

**DEVELOPMENT ASSESSMENT PANEL  
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WEDNESDAY 15 APRIL 2015**

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## **DEVELOPMENT ASSESSMENT PANEL**

### **Wednesday 15 April 2015**

<b>Agenda Ref No:</b>	<b>DAP150415 – 3.1</b>
<b>Originating Officer:</b>	<b>Emily Nankivell Acting Team Leader - Planning</b>
<b>Applicant:</b>	<b>Mr John Majeric</b>
<b>Development Description:</b>	<b>Three, two storey row dwellings, one of which (Dwelling 3) incorporates a garage wall on the southern boundary, swimming pool and associated fencing</b>
<b>Site Location:</b>	<b>17 Whiteleaf Crescent GLENGOWRIE</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Northern Policy Area 13</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2015/410</b>
<b>Recommendation:</b>	<b>Development Plan Consent GRANTED</b>

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### **BACKGROUND**

At its meeting of the 10 December 2014 the Development Assessment Panel considered development application 100/1430/2014 for a similar proposal at the same property address. Please refer to the 10 December 2014 minutes for full details of this application. The previous application was a category 1 form of Development. At the 10 December meeting the panel resolved:

**That Development Plan Consent for Development Application No: 100/2014/1430 for three, two storey row dwellings at 17 Whiteleaf Crescent, Glengowrie be sub-delegated to the Manager – Development Services following the deposit of the Plan of Division (for Land Division 100/D129/14) with the Lands Titles Office and subject to the following conditions:**

The applicant has now formally withdrawn this application and lodged a new application for a similar proposal now presented to the Panel for its consideration.

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.

## **SUBJECT LAND & LOCALITY**

The subject land is located at 17 (Lot 53) Whiteleaf Crescent, Glengowrie, at the south-western corner with the intersection of St Peters Way.

The land is somewhat square in shape, with a frontage to Whiteleaf Crescent of 25.96 metres (excluding the corner cut-off), a frontage to St Peters Way of 18.29 metres (excluding the corner cut-off) and a total site area of 763 square metres.

An existing single storey dwelling exists on the land. This building is in good condition and presents to St Peters Way. Landscaping of reasonable quality and varying heights is scattered throughout the property; none of which is classified as Regulated or Significant pursuant to the Development Act and Regulations.

The locality comprises a mix of the original housing stock constructed between 1950 and 1960, and more recently constructed single and double storey semi-detached and row dwellings.

The Hazelmere Reserve (and 'dog park') is situated some 250 metres south-east of the land. The boundary between the City of Marion and City of Holdfast Bay is situated 80 metres west of the land, running in a north-south direction. Diagonal Road is located approximately 200 metres west of the site.

*Refer Attachments I & II*

## **PROPOSED DEVELOPMENT**

The application proposes to construct three, two-storey row dwellings; all incorporating a primary frontage to Whiteleaf Crescent.

All three dwellings incorporate undercover parking, typical wet areas and an open plan kitchen/living/dining area on the ground floor, with Dwelling 3 also comprising a study. Dwelling 1 incorporates a double carport with a wall on the south-east boundary, dwelling 2 incorporates a double garage and dwelling 3 incorporates a double carport with an open side adjoining the south-west boundary.

On the upper floor, all three dwellings incorporate three bedrooms (main with ensuite and WIR) and bathroom, with Dwelling 3 incorporating a rumpus room and associated balcony.

Dwelling 3 includes a swimming pool located towards the north-east of the dwelling setback 590mm from the secondary street frontage of St Peters Way.

Vehicular access to Dwellings 1 and 2 will be gained from Whiteleaf Crescent, whilst Dwelling 3 comprises access from St Peters Way.

Land Division application 100/D129/14 for three Torrens Title allotments, which reflects the subject dwelling application has been granted approval under delegation on the 10 December 2014.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	4 properties were notified during the Category 2 public notification process.
<b>Representations:</b>  <i>Refer Attachment IV</i>	2 representations were received by Council from: <ul style="list-style-type: none"> <li>• 19 Whiteleaf Crescent, Glengowrie</li> <li>• 5 St Peters Close, Glengowrie</li> </ul>
<b>Persons wishing to be heard:</b>	<ul style="list-style-type: none"> <li>• Leona &amp; Glen Lindner</li> <li>• Pip &amp; Virginia Michelmore</li> </ul>
<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• Do not consider the application is a category 2 form of development.</li> <li>• Opposed to the proposed development.</li> <li>• Concerns with increased traffic and associated vehicle movements/hazards.</li> <li>• Not consistent with the character of the area.</li> <li>• Proposed dwelling density</li> <li>• Two-storey nature of the development.</li> <li>• Excessive site coverage and floor area ratio.</li> <li>• Removal of rainwater tanks from the plan and stormwater collection and disposal.</li> <li>• On street parking concerns.</li> <li>• Bulk and scale of the dwellings, built form dominance and relationship to existing character.</li> <li>• Consider the proposal seriously at variance with the Development Plan.</li> <li>• Is at variance with front, side, rear and garage setback requirements.</li> <li>• Floor area of the garage exceeds the Development Plan.</li> <li>• Unsatisfactory landscaping.</li> <li>• The proposal should be refused.</li> </ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	<ul style="list-style-type: none"> <li>• The proposal is a Category 2 form of development due to the wall on the south-east boundary and the swimming pool within 600mm of the north-east boundary.</li> <li>• The proposal is an envisaged land use within the Policy Area.</li> <li>• Driveways maintain suitable clearances/distances from Whiteleaf Crescent and St Peters Way.</li> <li>• Development provides required onsite car parking.</li> <li>• The ratio of building coverage proposed by the development is generally considered appropriate by Council.</li> <li>• The streetscape outcome should be considered in the context of change anticipated by Northern Policy Area 13.</li> <li>• The dwellings will add to the 'variety of architectural styles' and diversity of housing stock in the area.</li> <li>• The development is well conceived and progresses favourably the intent of Northern Policy Area 13 and broader provisions of the Development Plan.</li> <li>• The buildings have been designed to provide articulation and break up their scale and mass.</li> </ul> <p style="text-align: right;"><i>Refer Attachment V</i></p>

## INTERNAL DEPARTMENT COMMENTS

<b>Planning Officer - Arboriculture:</b>	<p>As part of the previous application 100/1430/2014 removal of two street trees was sought to provide access to Dwellings 1 and 3.</p> <p>Council's Arborist advised that removal of all three street trees is acceptable given the small height of one and the poor condition of the other two. Appropriate remuneration to Council for removal and replacement shall be sought (\$850+GST).</p> <p>This matter has been resolved with the applicant paying for the removal/replacement of the trees and these works having already been carried out.</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

#### 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.

#### Desired Character

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

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

PDC 1	<p><i>The following forms of development are envisaged in the policy area:</i></p> <ul style="list-style-type: none"> <li>▪ <i>affordable housing</i></li> <li>▪ <i>detached dwelling</i></li> <li>▪ <i>group dwelling</i></li> <li>▪ <i>residential flat building</i></li> <li>▪ <i>row dwelling</i></li> <li>▪ <i>semi-detached dwelling</i></li> <li>▪ <i>supported accommodation.</i></li> </ul>	<b>Complies</b>
PDC 3	<p><i>Minimum Site Area: 250m<sup>2</sup></i></p>	<p><b>Complies</b> Dwg 3: 312m<sup>2</sup></p> <p><b>Does Not Comply</b> Dwg 1: 238m<sup>2</sup> Dwg 2: 213m<sup>2</sup></p> <p>NOTE: Site areas nominated on the plans are not consistent with the approved land division.</p>
	<p><i>Minimum Frontage: 7m</i></p>	<b>Complies</b> Min 7.79m
	<p><i>Minimum Depth: 20m</i></p>	<b>Complies</b> Min 26.1m

## Assessment

The application is consistent with the Desired Character of the Northern Policy Area 13 in that it will redevelop the site at a greater density than that of the original housing stock. Apart from the development at 21-23 Whiteleaf Crescent, the proposed dwellings appear to be one of the first incursions of two storeys within the immediate locality, albeit within the wider locality a number of two storey semi-detached dwellings exist. It is also noted that this form of development is envisaged within the Policy Area, as the Desired Character of the Northern Policy Area 13 seeks one and two storey, low-to-medium density dwellings of a variety of architectural styles.

Furthermore, the dwellings are sited on allotments that exceed the minimum frontage width, whilst their orientation to Whiteleaf Crescent will improve the streetscape and provide increased passive surveillance of both streets.

Whilst the site area of Dwellings 1 and 2 is less than that sought for row dwellings (250 square metres), the whole of the land at 763 square metres exceeds the minimum to accommodate three row dwellings (3 x 250 = 750 square metres).

To this end, the resultant density does not exceed that envisaged within the Policy Area, and subject to achieving other relevant design criteria (discussed further in this report), the undersized nature of the site area of Dwellings 1 and 2, in my view, is not a fundamental failing of the proposal.

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## DEVELOPMENT ASSESSMENT

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

<b>Site Coverage</b>	
<p>Maximum site coverage: 40%</p> <p>Northern Policy Area 13: PDC 4</p>	<p><b>Does Not Comply</b>  Dwg 1: 49%  Dwg 2: 53.4%  Dwg 3: 50.4%</p> <p>(average: 50.9%)</p>
<p>Maximum floor area ratio: 0.6</p> <p>Northern Policy Area 13: PDC 4</p>	<p><b>Does Not Comply</b>  Dwg 1: 0.64  Dwg 2: 0.63  Dwg 3: 0.67</p> <p>(average: 0.65)</p>
<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> <li>(a) pedestrian and vehicle access and vehicle parking</li> <li>(b) domestic storage</li> <li>(c) outdoor clothes drying</li> <li>(d) rainwater tanks</li> <li>(e) private open space and landscaping</li> <li>(f) convenient storage of household waste and recycling receptacles</li> </ul> <p>General Section: Residential Development: PDC 13</p>	<p><b>Complies</b></p>
<p>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.</p> <p>General Section: Residential Development: PDC 14</p>	<p><b>Complies</b></p>
<b>Private Open Space</b>	
<p>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</p> <ul style="list-style-type: none"> <li>(a) to be accessed directly from a habitable rooms of the dwelling</li> <li>(b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy</li> <li>(c) to take advantage of, but not adversely affect, natural features of the site</li> <li>(d) to minimise overlooking from adjacent buildings</li> <li>(e) to achieve separation from bedroom windows on adjacent sites</li> <li>(f) to have a northerly aspect to provide for comfortable year round use</li> <li>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</li> <li>(h) to be partly shaded in summer</li> <li>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</li> <li>(j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.</li> </ul> <p>General Section: Residential Development: PDC 15</p>	<p><b>Complies</b>  (a)-(e), (i) and (j)  The private open space areas are accessed from the ground-level living areas, to the rear of the associated dwellings 1 and 2 and to the side of dwelling 3 and will not be overlooked by adjacent development.</p> <p><b>Partially Complies</b>  (b), (f) and (g)  The private open space of Dwellings 1 and 3 comprise westerly and easterly aspects, respectively, and will achieve adequate solar access during winter months.</p> <p>The private open space of Dwelling 3 is located partially forward of the dwelling. Ample surveillance of the street is nonetheless provided.</p> <p><b>Does Not Comply</b>  (f) and (g)  The private open space area of Dwelling 2 is situated south of the two storey dwelling and is therefore likely to experience shadow for a majority of the day during winter months.</p>

