veranda or project from the veranda</i></p> <p><i>(c) where erected on the front of a veranda, be setback a minimum of 400 millimetres from the kerbline and not exceed the length of the veranda or project from the veranda</i></p> <p><i>(d) where projecting from a wall, have the edge of the advertisement or advertising hoarding abutting the surface of the wall.</i></p> <p><i>General Section: Advertisements: PDC 8</i></p>	<p>Complies</p> <p>The proposed signage will not project from the wall or be situated near the kerbline of the site.</p>
<p><i>Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.</i></p> <p><i>General Section: Advertisements: PDC 9</i></p>	<p>Complies</p> <p>The signage will not be silhouetted against the sky and will be contained within the architectural outline of the building.</p>
<p><i>Advertisements should be designed to conceal their supporting advertising hoarding from view.</i></p> <p><i>General Section: Advertisements: PDC 10</i></p>	<p>Complies</p> <p>The illuminated sign will abut the surface of the wall and all internal framing and attachments will be hidden from view by an acrylic panel in front of the structure.</p> <p>The supporting attachments associated with the secondary signage include small bolts attached to the wall. They are unlikely to be seen given that the signs are designed to be viewed from a distance at eye level and not when standing closer to the building's entrance.</p>
<p><i>Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.</i></p> <p><i>General Section: Advertisements: PDC 11</i></p>	<p>Complies</p> <p>The font proposed is considered to be clear, legible and appropriately identifies the business.</p>

<p><i>Advertisements which perform a secondary role in identifying the business, goods or services should only be readable in the immediate vicinity of the site.</i></p> <p><i>General Section: Advertisements: PDC 13</i></p>	<p>Complies</p> <p>The secondary promotional signage is attached to the front of the building and not the side, therefore it will only be seen while standing in front of the building and not much further beyond the car park of the site.</p>
<p>Safety</p> <p><i>Advertisements and/or advertising hoardings should not create a hazard by:</i></p> <p><i>(a) being so highly illuminated as to cause discomfort to an approaching driver, or to create difficulty in the driver's perception of the road or persons or objects on the road</i></p> <p><i>(b) being liable to interpretation by drivers as an official traffic sign, or convey to drivers information that might be confused with instructions given by traffic signals or other control devices, or impair the conspicuous nature of traffic signs or signals</i></p> <p><i>(c) distracting drivers from the primary driving task at a location especially where the demands on driver concentration are high</i></p> <p><i>(d) obscuring a driver's view of other road or rail vehicles at/or approaching level crossings, or of pedestrians or of features of the road that are potentially hazardous (eg junctions, bends, changes in width, traffic control devices).</i></p> <p><i>General Section: Advertisements: PDC 15</i></p>	<p>Complies</p> <p>The proposed signage is setback approximately 40m from the road frontage and will not be so highly illuminated that it is likely to cause discomfort or distraction to drivers, or interfere with traffic control devices on the adjacent road network.</p> <p>The signage will not flash or incorporate any animation that may distract drivers from their primary task.</p> <p>A condition that limits illumination to a brightness commensurate with the adjacent street lighting will be recommended as a condition of approval.</p>
<p><i>Advertisements should not be erected in positions close to existing electricity mains so that potentially hazardous situations are created.</i></p> <p><i>General Section: Advertisements: PDC 16</i></p>	<p>Complies</p> <p>The proposed signage is located a substantial distance away from electricity mains and will not pose a hazard in this regard.</p>
<p><i>Any internally illuminated advertising signs and/or advertising hoardings which utilise LED, LCD or other similar technologies should be located a minimum of 80 metres from traffic signals, level crossings and other important traffic control devices.</i></p> <p><i>General Section: Advertisements: PDC 17</i></p>	<p>Complies</p> <p>The signage is illuminated using LED lighting.</p> <p>The subject site is located approximately 360m from the closest signalised crossing to the north of the site and 690m to the closest traffic lights to the south and is therefore unlikely to cause confusion or distraction to drivers using this section of Marion Road.</p>
<p>Advertising along Arterial Roads</p> <p><i>Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.</i></p> <p><i>General Section: Advertisements: PDC 24</i></p>	<p>Complies</p> <p>The section of Marion Road, adjacent the subject site has a speed limit of 60km/hour.</p>

ANALYSIS/CONCLUSION

The proposed signage is considered to display consistency against the majority of Principles relating to Advertising in the Marion (Council) Development Plan.