<p><b>Site Area 250 m<sup>2</sup> or greater (Dwg 3):</b>  Minimum area of POS: 20% of the site area  Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.  One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p> <p><b>Site area less than 250 m<sup>2</sup> (Dwgs 1 and 2):</b>  20% of the site area or 35 m<sup>2</sup>, whichever is the greater  Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.  One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.</p> <p><b>(20% is relevant for all allotments)</b>  General Section: Residential Development: PDC 17</p>	<p><b>Complies</b>  Dwg 1: 28.2% (67.2m<sup>2</sup>)  Dwg 2: 25.3% (54m<sup>2</sup>)</p> <p><b>Does not Comply</b>  Dwg 3: 19.7% (61.7m<sup>2</sup>)</p>
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## Street Setbacks

<p>Except in areas where a new character is desired, the setback of buildings from public roads should:</p> <p>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</p> <p>(b) contribute positively to the function, appearance and/or desired character of the locality.</p> <p>General Section: Design and Appearance: PDC 23</p>	<p><b>Partially Complies</b>  Dwellings east and west of the site incorporate setbacks of 7.0 metres and 8.5 metres, respectively. However, the property is located on a corner and the existing dwelling and garage on the land are setback 6.5 metres and 4.5 metres, respectively. Refer Table Discussion.</p>
<p>Minimum setback from secondary road frontage: 3 metres  Residential Zone: PDC 7</p>	<p><b>Complies</b>  Dwelling 3 is setback 5.0 metres from St Peters Way.</p>
<p>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.  General Section: Residential Development: PDC 36</p>	<p><b>Complies</b></p>

## Side Setbacks

<p>Where the wall height is not greater than 3 metres: 1 metre</p> <p>Where the wall height is between 3 metres and 6 metres:</p> <p>(a) 3 metres if adjacent southern boundary</p> <p>(b) 2 metres in all other circumstances.</p> <p>Residential Zone: PDC 7</p>	<p><b>Does Not Comply</b>  Western single storey wall of Dwelling 1 is setback 900mm. This is a minor shortfall of 100mm and will not result in unreasonable impacts upon the adjoining property.</p> <p><b>Complies</b>  Western upper level wall of Dwelling 1 is situated 2.0 metres from western side boundary</p> <p><b>Does Not Comply</b>  Upper floor walls of Dwellings 2 and 3 are setback 900mm and 1.31 metres from the 'internal' boundary, respectively. This is considered acceptable given the walls are adjacent one another (and not to existing properties). These setbacks provide appropriate separation to limit the mass and bulk of the dwellings when viewed from the street and adjoining property to the south.</p>
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<p>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</p> <p>(a) the visual impact of the building as viewed from adjacent properties</p> <p>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</p> <p>General Section: Design &amp; Appearance: PDC 2</p>	<p><b>Complies</b></p> <p>Adequate articulation provided to side and rear walls to limit visual impact upon adjoining properties. Appropriate setback to side and rear boundaries provided.</p>
<h2>Rear Setbacks</h2>	
<p>6 metres for a single storey dwelling</p> <p>Residential Zone: PDC 7</p>	<p><b>Does Not Comply</b></p> <p>Dwellings 1 and 2 setback a minimum 5.5 metres from rear boundary.</p> <p>Dwelling 3 incorporates a wall on the rear boundary. Dwelling is 6.3m at its closest point.</p>
<p>8 metres for a 2 or more storey dwelling</p> <p>Residential Zone: PDC 7</p>	<p><b>Does Not Comply</b></p> <p>Dwelling 3 setback between 3.1 metres and 5.75 metres to rear boundary. As these walls are adjacent the side boundary of the adjoining property, and alongside the front yard area of that property, the setbacks provided are considered appropriate and will not result in unreasonable visual impacts or overshadowing of the neighbouring property.</p> <p><b>Complies</b></p> <p>Dwelling 1 and 2 are setback a minimum of 8.39 metres from the rear boundary.</p>
<p>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:</p> <p>(a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary</p> <p>(b) a minimum of 8 metres for two storey components of dwellings</p> <p>General Section: Residential Development: PDC 37</p>	<p><b>Partially Complies</b></p> <p>See above discussion</p>
<h2>Building Height</h2>	
<p>Maximum building height (from natural ground level):</p> <p>2 storeys of not more than 9 metres</p> <p>Residential Zone: PDC 7</p>	<p><b>Complies</b></p> <p>Maximum building height of 8.3 metres.</p>
<h2>Garages, Carports and Outbuildings</h2>	
<p>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</p> <p>Minimum setback from primary road frontage:</p> <p>8 metres for a freestanding structure.</p> <p>5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p>Minimum setback from secondary road frontage:</p> <p>5.5 metres for a single-width structure.</p> <p>Not less than the specified setback of the associated dwelling for a double-width structure.</p> <p>Residential Zone: PDC 8</p>	<p><b>Partially Complies</b></p> <p>Min setback 5.5m, however, the garages of Dwellings 1 and 2 are not setback 0.5m behind main face.</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><i>General Section: Residential Development: PDC 12</i></p>	<p><b>Complies</b></p>
<p>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</p> <p><i>General Section: Residential Development: PDC8</i></p>	<p><b>Complies</b></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><i>Residential Zone: PDC 6</i></p>	<p><b>Complies</b> Dwg 3 complies</p> <p><b>Does not Comply</b> Dwg 1 carport 70.4% of site frontage Dwg 2 garage is equivalent to 70.6% of site frontage</p>
<p><b>Car Parking</b></p>	
<p>Minimum number of on-site car parking spaces (one of which should be covered) :</p> <p>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b> All dwellings feature three bedrooms (although the study of Dwelling 3 could be used as a fourth bedroom). A minimum of three on-site car parking spaces (two of which are covered) have been provided</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><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Complies</b></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><i>General Section: Land Division: PDC 22</i></p>	<p><b>Complies</b> Two on-street parking spaces available.</p>
<p><b>Access</b></p>	
<p>The width of driveway crossovers should be minimised and have a maximum width of:</p> <p>(a) 3 metres wide for a single driveway</p> <p>(b) 5 metres wide for a double driveway.</p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p><b>Does Not Comply</b> The driveways servicing all dwellings are nominated between 5.9 and 6.2 metres in width. A recommended condition of consent will reduce these to 5.0 metres.</p>
<p>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.</p> <p><i>General Section: Residential Development: PDC 40</i></p>	<p><b>Complies</b></p>
<p>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p><b>Complies</b> One access point per property proposed</p>

## Design & Appearance

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

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

*General Section: Design & Appearance: PDC 1*

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

*General Section: Design & Appearance: PDC 3*

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

*General Section: Design & Appearance: PDC 17*

### **Complies**

The proposed dwellings incorporate a reasonable level of articulation and generous glazing to the front facades, providing visibility to/from the internal areas of the dwellings.

The dwellings feature rendered facades of "Common Warm Grey", "Monument" colorbond roof, slate grey portico trim and timber portico and balcony supports.

The proposed colours/materials are considered to be complementary to each other.

These materials are appropriate within the locality and will not result in unreasonable glare to nearby persons and properties.

*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 entry to the dwellings will present to and be clearly visible from the street. The entry will also be emphasised via porch feature walls.

## 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 proposal is likely to cast a reasonable amount of shadow upon the adjoining property to the west in morning hours. However, by 2:00pm, very little shadow (from Dwelling 1) will be cast onto this property. The dwelling on this land (19 Whiteleaf Crescent) incorporates a kitchen window only on its eastern façade, with a north-facing (front) window and many south and west-facing windows to the rear living room remaining unaffected.

The private open space of 19 Whiteleaf Crescent will not be materially affected by the proposed development.

During the afternoon hours, some overshadowing from the upper level of Dwelling 3 will fall upon the adjoining property to the south. However, this falls upon the front/side yard only, with any north-facing windows and the primary area of private open space remaining unaffected.

## 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 upper level on the southern and western elevations feature high level windows with 1.7m sill heights and/or fixed and frosted glass below 1700mm to minimise direct overlooking into the habitable areas of the northern adjoining property.

The northern elevation (and eastern elevation of Dwelling 3) overlooks the public streets and will not compromise the privacy of adjacent land.

## 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*

### Complies

## 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

Living areas and associated private open space areas of Dwellings 1 and 2 maintain a southerly orientation.

The living area and private open space of Dwelling 3 incorporates an easterly orientation with a northerly aspect.

Adequate direct winter sunlight will be available to adjacent dwellings and associated private open space.

Each dwelling comprises north-facing roof pitches, albeit this space is limited for Dwellings 1 and 2.

## 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

A landscaping plan has not been provided, however the site plan indicates location of sealed areas. Consequently, the proposed landscaping does not accord with (a).

It has been included as a recommended condition of consent that a landscape plan be provided to Council prior to Development Approval being issued.

## TABLE DISCUSSION

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

- Site coverage;
- Floor Area Ratios;
- Front setback;
- Rear setback (Dwelling 3); and
- Garage setback (Dwellings 1 and 3).
- Garage width (Dwellings 1 and 2)

## **Site Coverage**

The Marion Council Development Plan stipulates that site coverage should not exceed 40%; whereas the site coverage of the development ranges from 49% (Dwelling 1) to 53.4% (Dwelling 2); with an average site coverage of 51%. While building footprints exceed that sought for dwellings in the Policy Area, acceptable setbacks to all boundaries are achieved (discussed below), whilst the amount of private open space exceeds the minimum sought.

It is quite common for the middle dwelling(s) of row dwellings to comprise a higher site coverage than demonstrated by other dwellings on the land, as by their very nature, they must be constructed boundary-to-boundary.

Whilst site coverage is high, the assessment has demonstrated no meaningful impacts upon the street, adjoining land or the function or amenity of the dwellings.

## **Floor Area Ratio**

The floor area ratio of the development ranges from 0.64 (Dwelling 1) to 0.67 (Dwelling 3); averaging 0.65. This equals an excess in dwelling floor area of 9.8 square metres for Dwelling 1, 7.2 square metres for Dwelling 2 and 22.8 square metres for Dwelling 3.

Whilst this is the case, the dwellings demonstrate acceptable setbacks from boundaries (discussed below), as well as an appropriate level of articulation, reducing the perceived bulk of the buildings.

The excess in floor area does not result in direct impacts to adjacent land, the street or the proposed dwellings, and as such, suggests the size of the dwellings is acceptable having regard to the form of development proposed.

## **Front setback**

The principles of development control outline the front setback should be similar to, or compatible with setbacks of buildings on adjoining land and other buildings in the locality. The setbacks on Whiteleaf Crescent vary from 7.0 to 10.0 metres, with other front setbacks within the locality remaining complementary to this; although some limited examples exist of 5.0 metre front setbacks.

The property, at the intersection of two streets does provide some flexibility in the setback of the buildings, as there is no adjoining property to the immediate east of the land, whilst if the dwellings were oriented to St Peters Way, a side street setback of 3.0 metres would be anticipated.

The proposed dwellings feature a 5.0 – 6.0 metre street setback; while this meets the required setback where no established streetscape exists, it does not align with the established setbacks of the locality. However, the proposal is replacing a dwelling and attached garage, which features setbacks of 7.0 and 4.0 metres, respectively.

As such, some justification exists for the setbacks proposed; however, it is acknowledged that as two storey dwellings in a generally single storey locality, the built form will be reasonably prominent. To this end, in my view, the front setback is a relatively finely balanced element of the proposal.

## **Rear setback**

The single storey rear setbacks of Dwellings 1 and 2 are a minimum of 5.5 metres. Whilst this does not meet the minimum 6.0 metres sought in Zone Principle 7, it does exceed the minimum of 3.0 metres sought in Residential Development Principle 37. Nonetheless, ample separation is

provided to the rear boundary for Dwellings 1 and 2 to reduce the visual impact of the buildings and extent of overshadowing upon the adjoining property.

Dwelling 3 incorporates a carport with solid wall adjacent the rear boundary, whilst the upper level rear setback equates to a minimum of 3.1 metres where 8.0 metres is sought.

In this respect, it is noted the rear boundary of the land abuts the side boundary of the adjoining property, and therefore the importance of achieving the desired level of separation is lessened, as structures are expected to be constructed on or close to side boundaries.

Whilst some overshadowing will occur from Dwelling 3's carport wall on the boundary and upper storey, from my calculations, it is only after midday that shadow will be cast onto the adjoining property. As such, adequate solar access will be available to the property in accordance with Council's Overshadowing provisions.

In addition, if the proposed development comprised dwellings facing St Peters Way, a setback to the southern boundary of 3.0 metres would be anticipated. In this regard, the proposal provides greater separation and less overshadowing than could be anticipated with an alternative design.

As such, it is my view that the shortfalls in rear setbacks are not detrimental to adjoining land or the merit of the proposal.

### **Garage Setback & Garage Width**

The garage and carport of dwelling 1 and 2 are not setback 0.5 metres behind the main face of the associated dwelling and are greater than 50% of the allotment width, which is at odds with Residential Zone Principles 6 and 8. Although the garage and carport do not strictly meet these requirements they do maintain a 5.5 metre setback from the street which is consistent with Principle 8. This setback also allows for off-street parking. Furthermore, the two storey nature of the dwellings provides visual relief from the expanse of garaging by providing a dwelling façade facing the street that incorporates windows providing a better balance to the appearance of dwellings 1 and 2 and passive surveillance to the street.

### **Swimming Pool & Fencing**

The in ground swimming pool proposed in association with Dwelling 3 will be located on the north-east side of the dwelling and setback 590mm from the secondary street boundary of St Paters Way. Although the swimming pool proposes a fairly small setback from the boundary it will be screened by a 1.8m high colorbond fence. The fencing will not extend around the entire allotment boundary which will maintain openness of the development to Whiteleaf Crescent whilst ensuring privacy to the private open space area and swimming pool.

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## **REPRESENTOR'S CONCERNS**

The concerns raised by the representor(s) in relation to traffic, vehicle movements, car parking, density, built form, bulk and scale, site coverage, floor area ratio, setbacks and landscaping have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

In relation to the category of the development the applicant's response to representation from Botten Levinson Lawyers has provided further discussion on this. In addition the Council staff are satisfied that the application is a category 2 form of development.

## **ANALYSIS/CONCLUSION**

The proposal achieves a reasonable level of compliance with Council's design criteria.

The dwellings are considered to be attractive, modern, contemporary buildings, which will enhance the streetscape.

The Desired Character of Northern Policy Area 13 seeks development that will replace existing, older housing stock at a higher density than that of existing dwellings and a built form up to two storeys in height. The proposed development is considered to reflect the Desired Character of Northern Policy Area 13 by proposed a development at a higher density than the existing dwelling on the subject land and being of an appropriate scale.

The most notable shortfalls associated with the proposal are the undersized site area of Dwellings 1 and 2, the front setback of the dwellings and the excess site coverage and floor area ratio.

The overall site area exceeds 750 square metres, which suggests that three row dwellings are an envisaged form of development on the land. The excess site coverage for Dwelling 2 is symptomatic of many 'middle' row dwellings, where the dwelling is constructed boundary-to-boundary. Whilst this is the case, adequate boundary setbacks and private open space is provided for the whole of the development; suggesting the excess in floor area is not of a severity to compromise the function of the site, the amenity of adjoining land or the integrity of the streetscape.

The front setback proposed is forward of the dwelling on the adjoining property to the west, however, the corner positioning of the property will not make the shortfall in setback overly apparent.

Adequate private open space has been provided for each dwelling, whilst the proposal will increase the variety of housing forms and choices within the locality.

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.



## **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: 100/2015/410 for Three, two storey row dwellings, one of which (Dwelling 3) incorporates a garage wall on the southern boundary, swimming pool and associated fencing at 17 Whiteleaf Crescent GLENGOWRIE 5044 be subject to the following conditions:

## **CONDITIONS**

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/410, except when varied by the following conditions of consent.
- 2. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
- 3. The driveways servicing all dwellings shall incorporate a width of no greater than 5.0 metres. Amended plans, detailing the above, shall be provided to Council, for consideration and approval, prior to Development Approval being issued.
- 4. A landscape plan, detailing the location, species and projected growing heights of all plantings shall be provided to Council, for consideration and approval, prior to Development Approval being issued.
- 5. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

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

- 6. 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.
- 7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 8. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

9. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
10. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
11. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

## **NOTES**

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

## **Attachments**

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

## **DEVELOPMENT ASSESSMENT PANEL**

### **Wednesday 15 April 2015**

<b>Agenda Ref No:</b>	<b>DAP150415 – 3.2</b>
<b>Originating Officer:</b>	<b>Joanne Reid Development Officer - Planning</b>
<b>Applicant:</b>	<b>D'Andrea &amp; Associates</b>
<b>Development Description:</b>	<b>A single storey dwelling incorporating a garage wall on the western boundary and two single storey dwellings to the rear with associated common driveway, car parking and landscaping</b>
<b>Site Location:</b>	<b>49 Cungen Avenue Park Holme</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Northern Policy Area 13</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Lodgement Date:</b>	<b>12/11/2014</b>
<b>Development Plan:</b>	<b>Consolidated – 13 March 2014</b>
<b>Application No:</b>	<b>100/2014/2034</b>
<b>Recommendation:</b>	<b>Development Plan Consent (Granted)</b>

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### **CATEGORISATION & DELEGATION**

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

Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modifications 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:

<b>Amendments Requested</b>	<b>Amendments Made</b>
Increase private open space of Dwelling 1 to equate to 20% of the allotment size and provide a minimum dimension of 5m x 5m which is accessible from a living room.	POS increased to 58m <sup>2</sup> (19.6%) and a 5m x 5m area was provided that is accessible from a living area.
Increase setback to 5m to meet minimum for the Policy Area.	Setback increased from 4.7m to 5m.
<b>Information Requested</b>	<b>Information Provided</b>
Undertake a tree survey to identify if there are trees located on the site which are regulated or significant.	Tree report provided by Ian Crowe, Arborist

## **SUBJECT LAND & LOCALITY**

The subject land is located at 49 Cungen Avenue, Park Holme on the southern side of the street. The site has a frontage width of 19.61m and depth of 45.72m, culminating in a total area of 896m<sup>2</sup>.

The site contains a single storey detached dwelling with ancillary outbuildings. The land displays no discernable slope and it has been determined that the trees, although many are substantial in size, are not classified as Regulated or Significant pursuant to the Development Act and Regulations.

The surrounding locality is residential in nature, comprising predominantly detached dwellings on large allotments, interspersed with other dwelling types including residential flat buildings, group dwellings, row dwellings and redeveloped detached dwellings on smaller allotments.

Marion Road is located approximately 500m to the east which is serviced by a number of bus routes. The closest public open space is the Western Avenue Reserve, located approximately 600m away from the subject site.

*Refer Attachments I & II*

## **PROPOSED DEVELOPMENT**

The proposal comprises three single storey dwellings, one located at the front with individual access from Cungen Avenue and two dwellings located at the rear of the site with access from a shared driveway.

All dwellings are provided with three bedrooms (one with ensuite), associated wet areas and open plan kitchen/living/dining. Dwelling 1 at the front of the site incorporates a double garage whilst Dwellings 2 and 3 at the rear maintain a single garage. Two external visitor parks are located along the western boundary directly in front of Dwelling 3.

Access to Dwelling 1 will require the removal of a speed cushion on Cungen Avenue. The shared driveway on the eastern side will utilise an existing access point.