It is my view, that the scale and type of signage proposed for the tenancy is consistent with other commercial premises in the locality, whilst not posing any undue distraction to motorists utilising Marion Road.

In addition to the above, it is also considered that the extent and level of advertising proposed to be orderly in nature without being too visually excessive in terms of the level of exposure that it provides beyond the boundaries of the site. The proposed signage to advertise the name of the business is clear and concise and the secondary signage does not create excessive proliferation on the building.

As such 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 warrants Development Plan Consent subject to conditions.

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan; and
- (c) That Development Plan Consent for Development Application No: 100/2014/1693 for Illuminated and non-illuminated fascia signage at 816-820 Marion Road, Marion 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. 100/2014/1693, except when varied by the following conditions of consent.
2. The advertisements and supporting structures shall be prepared and erected in a professional and workmanlike manner and maintained in good repair at all times, to the reasonable satisfaction of the Council.
3. The proposed signage shall not include any element that scrolls, flashes, moves or changes.
4. Lighting associated with the signs shall be of an intensity not exceeding lighting in adjacent public streets and that will not cause an unreasonable light overspill nuisance to adjacent occupiers, or be an undue distraction to motorists, to the reasonable satisfaction of Council.
5. The proposed signs shall be constructed wholly on the subject site and no part shall extend beyond the property boundaries.
6. The illumination of the sign shall be limited to a low level in order to minimise the impact of the sign on the safety and conspicuity of the adjacent traffic signals.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL
Wednesday 5 November 2014

APPLICATION

Agenda Ref No:	DAP051114 – 3.15
Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Qattro Built Pty Ltd
Development Description:	Variation to DA 2013/1806 (four, two-storey dwellings) to include face brick at lower level, deletion of alfresco and amendment to balcony
Site Location:	1 Larkdale Avenue, Marion
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 1 / Consent
Lodgement Date:	29/08/2014
Development Plan:	Consolidated – 13 March 2014
Application No:	100/2014/1514
Recommendation:	Development Plan Consent (Granted)

BACKGROUND

The subject proposal was previously presented to the Development Assessment Panel (DAP) at the meeting held on 18 June 2014 and the Panel resolved to grant Development Plan Consent subject to 13 conditions.

Refer Attachment I

The original report, plans and attachments can be found in the Member's agenda from the 18 June 2014 meeting, or by contacting the author of this report.

The applicants have sought to vary the original application and have lodged an application which incorporates the following amendments to the previous proposal:

- Rendered finish on lower storey replaced with face brick;
- Balconies to the rear removed and replaced with Juliet balconies; and
- Alfrescos deleted from plan.

Refer Attachment II

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

Amendments Requested	Amendments Made
Provide clear windows in lieu of obscured windows to bedroom 3 on the upper level to maintain passive surveillance over the reserve and provide alternative treatments to restrict overlooking to adjoining properties at 1A and 3 Larkdale Avenue.	Windows amended to provide clear glazing and extra length provided to northern side (Residence 1) and southern side (Residence 4) walls next to bedroom 3 to restrict side views to adjoining properties.

DEVELOPMENT ASSESSMENT

The variation application does not propose to alter the number of dwellings or the building footprint of the main dwelling, therefore the assessment relating to floor area ratio, private open space, setbacks and car parking has not been altered.

The proposed amendments to the application have been assessed against the relevant provisions of the Development Plan that require reconsideration as a result of the variations.

Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Complies Residence 1 – 37.5% Residence 4 – 36.9%</p> <p>Does not comply Residence 2 and 3 – 43.7%</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <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> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies</p> <p>Adequate space is available for the provision of domestic storage, clothes drying areas, rainwater tanks, bin storage and private open space.</p>

Assessment

The removal of the alfrescos has resulted in a reduction in site coverage of 4.8% for Residence 1 and 4.7% for Residence 4, both of which now comply with the quantitative requirement for site coverage.

Site coverage for Residences 2 and 3 has reduced by 5.6% and now only marginally exceeds the 40% requirement.

It was concluded in the previous assessment that although site coverage exceeded the Development Plan requirement for all 4 dwellings, site coverage was acceptable given that the dwellings maintained satisfactory setbacks and private open space.

Therefore, the variation to delete the alfresco from the plans is considered minor and inconsequential to the overall development given that it results in greater compliance with the Development Plan with respect to site coverage.