Landscaping is proposed along both sides of the shared driveway.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	10 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	<p>3 representations were received by Council.</p> <ul style="list-style-type: none"> <li>• L &amp; R Moore – 50 Condada Ave, Park Holme (in favour subject to certain amendments being met)</li> <li>• M Heffernan – 50A Condada Ave, Park Holme (in favour subject to certain amendments being met)</li> <li>• Z Yin – 17 Rotorua Ave, Park Holme (Against the application)</li> </ul>
<b>Persons wishing to be heard:</b>	No persons have indicated a desire to be heard by the Panel.
<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• Concern regarding noise levels from inside the dwellings due to the proximity of the rear dwellings to the back fence and would like the applicant to consider having one double door and a window at the rear of each house.</li> <li>• Would like the rear fence raised to 2.1m to provide privacy for existing and future occupants.</li> <li>• Any damage to the adjoining fence and to property during the building process be replaced at the builder's expense.</li> <li>• Fence is in good condition and does not warrant removal or replacement.</li> <li>• Concern there will be confusion over where the boundary line is.</li> <li>• The density proposed will make it too crowded and there will be lots of people living in these houses, creating noise and safety issues.</li> </ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	<ul style="list-style-type: none"> <li>• The boundaries will be identified by a licensed surveyor after subdivision has been approved and this will ensure that the buildings proposed will not exceed the allotment boundaries.</li> <li>• The only portion of fencing that will be removed is where the garage wall will be located on the boundary.</li> <li>• One of the sliding doors has been removed to address concerns of noise and the southern boundary fence will be replaced by a 2.1m high fence at a colour to the representors choosing.</li> <li>• Any damage to boundary fencing will be the responsibility of the builder and will be liable for any costs incurred to replace any fencing that is damaged.</li> </ul> <p style="text-align: right;"><i>Refer Attachment V</i></p>

## INTERNAL DEPARTMENT COMMENTS

<b>Development Engineer:</b>	<ul style="list-style-type: none"> <li>Manoeuvring is satisfactory to all parking spaces.</li> </ul>
<b>Unit Manager Engineering Services</b>	<ul style="list-style-type: none"> <li>The speed cushions could be relocated to the east (directly in front of no. 49) at the developer's costs, to be determined after examination.</li> </ul>
<b>Planning Officer - Aboriculture</b>	<ul style="list-style-type: none"> <li>After reviewing the tree report by Ian Crowe, it was accepted that there were no Regulated or Significant trees on the site.</li> </ul>

## 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:

<b>Residential Zone</b>		
<p><b>Objectives</b></p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
<b>Northern Policy Area 13</b>		
<p><b>Objectives</b></p> <p>1 A policy area primarily accommodating low scale, low to medium density housing. 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities. 3 Development that contributes to the desired character of the policy area.</p>		
<p><b>Desired Character</b></p> <p>The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.</p> <p>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ detached dwelling</li> <li>▪ group dwelling</li> <li>▪ residential flat building</li> <li>▪ row dwelling</li> <li>▪ semi-detached dwelling</li> <li>▪ supported accommodation.</li> </ul>	<b>Complies</b>
PDC 3	<p>Minimum Site Area: Detached Dwelling – 375m<sup>2</sup> Group Dwellings – 300m<sup>2</sup></p>	<p><b>Does Not Comply</b> Dwelling 1 – 295m<sup>2</sup> Dwellings 2 and 3 – 216m<sup>2</sup></p>

	<i>Minimum Frontage:</i> <i>Detached Dwelling – 12m</i> <i>Group Dwellings – 3m driveway width plus 0.5m landscaping either side</i>	<b>Complies</b> Dwelling 1 – 15.4m Dwellings 2 and 3 – 4m wide driveway
	<i>Minimum Depth:</i> <i>Detached Dwelling – 20m</i> <i>Group Dwellings – 45m</i>	<b>Does not Comply</b> Dwelling 1 – 18.9m  <b>Complies</b> Dwellings 2 and 3 – total site depth is 45.72m

## Assessment

The proposed development seeks to replace one dwelling with three, thereby increasing the site density as sought by the desired character. The proposed development will increase the variety of housing types within the locality.

The development will not result in the removal of any street trees, however it is acknowledged that several mature trees on the site will be removed. The trees are not Regulated or Significant and are not sited on the land in locations where the trees' health would not be impacted by the dwellings' construction and are therefore unable to be retained.

The site area of Dwelling 1 equates to 295 square metres, where a minimum site area of 375 square metres should be provided for a detached dwelling. This represents a considerable shortfall of 80 square metres; 21% below the minimum requirement. However, it is noted that the allotment maintains a frontage width of 15.4 metres, where a minimum frontage width of 12 metres is prescribed for detached dwellings. Accordingly, the undersized nature of the allotment should not be apparent when viewed from the streetscape, and therefore should not detract from the character of the locality. Further, it is acknowledged that the undersized nature of Dwelling 1 will not result in substantial design limitations with respect to the dwelling's ability to meet the Development Plan requirements. As such, the proposed site area of Dwelling 1 is considered to reflect the low-medium density of development sought in the locality and Council's Development Plan.

The site area of the group dwellings (Dwelling 2 and 3) equate to 216 square metres. Given the minimum site area of 300 square metres applies, this equates to a shortfall of 84 square metres (28%).

It is noted that these figures exclude the common driveway and manoeuvring areas. This method of calculating site area has been employed in accordance with Principle 8 (General Section: Land Division), which stipulates that:

*Allotments in the form of a battleaxe configuration should... have an area, that meet the minimum allotment sizes for the proposed form of dwelling, (excluding the area of the 'handle' of such an allotment)*

It is noted that, if the driveway were to be included in site areas, Dwelling 2 and Dwelling 3 would maintain an average site area of 300 square metres per dwelling.

Given the size of the individual shortfalls in site area, it is important to consider whether the proposed residential densities are fundamentally contradictory to that anticipated within the Policy Area. The subject land maintains an overall site area of 896 square metres; resulting in an average site area of 298 square metres per dwelling; just short of the minimum 300 square metres required for group dwellings in the Northern Policy Area 13. Hence, it is appropriate to conclude that the subject land could feasibly be developed to accommodate two group dwellings and one detached dwelling.

As such, should it be shown that the proposal adequately addresses the Development Plan criteria and it is determined that its shortfalls are not considered to unreasonably jeopardise the function of the development or impact on adjacent dwellings, the shortfall in site area, in my view is not considered to be fatal to the proposal.

## 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><b>Does Not Comply</b></p> <p>Dwelling 1 – 51%</p> <p>Dwellings 2 and 3 – 59%</p> <p>Whilst site coverage, in isolation appears high, when the driveway is included in the calculations, total site area reduces to 42.6%.</p> <p>Notwithstanding this, each dwelling is considered to be afforded with sufficient POS and space to meet the storage needs identified in Principle 13 below.</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><b>Complies</b></p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>



## Private Open Space

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

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

General Section: Residential Development: PDC 15

### Complies

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

### Does Not Comply

- f) and g)

The proposed POS areas maintain a southerly aspect and will be shaded during winter by the associated dwelling.

This is an unfortunate consequence of the allotment's orientation facing north and it would be impractical for the POS to be north facing as it would then be forward of the building line or potentially affect the rear setbacks.

However, the failure to meet this aspect of the Development Plan is not, in itself, so severe as to warrant refusal of the development, particularly as the POS still achieves the remaining criteria identified in Residential Development Principle 15.

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

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

*This is relevant for Dwelling 1*

### Site area less than 250 m<sup>2</sup>:

*20% of the site area or 35 m<sup>2</sup>, whichever is the greater  
Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.  
One part of the space is directly accessible from a living room and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.*

*This is relevant for Dwellings 2 and 3*

General Section: Residential Development: PDC 17

### Partially Complies

Dwelling 1 - 58m<sup>2</sup> (19.6%) and includes an area with a minimum dimension of 5.5m x 5m that is accessible from a living room.

This is a minor shortfall of 1m<sup>2</sup> and in my view will not impair how the space is used and is considered still likely to meet the needs of the future occupants.

### Complies

49m<sup>2</sup> (22.6%) and includes an area with a minimum dimension of 9.8m x 5m that is accessible from a living room.

## Street Setbacks

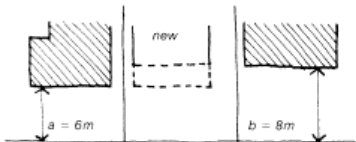
*Except in areas where a new character is desired, the setback of buildings from public roads should:*  
*(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality*  
*(b) contribute positively to the function, appearance and/or desired character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

General Section: Design and Appearance: PDC 23

**Complies**

See discussion relating to Design and Appearance Principle 25 below.

*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:  <p>When <math>b - a \leq 2</math>, 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**

Dwelling 1: 5 metres

(Dwellings on adjoining land set back approximately 4.5 and 8 metres, which equals an average setback of 6.2 metres)

The setback proposed is forward of its required average setback by approximately 1m. However, in my view, this variance will not be apparent on the street.

Dwelling 1 will be the first dwelling on this side of Cungena Avenue coming from the west between Rotorua Ave and Bowaka St to face the primary street. The additional separation provided by the driveway on the eastern side will mask the relative difference in setback between the two dwellings at No. 49 and No. 47 Cungena Avenue and will appear to step up to an acceptable transition to the neighbouring dwelling.

To this end, I am satisfied that Design and Appearance Principle 23 above will be met and will contribute positively to the desired character of the locality.

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

General Section: Residential Development: PDC 36

**Complies**

Habitable rooms are adequately separated from pedestrian and vehicle movement.

## Side Setbacks

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

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

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

*Where the wall height is greater than 6 metres:*

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

Residential Zone: PDC 7

**Complies**

Dwelling 1: 4 m (eastern side)

**Does not comply**

Dwelling 2 – 900mm (eastern boundary)  
Dwelling 3 – 900mm (western boundary)

The proposed side setback falls 100mm short of that prescribed by PDC 7. The minor shortfall should not result in unreasonable impacts to adjacent land. Further, it is noted that a setback of 900mm complies with the Building Code of Australia.

<p><i>Dwellings with walls located on the boundary should be designed in accordance with the following:</i></p> <p><i>(a) the walls should not abut more than one side allotment boundary</i></p> <p><i>(b) a wall from an adjacent dwelling already exists on the boundary:</i></p> <p><i>(i) be located immediately abutting the adjacent wall</i></p> <p><i>(ii) be constructed to the same or to a lesser length and height as the adjacent wall</i></p> <p><i>(iii) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(c) no wall exists on the adjacent boundary:</i></p> <p><i>(i) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(ii) not exceed 6 metres in length</i></p> <p><i>(iii) not exceed 3 metres in height</i></p> <p><i>(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>(d) adjoining communal open space or a public reserve, not to exceed</i></p> <p><i>(i) 50 per cent of the length of the boundary</i></p> <p><i>(ii) 4 metres in height.</i></p> <p><i>General Section: Residential Development: PDC 38</i></p>	<p><b>Complies</b></p> <p>(a) All dwellings</p> <p>Dwelling 1</p> <p>c (i) <b>Complies</b></p> <p>c (ii) <b>Does not comply</b> - Wall length 6.2m</p> <p>The wall will sit adjacent the shed wall associated with the neighbouring property and will have negligible impacts upon that property.</p> <p>c (iii) <b>Complies</b> – 2.7m</p> <p>c (iv) <b>Complies</b></p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the side setbacks do not comply with quantitative criteria, the separation from side boundaries is considered sufficient to minimise the visual impact of the building from adjacent properties. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>
<p><b>Rear Setbacks</b></p>	
<p><i>Except where otherwise specified in a particular zone, policy area or precinct, the rear boundary setback for dwellings should be in accordance with the following:</i></p> <p><i>(a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary</i></p> <p><i>(b) a minimum of 8 metres for two storey components of dwellings</i></p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p><b>Partially Complies</b></p> <p>Dwelling 1 – 5.5m with a 2.5m incursion</p> <p>There is an additional 6m separation between the rear boundary and Residence 2 and 3.</p> <p>Dwellings 2 and 3 – Whilst the setback exceeds the minimum 6m setback, it does not extend as close as 3m. The proposed setback is unlikely to result in unreasonable visual impacts to the adjoining properties to the rear.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the rear setback does not comply with quantitative criteria, the separation from the rear boundary is considered sufficient to minimise the visual impact of the building from the adjacent property. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>

## Building Height

*Maximum building height (from natural ground level):  
2 storeys of not more than 9 metres*

*Residential Zone: PDC 7*

### Complies

The proposed dwellings incorporate a maximum building height of 5.3 metres, which is less than the maximum permitted in the Policy Area.

## Garages, Carports and Outbuildings

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

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

*Residential Zone: PDC 8*

### Complies

Dwelling 1 – Garage is 0.5m behind the main face of the dwelling and set back 5.5m

*Carports and garages should be setback from road and building frontages so as to:  
(a) not adversely impact on the safety of road users  
(b) provide safe entry and exit.*

*General Section: Residential Development: PDC 12*

### Complies

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

*General Section: Residential Development: PDC8*

### Complies

The proposed garages are integrated with the dwelling underneath the main roof and incorporate a roof form, materials and detailing which complement the associated dwelling.

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

*Residential Zone: PDC 6*

### Complies

Dwelling 1 – Garage width is 5.9m

## 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

Dwelling 1 – 4 parks, two of which are undercover

Dwellings 2 and 3 – Each provides an undercover parking space and an external visitor space.

<p><i>On-site vehicle parking should be provided having regard to:</i></p> <ul style="list-style-type: none"> <li><i>(a) the number, nature and size of proposed dwellings</i></li> <li><i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i></li> <li><i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i></li> <li><i>(d) availability of on-street car parking</i></li> <li><i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.</li> <li>b) Centre facilities and public transport are located in walking distance of the dwellings</li> <li>c) The likely occupants are anticipated to have standard mobility and transport requirements.</li> </ul> <p><b>Partially Complies</b></p> <ul style="list-style-type: none"> <li>d) e) There is no on-street parking directly in front of the site due to restrictions as shown by a yellow line.</li> </ul> <p>However, 4 car parks have been afforded to Dwelling 1, which is a surplus of 2 parks and will offset the lack of on-street parking adjacent the site.</p>
<p><i>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</i></p> <ul style="list-style-type: none"> <li><i>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</i></li> <li><i>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</i></li> <li><i>(c) reinforce or contribute to attractive streetscapes.</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 44</i></p>	<p><b>Complies</b></p> <p>Dwellings 2 and 3</p> <ul style="list-style-type: none"> <li>(a) (b) Council's Development Engineer has advised that the development provides adequate space for vehicles to manoeuvre between the street and parking area in an efficient, convenient and safe manner.</li> <li>(c) The proposed vehicle parking areas for Dwellings 2 and 3 are located to the rear of the site and therefore should maintain an attractive streetscape.</li> </ul>
<p><i>Ground level vehicle parking areas servicing multiple dwellings, including associated garages and carports (other than where located along a rear lane access way), should:</i></p> <ul style="list-style-type: none"> <li><i>(a) not face the primary street frontage</i></li> <li><i>(b) be located to the rear of buildings with access from a shared internal laneway</i></li> <li><i>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</i></li> </ul> <p><i>General Section: Transportation &amp; Access: PDC 45</i></p>	<p><b>Complies</b></p> <p>The parking areas are located to the rear of the building with access from a shared internal laneway, and therefore do not face the primary street frontage.</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p><b>Does not comply</b></p> <p>There is no on-street parking adjacent the subject site and additional parking has not been provided in the common area above what the Development Plan seeks for group dwellings.</p> <p>However, additional spaces have been afforded to Dwelling 1, enabling visitors to this dwelling to park on the site and leaving the spaces to the rear free for visitors to the rear dwellings.</p>
<p><b>Access</b></p>	
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i></p> <ul style="list-style-type: none"> <li><i>(a) 3 metres wide for a single driveway</i></li> <li><i>(b) 5 metres wide for a double driveway.</i></li> </ul> <p><i>General Section: Residential Development: PDC 39</i></p>	<p><b>Complies</b></p> <p>Dwelling 1 – 4m</p>

<p>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.</p> <p>General Section: Residential Development: PDC 40</p>	<p><b>Partially Complies</b></p> <p>The crossover associated with the common drive is existing and has a stobie pole located in close proximity.</p> <p>The newly proposed driveway to Dwelling 1 avoids the street sign, however, the speed cushion will need to be removed. This is able to be achieved at the sole cost to the developer.</p>										
<p>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</p> <p>General Section: Transportation and Access: PDC 28</p>	<p><b>Complies</b></p> <p>The development incorporates no more than two vehicle access points which are separated by a minimum distance of 6 metres.</p>										
<p>Access ways servicing a hammerhead allotment or more than one dwelling should provide for an access onto a public road, with the driveway 'handle' being designed within the following parameters:</p> <table><tr><th>No. of dwellings served by driveway</th><th>Width at front property boundary &amp; for first 6 metres</th><th>Width beyond first 6 metres</th><th>Widening required for passing</th><th>Minimum landscaped strip either side of driveway (metres)</th></tr><tr><td>1-2</td><td>3</td><td>3</td><td>-</td><td>0.5</td></tr></table> <p>General Section: Residential Development: PDC 41</p>	No. of dwellings served by driveway	Width at front property boundary & for first 6 metres	Width beyond first 6 metres	Widening required for passing	Minimum landscaped strip either side of driveway (metres)	1-2	3	3	-	0.5	<p><b>Complies</b></p> <p>The width of the common driveway associated with Dwellings 2 and 3 is 4m, 3m for the driveway and an additional 0.5m on each side for landscaping.</p>
No. of dwellings served by driveway	Width at front property boundary & for first 6 metres	Width beyond first 6 metres	Widening required for passing	Minimum landscaped strip either side of driveway (metres)							
1-2	3	3	-	0.5							
<b>Design &amp; Appearance</b>											
<p>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</p> <p>(a) building height, mass and proportion</p> <p>(b) external materials, patterns, colours and decorative elements</p> <p>(c) roof form and pitch</p> <p>(d) façade articulation and detailing</p> <p>(e) verandas, eaves, parapets and window screens.</p> <p>General Section: Design &amp; Appearance: PDC 1</p> <p>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</p> <p>General Section: Design &amp; Appearance: PDC 3</p> <p>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</p> <p>General Section: Design &amp; Appearance: PDC 17</p>	<p><b>Complies</b></p> <p>Whilst Dwellings 2 and 3 will have limited visibility from the street, Dwelling 1 utilises a mix of render and brick, varying ridgelines and large windows to provide articulation and variation in the façade.</p> <p>All dwellings incorporate a 25 degree Colorbond roof in Shale Grey, with face brick facades. These materials should not result in glare to neighbouring properties, drivers or cyclists.</p> <p>The side elevations of the dwellings also incorporate brick cladding with fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.</p> <p>On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.</p>										
<p>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.</p> <p>General Section: Design &amp; Appearance: PDC 15</p> <p>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</p>	<p><b>Complies</b></p> <p>Dwelling 1 is designed so that their main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.</p>										

<p><i>General Section: Design &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p> <p><i>Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings and entrance foyers.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p>	<p><b>Complies</b></p> <p>The entrance of Dwellings 2 and 3 will be apparent once visitors enter the common area beyond Dwelling 1. The buildings are presented in a manner such that each of the dwellings will be easily identifiable.</p>
<h2>Overshadowing</h2>	
<p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i></p> <ul style="list-style-type: none"> <li><i>(a) windows of habitable rooms</i></li> <li><i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i></li> <li><i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></li> </ul> <p><i>General Section: Design &amp; Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <ul style="list-style-type: none"> <li><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></li> <li><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> <ul style="list-style-type: none"> <li><i>(i) half of the existing ground level open space</i></li> <li><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></li> </ul> </li> <li><i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i></li> </ul> <p><i>General Section: Design &amp; Appearance: PDC 10</i></p>	<p><b>Complies</b></p> <p>There are sheds or carports located to the eastern and western side of Dwelling 1, therefore, whilst there may be some shadow cast in the morning and late afternoon in the winter months over these properties, there will be no impact upon POS areas or habitable rooms.</p> <p>Similarly, a shed is located close to the eastern boundary of Dwelling 2 and subsequently will not be affected by the late afternoon shadow in winter.</p> <p>Any shadow cast by Dwelling 3 in the early morning over the land at 19 and 21 Rotorua Avenue will not be to such an extent that it will contravene Design and Appearance Principles 9 and 10.</p> <p>To this end, the development will not result in unreasonable overshadowing upon the existing dwellings and POS areas of adjoining land.</p>
<h2>Visual Privacy</h2>	
<p><i>Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:</i></p> <ul style="list-style-type: none"> <li><i>(a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct</i></li> <li><i>(b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms</i></li> <li><i>(c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.</i></li> </ul> <p><i>General Section: Design &amp; Appearance: PDC 12</i></p>	<p><b>Complies</b></p> <p>The separation of the dwellings from boundaries and the 1.8m high fencing will provide sufficient privacy to existing neighbouring properties.</p>
<p><i>Buildings on battleaxe allotments or the like should be single storey and be designed to maintain the privacy of adjoining residential properties.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 14</i></p>	<p><b>Complies</b></p> <p>The dwelling located on a battleaxe allotment is single storey and designed to maintain the privacy of adjoining residential properties.</p>

## Noise

*External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:*  
*(a) active communal recreation areas, parking areas and vehicle access ways*  
*(b) service equipment areas and fixed noise sources on the same or adjacent sites.*

*General Section: Residential Development: PDC 29*

### Partially Complies

Dwellings 2 and 3 feature bedroom windows sited adjacent the common driveway. These windows are separated from the common driveway by a distance of 2 metres

Landscaping between the driveway and bedroom window would assist in shielding headlight glare from the bedroom of Dwelling 1. A recommended condition to this effect will be included on the consent, should the Panel see fit to grant consent.