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

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

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 incorporation of face brick to the lower storey is not considered to be detrimental to the development, and in my view, enhances the façade by increasing the variation of materials which improves the articulation and visual interest.

The replacement of the balcony with a Juliet balcony, whilst, in my view reduces the function of the dwelling, does not significantly alter the appearance on this side as the balcony still incorporates balustrading as a feature element and which is integrated with the dwelling's design.

It is noted that the sliding doors still remain, providing the opportunity for occupants to add a balcony in future.

Likewise, although the removal of the alfresco eliminates the provision of an undercover area that will complement each dwelling, this will not significantly detract from the overall appearance of the dwellings.

To this end, it is not considered that these variations contravene the relevant Design and Appearance principles of the Development Plan and are therefore acceptable amendments to the proposal.

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 removal of the balconies, particularly for Residence 1 and 4, will decrease the depth of the building by 1m which will result in a minor reduction in the extent of shadow over the adjoining properties to the north and south.

As the overshadowing was considered to satisfy Principles 9 and 10 under the previous proposal and given that this results in an improved situation, the proposed amendment is considered to be acceptable.

Visual Privacy

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

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

General Section: Design & Appearance: PDC 12

Complies

The balcony proposed on the previous application incorporated a powder coated slat privacy screen to the northern side of Residence 1 and the southern side of Residence 4 which extended 600mm past the balcony.

The proposed variation now incorporates an extension of the northern and southern side wall an additional 700mm past the upper storey of the dwelling to restrict side views to the adjoining properties at 1A and 3 Larkdale Avenue.

This screening measure provides greater protection of privacy as occupants are likely to be standing slightly back from the opening as opposed to a balcony where occupants are able to come to the edge.

With the removal of the alfrescos, views from the upper storey balconies of the proposed dwellings are likely to be greater into the POS areas of each proposed yard.

However, in my view, future occupants will be willing to trade off a small reduction in privacy for the open views gained over the reserve.

The proposal, in my view, is therefore satisfactory in relation to addressing the Principle 12 relating to visual privacy.

ANALYSIS/CONCLUSION

Although the proposed variations have eliminated beneficial elements of the dwellings by removing the balconies and the alfrescos, the proposed dwellings are still considered to be functional, provide an acceptable level of surveillance over the reserve and will not have unreasonable impacts on the existing adjacent dwellings.

The alteration to the front façade by adding brick as another material is considered to add variation to the presentation and enhance the visual appearance of the dwelling.

As a result of the above considerations, 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 warrants Development Plan Consent subject to conditions.

RECOMMENDATION

- (a) The Panel note this report, have considered all relevant planning matters and concurs with the findings and reasons for the recommendation;**
- (b) The proposed development is not seriously at variance to the Marion Council Development Plan; and**
- (c) That Development Plan Consent for Development Application No: 100/2014/1514 for Variation to DA 2013/1806 (four, two-storey dwellings) to include face brick at lower level, deletion of alfresco and amendment to balcony at 1 Larkdale Avenue, Marion 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. 100/2013/1806, being drawing number 01 of 09 to 09 of 09 (inclusive) prepared by Qattro, and documentation received 7 October 2014, except when varied by the following conditions of consent.**
- 2. Screening shall be provided to the window of 'Bedroom 3' to restrict side views to both the northern side for Residence 1 and to the southern side of Residence 4, prior to the occupation of the dwelling, and shall be maintained for the life of the development, to the reasonable satisfaction of Council.**
- 3. The width of the driveway at the property boundary shall be no greater than 3m.**
- 4. A fully engineered site works plan detailing top of kerb level, proposed finished floor levels, any cut/fill and/or retaining walls proposed, shall be provided to Council for consideration and approval, prior to Development Approval being issued.**
- 5. Stormwater from all structures approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's Information Sheet "Stormwater Detention" to the reasonable satisfaction of the Council (copies of relevant documents are attached).**
- 6. All 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 Council.**
- 7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.**
- 8. The portion of the upper floor windows to northern and southern elevations of all dwellings 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).**

9. 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.
10. 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.
11. 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.
12. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
13. 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. 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. 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.
4. 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.
5. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.

Attachments

Attachment I: Aerial Photograph/Site Locality Plan
Attachment II: Proposal Plans and Supporting Documentation