This combination of separation and landscaping is considered to provide sufficient "separating or shielding" to minimise external noise and light intrusion as envisaged by PDC 29.

Window shutter devices, external screening or alternative additional preventative measures could be constructed/installed by future occupants, if desired.

## Site Facilities and Storage

*Site facilities for group dwellings, multiple dwellings and residential flat buildings should include:*

- (a) mail box facilities sited close to the major pedestrian entrance to the site*
- (b) bicycle parking for residents and visitors (for developments containing more than 6 dwellings)*
- (c) household waste and recyclable material storage areas away from dwellings.*

*General Section: Residential Development: PDC 30*

### Partially Complies

- a) There is sufficient space at the entrance of the site to provide common letterboxes for Dwellings 2 and 3.
- b) Not applicable, as the development does not contain more than 6 dwellings.
- c) Although common waste storage areas are not provided, this is not considered necessary given that each dwelling maintains side gate access to its rear garden. As such, bins could be efficiently stored in the private utility areas of each dwelling.

## Energy Efficiency

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

*General Section: Energy Efficiency: PDC 1*

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

*General Section: Energy Efficiency: PDC 2*

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

*General Section: Energy Efficiency: PDC 3*

### Complies

It is acknowledged that the proposal is generally lacking when assessed against the Energy Efficiency provisions of the Development Plan.

The private open space to the rear of the dwellings means that the area will be in shadow for a large proportion of the day during the winter months. Furthermore, with respect to the proposed rear dwellings, the ability to reduce the need for mechanical heating and cooling has been diminished through the lack of northern sun being received into the main activity areas during winter and only 300mm eaves to shade the dwelling during summer.

To this end, the proposal fails to satisfy Energy Efficiency Principles 1 and 2.



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

*General Section: Energy Efficiency: PDC 4*

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

*General Section: Energy Efficiency: PDC 5*

**Complies**

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

## **Landscaping, Fences and Walls**

*Development should incorporate open space and landscaping in order to:*

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

*General Section: Landscaping, Fences & Walls: PDC 1*

*Landscaping should:*

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

*General Section: Landscaping, Fences & Walls: PDC 2*

**Complies**

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

*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**

A 1.8m high fence will be installed on the boundaries of the site where necessary.

It is not anticipated that retaining walls in excess of 300mm will be necessary due to there being no slope on the site.

## **REPRESENTOR'S CONCERNS**

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

The representors have also raised concerns over fencing, boundary matters and potential noise occurring from adjacent dwellings. While these concerns are noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

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## **ANALYSIS/CONCLUSION**

The proposed development, although displaying some shortfalls in site area, site coverage and energy efficiency, is compliant or producing minor shortfalls in the majority of other Development Plan provisions.

In my view, the proposed development is functional, likely to meet the needs of the occupants and presents appropriately in its design and appearance. Furthermore, the variances are not considered to compromise the amenity of the adjacent owners and occupiers nor will it have detrimental impacts on the streetscape.

The proposal is considered to be consistent with the Objectives and Desired Character of the Development Plan in that it will increase the density on the site and add to the variety of housing types in the locality.

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

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## **RECOMMENDATION**

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2014/2034 for a single storey dwelling incorporating a garage wall on the western boundary and two single storey dwellings to the rear with associated common driveway, car parking and landscaping at 49 Cungena Avenue Park Holme 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. 100/2014/2034, being drawing number A-1 prepared by D'Andrea and Associates, and documentation titled '*Proposed: Three Single Storey Residences At: 49 Cungena Ave, Park Holme For: Mr Ali*', and received by Council on 20 March 2015 except when varied by the following conditions of consent.
2. Landscaping shall be planted to a height and density in front of Bedroom 1 of Dwelling 2 that shall restrict headlight glare from entering the bedroom. Amended plans shall be provided for consideration and approval prior to Development Approval being granted.
3. A fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
4. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

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

5. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
6. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

7. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
8. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
9. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
10. All mortar joints on any face brickwork on the property boundary are to be finished in a professional manner, similar to other external brickwork on the subject dwelling.
11. All 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. The relocation of the speed cushion shall be undertaken and the developer's expense. Please contact Council's infrastructure department on 8375 6600 to schedule in the works required.
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. 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.

## **Attachments**

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

## **DEVELOPMENT ASSESSMENT PANEL**

### **Wednesday 15 April 2015**

<b>Agenda Ref No:</b>	<b>DAP150415 – 3.3</b>
<b>Originating Officer:</b>	<b>Joanne Reid Development Officer - Planning</b>
<b>Applicant:</b>	<b>Fairmont Homes Pty Ltd</b>
<b>Development Description:</b>	<b>A pair of two storey semi-detached dwellings incorporating garage walls on the eastern and western boundaries</b>
<b>Site Location:</b>	<b>37 Hardy Avenue Glengowrie</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Northern Policy Area 13</b>
<b>Application Type:</b>	<b>Category 2 / Consent</b>
<b>Development Plan:</b>	<b>Consolidated – 5 December 2013</b>
<b>Application No:</b>	<b>100/2014/107</b>
<b>Recommendation:</b>	<b>Advise the Environment, Resources and Development Court that Council supports the compromise plans</b>

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## **BACKGROUND**

The subject proposal was previously presented to the Development Assessment Panel (DAP) at the meeting held on 17 September 2014 and was refused for the following reasons:

1. The proposed development does not comply with Northern Policy Area Principle 4 as the dwellings maintain a site coverage and floor area ratio exceedingly above the maximum site coverage of 40 per cent and the maximum floor area ratio of 0.6.
2. The front setbacks of the proposed dwellings are not compatible or have a similar setback to the adjacent buildings and therefore the building does not contribute positively to the function, appearance and desired character of the locality in accordance with the General Section: Design and Appearance Principles 23 and 25.
3. The development does not accord with the Principle 38 (a) of the General Section: Residential Development as the development incorporates walls located on both side boundaries.
4. The bulk and scale of the building, the proposed front setback and the garage walls on both side boundaries will not contribute to an “attractive residential environment” as it is not compatible with the existing housing in the area and is therefore at variance to the Desired Character, Objective 3 and Principle 1 of the Northern Policy Area 13.

5. The site coverage and floor area ratio of the dwellings contribute to a bulk, scale, mass and proportion that does not reflect and reinforce the positive aspects of the local environment and built form, does not reflect the desired character of the locality and will produce visual impacts when viewed from adjacent properties, thereby failing to meet the General Section: Design and Appearance Objective 1 and Principles 1 (a) and 2 (a).
6. The front setback proposed does not provide for sufficient open space and landscaping area to complement the built form and reduce the visual impact of larger buildings or provide sufficient opportunities to minimise the dominance of the double driveway and is therefore contrary to Principles 1(a) and 1(b) of the General Section: Landscaping, Fences and Walls and General Section: Transportation and Access Principle 35 (i).

*Refer Attachment I*

The applicant has subsequently appealed the decision to the Environment, Resources and Development Court. A preliminary conference was held on 1 December 2014, where the applicant identified that amended plans would be submitted to Council for consideration. A second preliminary conference is scheduled to be held on 21 April 2015. The applicant has provided amended plans for consideration as a compromise prior to the conference. The original report, plans and attachments can be found in the member's agenda from the 17 September 2014 meeting, or by contacting the author of this report.

The compromise submitted by the applicant incorporates the following amendments to the previous proposal:

- A reduction in the lower storey footprint by 4.71m<sup>2</sup>
- A reduction in the upper storey footprint by 16.42m<sup>2</sup>
- Removal of walls off both boundaries
- Reduction in width of garage by 0.5m (albeit double doors replaced with one wider door)
- Increased landscaped area either side of driveway

*Refer Attachment II*

## **DEVELOPMENT ASSESSMENT**

The below table shows the assessment of the previous application and identifies changes when assessed against the amended proposal.

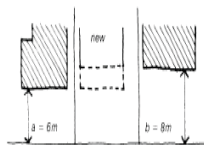
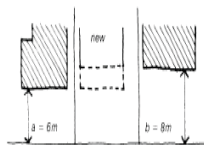
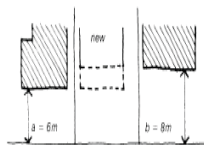
		ORIGINAL PROPOSAL	COMPROMISE PROPOSAL
PDC 1	<i>The following forms of development are envisaged in the policy area:</i> <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ detached dwelling</li> <li>▪ group dwelling</li> <li>▪ residential flat building</li> <li>▪ row dwelling</li> <li>▪ semi-detached dwelling</li> <li>▪ supported accommodation.</li> </ul>	<b>Complies</b>	<b>No Change</b>  Proposal is still in the form of a pair of semi-detached dwellings.
PDC 3	<i>Minimum Site Area: 320m<sup>2</sup></i>	<b>Does Not Comply</b> 311m <sup>2</sup>	<b>No Change</b>
	<i>Minimum Frontage: 9m</i>	<b>Does Not Comply</b> 8.38m	<b>No Change</b>

	Minimum Depth: 20m	Complies 37.16m	No Change
<b>Site Coverage</b>			
	Maximum site coverage: 40% <i>Northern Policy Area 13: PDC 4</i>	Does Not Comply 60% 54% excluding alfresco	Does not Comply 59% 52.5% (excluding alfresco)
	Maximum floor area ratio: 0.6 <i>Northern Policy Area 13: PDC 4</i>	Does Not Comply 0.72	Does not Comply 0.65
	Site coverage should ensure sufficient space is provided for: (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 Although site coverage is exceeded, it is considered that there is still sufficient space to accommodate the items outlined in Residential Development Principle 13.	Complies
<b>Private Open Space</b>			
	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.  <i>General Section: Residential Development: PDC 15</i>	Partially Complies The POS areas for the dwellings are located on the ground floor, directly from the habitable rooms of the dwelling and to the rear of the dwellings.  However, the POS is located with a southerly orientation, meaning that the open area behind the alfresco will be overshadowed during the winter months for a large proportion of the day.  However this is an unfortunate consequence of the site's orientation and due to the impracticalities of POS located to the front of the site, this remains a limitation to the development.	No Change



<p><b>Site Area 250 m<sup>2</sup> or greater:</b>  Minimum area of POS: 20% of the site area  Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.  One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.  General Section: Residential Development: PDC 17</p>	<p><b>Complies</b></p> <p>67.04m<sup>2</sup> (21.5%)</p> <p>Includes an area equal to 10% of the site with dimensions of 8m x 8m and is directly accessible from a living room.</p>	<p><b>Complies</b></p> <p>64.5m<sup>2</sup></p> <p>Includes an area equal to 10% of the site with dimensions of 7.7m x 8m and is directly accessible from a living room.</p>
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## Street Setbacks

<p>Except in areas where a new character is desired, the setback of buildings from public roads should:</p> <p>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</p> <p>(b) contribute positively to the function, appearance and/or desired character of the locality.</p> <p>General Section: Design and Appearance: PDC 23</p>	<p><b>Does Not Comply</b></p> <p>See table discussion</p>	<p><b>Complies</b></p>						
<p>Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:</p> <table><tr><th>Setback difference between buildings on adjacent allotments</th><th>Setback of new building</th></tr><tr><td>Up to 2 metres</td><td><p>The same setback as one of the adjacent buildings, as illustrated below:</p><p>When <math>b &gt; a</math>: 2, setback of new dwelling = a or b</p></td></tr><tr><td>Greater than 2 metres</td><td>At least the average setback of the adjacent buildings</td></tr></table> <p>General Section: Design and Appearance: PDC 25</p>	Setback difference between buildings on adjacent allotments	Setback of new building	Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p>  <p>When <math>b &gt; a</math>: 2, setback of new dwelling = a or b</p>	Greater than 2 metres	At least the average setback of the adjacent buildings	<p><b>Does Not Comply</b></p> <p>6m</p> <p>Adjacent dwelling to west set back at 7m</p>	<p><b>Does not comply</b></p> <p>6.5m</p>
Setback difference between buildings on adjacent allotments	Setback of new building							
Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p>  <p>When <math>b &gt; a</math>: 2, setback of new dwelling = a or b</p>							
Greater than 2 metres	At least the average setback of the adjacent buildings							
<p>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</p> <p>General Section: Residential Development: PDC 36</p>	<p><b>Complies</b></p>	<p><b>No Change</b></p>						

## Side Setbacks

<p>Where the wall height is not greater than 3 metres: 1 metre</p>	<p><b>Complies</b></p> <p>Minimum 1.24m</p>	<p><b>No change</b></p>
<p>Where the wall height is between 3 metres and 6 metres:</p> <p>(a) 3 metres if adjacent southern boundary</p> <p>(b) 2 metres in all other circumstances.</p> <p>Residential Zone: PDC 7</p>	<p><b>Complies</b></p> <p>2m</p>	<p><b>Complies</b></p> <p>Side walls – 2m</p> <p><b>Does not comply</b></p> <p>Garage walls – 600mm</p>

<p><i>Dwellings with walls located on the boundary should be designed in accordance with the following:</i></p> <p><i>(a) the walls should not abut more than one side allotment boundary</i></p> <p><i>(b) a wall from an adjacent dwelling already exists on the boundary:</i></p> <p><i>(i) be located immediately abutting the adjacent wall</i></p> <p><i>(ii) be constructed to the same or to a lesser length and height as the adjacent wall</i></p> <p><i>(iii) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(c) no wall exists on the adjacent boundary:</i></p> <p><i>(i) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(ii) not exceed 6 metres in length</i></p> <p><i>(iii) not exceed 3 metres in height</i></p> <p><i>(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>(d) adjoining communal open space or a public reserve, not to exceed</i></p> <p><i>(i) 50 per cent of the length of the boundary</i></p> <p><i>(ii) 4 metres in height.</i></p> <p><i>General Section: Residential Development: PDC 38</i></p>	<p><b>Does Not Comply</b></p> <p>(a) Walls abut both side boundaries.</p> <p>(c) (i) The boundary wall is located in front of the main face of both adjacent dwellings.</p> <p>(c) (ii) The boundary wall is 6.4m.</p> <p><b>Complies</b></p> <p>(c) (iii) Wall does not exceed 3m in height for the majority (with the exception a parapet that is 3.5m high for 700mm in length)</p> <p>(c) (iv) wall is located greater than 2.5m away from a habitable room window of the adjacent dwellings.</p>	<p><b>Complies</b></p> <p>(a) Walls do not abut either side boundary.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 2</i></p>	<p><b>Partially Complies</b></p> <p>Whilst the dwellings are unlikely to unreasonably overshadow the neighbouring properties, the size of the dwellings are of a scale which will result in unreasonable visual impacts when viewed from the adjoining properties.</p>	
<b>Rear Setbacks</b>		
<p><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>8m</p>	<p><b>Complies</b></p> <p>7.7m</p>
<p><i>8 metres for a 2 or more storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>14.7m</p>	<p><b>Complies</b></p> <p>15.3m</p>
<b>Building Height</b>		
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b></p> <p>2 storeys of not more than 8m</p>	<p><b>No change</b></p>

## Garages, Carports and Outbuildings

<p>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</p> <p>Minimum setback from primary road frontage: 8 metres for a freestanding structure. 5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p>Residential Zone: PDC 8</p>	<p><b>Complies</b> 6m</p>	<p><b>Complies</b> 6.5m</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><b>Complies</b></p>	<p><b>No Change</b></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: PDC 8</p>	<p><b>Complies</b></p>	<p><b>No change</b></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><b>Does Not Comply</b> 6.3m Although a minor variance, this could be resolved by reducing the width of the garages to comply with Principle 38 (a) and removing at least one (ideally both, for reasons of a consistent design) of the garage walls from the boundary.</p>	<p><b>Complies</b> 5.8m</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><b>Complies</b> 2 undercover and 1-2 external spaces</p>	<p><b>No change</b></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 &amp; Access: PDC 43</p>	<p><b>Complies</b></p>	<p><b>No change</b></p>

<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<b>Complies</b>	<b>No change</b>
<b>Access</b>		
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i>  <i>(a) 3 metres wide for a single driveway</i>  <i>(b) 5 metres wide for a double driveway.</i></p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p><b>Complies</b>  Access is 4m wide</p>	<b>No change</b>
<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>	<b>Complies</b>	<b>No change</b>
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p><b>Complies</b>  Vehicle access points are 8m apart.</p>	<p><b>Does not comply</b>  Vehicle access points are shown to be 5.3m apart. See assessment discussion under 'car parking and access' for consideration of this aspect of the proposal.</p>
<b>Design &amp; Appearance</b>		
<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><i>General Section: Design &amp; 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><i>General Section: Design &amp; Appearance: PDC 3</i></p> <p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 15</i></p> <p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 17</i></p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p>	<p><b>Partially Complies</b></p> <p>The dwellings' streetscape presentation for the most part is considered to be well articulated, with a good variety of treatments in the use of different shapes, colours and materials.</p> <p>The proposed treatments and with the upper storey cantilevered over the garages is considered to 'draw the eyes' away from the garages. This, combined with the separation of the garages with a central pier is considered to minimise the dominance of the garages to the street.</p> <p>However, the dwellings' failure to meet site coverage, floor area ratio and the excessive boundary development suggests that the scale of the built form is over and above what is anticipated in the Policy Area.</p> <p>Accordingly, the dwellings, when viewed from the adjacent properties have the potential to be intrusive and out of character in the context of its surroundings.</p>	<b>Complies</b>

## 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 proposed development is not considered to result in unreasonable overshadowing on adjoining properties due to the north-south orientation of the site.

Although during the winter months, there will be some shadow in the morning over the western side property and in the afternoon over the eastern side property, adequate sunlight will be available in accordance with Design and Appearance Principles 9 and 10 to the POS and habitable rooms of adjoining properties.

### No change

## 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 side and rear windows have sill heights or are fixed with obscure glazing to a height of 1.7m above the finished floor level of the upper storey to restrict overlooking to adjoining land.

### No change

## 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 dwellings incorporate an upper storey living area with a northerly orientation which can receive natural light to heat the room in winter. The upper level window surround feature around the windows maintains a width of 600mm which may assist in shading the windows during the winter months.

The pitched roof will facilitate the installation of solar photovoltaic panels.

The development is lacking in its provision of north facing POS, however this is a limitation of the site's orientation and somewhat unavoidable.

### No change

## 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

The front setback, in my view, limits opportunities for landscaping in such a way that opportunities for taller, broader plantings to complement the built form is restricted and the small area provided will not enhance the streetscape appearance as the driveway will appear a dominant aspect of the site.

### Complies

The front setback has increased and the driveway layout has been altered to enable greater opportunities for landscaping including the planting of some taller, broader plantings.

The driveway's dominance on the street has diminished.

<p><i>Fences and walls, including retaining walls, should:</i></p> <p><i>(a) not result in damage to neighbouring trees</i></p> <p><i>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</i></p> <p><i>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</i></p> <p><i>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</i></p> <p><i>(e) assist in highlighting building entrances</i></p> <p><i>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</i></p> <p><i>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</i></p> <p><i>(h) be constructed of non-flammable materials.</i></p> <p><i>General Section: Landscaping, Fences &amp; Walls: PDC 5</i></p>	<p><b>Complies</b></p> <p>No retaining walls or fencing that is defined as 'Development' pursuant to Schedule 3 of the Development Regulations, 2008 is proposed.</p>	<p><b>No change</b></p>
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## **Assessment**

The proposed compromise plans are assessed in relation to the DAP's reasons for refusal, as detailed below:

### **Site area and frontage width**

The allotments remain the same in size and dimension (this was not identified as a reason for refusal). However, it should be noted that the amendments respond more sympathetically to the undersized site area and frontage width in an attempt to address other reasons for refusal.

### **Site coverage and floor area ratio**

The amendments result in a minor reduction in site coverage by 1% and a relatively substantial reduction in the floor area ratio of 7%, by reducing the floor area of the upper storey by 16.4m<sup>2</sup>. However, site coverage still results in 12.5% above the required 40% (excluding the alfresco) and 5% above the 0.6 requirement for floor area ratio.

I am of the view that a reasonable attempt has been made to reduce the floor area and ultimately the bulk and scale of the dwelling.

The reduction in floor area has increased the rear setback of the buildings by 600mm and increased the side setback of the first 5.4m of the upper storey from 2m to 3.7m, providing some relief in the built form of the upper storey.

It is still acknowledged that the proposal exceeds of the Development Plan requirements. However, the reduction in floor area brings the dwellings more closely aligned with similar dwellings within the locality. Furthermore, the dwellings are still compliant in their provision of open space, side and rear setbacks and car parking and I am satisfied that the proposed amendments address reason for refusal 1.

### **Front setbacks**

The amended plans increase the front setback by 0.5m to 6.5m, which is still a shortfall in the desired front setback of 7m.

It is my view however, that this is a minor departure which will not be apparent on the street. Furthermore, given that the upper storey façade presenting to the street has reduced in width, the prominence of the building has somewhat reduced, resulting in the building appearing less obtrusive and rendering the necessity to provide an additional 0.5m in front setback less essential.

The additional front setback will improve the opportunities for greater landscaping in the front, however additional changes to the driveway layout have also assisted in addressing the driveway dominance (see discussion under 'landscaping').

To this end, the proposed front setback is not incompatible with the existing locality and will not detract from the character, function or appearance of the immediate area. Accordingly, I am of the view that reason for refusal 2 has been addressed.

### **Side setbacks**

Reason for refusal 3 relates to the garage walls, where, in the original application, the walls were located on both external side boundaries in contravention of Residential Principle 38 (a).

The garage walls have now been taken off both side boundaries by a distance of 600mm. Whilst this does not achieve the minimum side setback requirement of 1m, given that walls are



able to be built on the boundary to a length of 8m long and 3m high under Schedule 4 of the Development Regulations with no regard for the adjoining property, the proposed setback will provide adequate relief to both the adjoining property and provide the separation between properties that is contemplated in the application of the abovementioned Principle.

As such, the amendments satisfy reason for refusal 3.

### **Rear setbacks**

The rear setback of the lower storey has decreased by 300mm to 7.7m and the upper storey rear setback has increased by 600mm to 15.3m.

The setbacks still comply with the Development Plan requirements and whilst the reduction in the lower storey rear setback has resulted in less POS, the amount provided is still greater than the 20% of the site area sought by the Development Plan.

### **Garages, carports and Outbuildings**

As a result of the garages being taken off the boundary, the width of the garage has reduced by 0.5m and is within the 6m limit desired by the Development Plan for garages, which the previous proposal exceeded.

### **Car parking and access**

The on-site car parking provided by the development has not changed and still complies with the Development Plan.

A change to the layout of the driveway, which are proposed more centrally on the allotments has reduced the distance between the two driveways and resulted in the loss of the on-street car park.

Nevertheless, a slight reduction in the width of the driveways at the front boundary by 400mm to 3.6m would allow the required 6m distance between the two driveways. A recommended condition of consent to amend the proposal to provide 6m clearance between the driveways has been included on the consent should the Panel be supportive of the compromise proposal.

### **Design and Appearance**

The general appearance of the dwellings has not substantially changed in that the building materials, roof pitch, design features and window treatments remain the same.

The reduction in the width of the garage (due to the walls being taken off the boundary) has resulted in the two single width doors on each dwelling being replaced with one double width door. Whilst it is acknowledged that separate doors can be a design treatment which adds to the articulation of the dwelling and reduces the dominance of the garage, I am of the view that the proposed treatment of the upper storey, whereby the window surround feature is cantilevered over the garages, is considered to be adequate to 'draw the eyes' away from the garages and ensure that they will not be the dominant element of the dwelling.

The upper storey building footprint has been reduced, culminating in a reduction in the width of the upper living room and changing the built form by 'stepping in' this portion of the building from the side. In my view, this is a vast improvement to the original proposal as it contributes in lessening the bulk of the building when viewed from both the front and the sides by providing some visual relief in that wall and alleviating the imposing appearance of the built form.

I am satisfied that the amendments have sought to address reasons for refusal 4 and 5 by altering the building's footprint and increasing the setbacks to the front, side and rear, thereby diminishing the buildings' bulk and scale when viewed from the street and adjoining properties.

### **Landscaping**

The additional 0.5m increase to the front setback will provide additional space for plantings in front of the dwellings, however, Council has sought for the driveway to be centrally located within the front yard to allow for landscaping to be placed on both sides of the driveway.

The shortfall in site frontage width and the provision of a double garage leads to the driveway taking up a large proportion of the front yard. The reduction in the width of the garage has provided the opportunity to leave additional space between the driveway and the outer boundaries of the sites, which will assist in softening the hard paved surfaces and reducing the dominance of the driveway.

The change in the driveway layout will not impact on the street tree in the middle of the Council verge, however, as mentioned previously, some minor adjustments are recommended to increase the separation between the two driveways to provide for an on-street car park.

To this end, the additional space allocated to the front of the site for landscaping addresses reason for refusal 6.

## **ANALYSIS/CONCLUSION**

The reduced building footprint put forward by the applicant in the proposed amendments addresses the previous concerns of high site coverage and floor area ratio, front setback, side setbacks, bulk and scale and driveway dominance.

The design changes increase the separation of the built form from the boundaries of the allotment and results in the scale of the building being more akin to similar types of development in the locality.

The proposal is now considered to satisfy a majority of the Development Plan principles and whilst it is acknowledged that there are still some aspects of the proposal where there are departures from the Development Plan, they are not considered to result in impacts that are unreasonable upon the streetscape or on adjoining owners and occupiers.

Accordingly, it is staff's view that the amendments to the proposal have addressed the Panel's reasons for refusal, and therefore suggest that the Panel advise the Environment, Resources and Development Court of its support for the compromise plans, 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 Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That the Development Assessment Panel advise the Environment, Resources and Development Court that Council supports the compromise proposal submitted by Fairmont Homes for Development Application No: 100/2014/107 and recommends 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. 100/2014/107 being Job numbers 85315-D-House 1 and 85316-D-House 2 prepared by Fairmont Homes, and received by Council on 30 March 2015, except when varied by the following conditions of consent.
2. The driveways shall be tapered to provide a minimum distance of 6.0 metres separation between the driveways of House 1 and House 2. An amended plan shall be provided to Council for consideration and approval prior to Development Approval being granted.
3. An amended fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
4. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

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

5. The portion of the upper floor windows to eastern, western and southern 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).
6. 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.

7. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
8. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
9. 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.

## **Attachments**

<i>Attachment I:</i>	<i>Decision Notification Form</i>
<i>Attachment II:</i>	<i>Original Proposal Plans</i>
<i>Attachment III:</i>	<i>Compromise Proposal Plans</i>

## **DEVELOPMENT ASSESSMENT PANEL**

### **Wednesday 15 April 2015**

<b>Agenda Ref No:</b>	<b>DAP150415 – 3.4</b>
<b>Originating Officer:</b>	<b>Emily Nankivell Acting Team Leader - Planning</b>
<b>Applicant:</b>	<b>Mr Diodoro Iuliano</b>
<b>Development Description:</b>	<b>Two storey detached dwelling and garage</b>
<b>Site Location:</b>	<b>43 Jervois Terrace, Marino</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Hills Policy Area 11</b>
<b>Application Type:</b>	<b>Category 1 / Consent</b>
<b>Development Plan:</b>	<b>Consolidated – 5 December 2013</b>
<b>Application No:</b>	<b>100/2014/200</b>
<b>Recommendation:</b>	<b>Advise the Environment, Resources and Development Court that Council supports the compromise plans</b>

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### **BACKGROUND**

The subject proposal was previously presented to the Development Assessment Panel (DAP) at the meeting held on 4 February 2015 and was refused for the following reasons:

- (1) The proposed dwelling results in an unreasonable visual impact upon the adjoining property to the north, due to the proximity and expanse of the balcony, failing to satisfy Objectives 2 and 3 and Principle 2 of the Policy Area, parts of the Desired Character statement of the Policy Area and Design and Appearance Principle 2(a).**
- (2) The proposed balconies result in the overlooking of the adjoining property, failing to provide adequate privacy and amenity to that land, at variance to parts of the Desired Character and Objective 3 and Principle 2 of the Policy Area and Design and Appearance Principle 12(a), 12(b) and 12(c).**
- (3) The design of the dwelling does not incorporate an appropriate level of articulation, accentuating the bulk and visual impact of the building and failing to satisfy Policy Area Principle 6(b) and Design and Appearance Principle 1(a).**

*Refer Attachment I*

The applicant has subsequently appealed the decision to the Environment, Resources and Development Court. A preliminary conference was held on 30 March 2015, where the applicant identified that amended plans would be submitted to Council for consideration. A directions hearing is scheduled to be held on 21 April 2015. The applicant has provided amended plans for consideration as a compromise prior to the conference. The original report, plans and attachments can be found in the member's agenda from the 4 February 2015 meeting, or by contacting the author of this report.

The compromise submitted by the applicant incorporates the following amendments to the previous proposal:

- The dwelling has been shifted south by 1.5 metres which has increased setbacks to the northern boundary and reduced setbacks to the southern primary street boundary. This has resulted in the following changes to the setbacks:
  - The northern side setback of the dwelling has increased from 4.376 metres to 5.876 metres
  - The northern side setback of the balcony has increased from 1.376 metres to 2.876 metres at its closest point.
  - The primary setback of the dwelling has been reduced from 5.9 metres to 4.4 metres.
  - The primary setback of the balcony has reduced from 4.4 metres to 2.9 metres.
- The eastern portion of the north-facing balcony and bedrooms 1 and 2 of the dwelling have an additional 500mm setback resulting in the balcony having a setback of 3.376 metres and dwelling having a setback 4.876 meters.
- A gable element located in the centre of the north facing balcony roof and elevated ceiling skylight has been added to provide articulation and visual interest to the roof form.
- The north-west corner of the balcony has incorporated a cut-off.
- Entrance stairway on southern elevation has been amended.
- Driveway to remain in existing location.

*Refer Attachment II*

## DEVELOPMENT ASSESSMENT

The proposed compromise plans are assessed in relation to the DAP's reasons for refusal, as detailed above. The following tables highlight the difference between the original proposal and the amended proposal submitted for compromise followed by brief discussion.

<b>Residential Zone</b>	
<b>Objectives</b>	
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.
<b>Hills Policy Area 11</b>	
<b>Objectives</b>	
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.

### Desired Character

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.

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.

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.

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.

		Original Proposal	Amended Proposal
PDC 1	The following forms of development are envisaged in the policy area: ▪ detached dwelling ▪ group dwelling	Complies	No change
PDC 3	Development should be designed and sited to relate to the slope of the land, so that: (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.	Partially Complies See comments below	No change
PDC 4	Wherever possible, existing vegetation should be used to screen the building and excavation or filling from view.	Partially Complies Limited vegetation exists and minimal excavation proposed	No change
PDC 5	Development that would be prominently visible from the Adelaide plains should: (a) achieve a profile that blends with the topography of the land (b) avoid the use of bright and highly reflective external materials and finishes (c) incorporate existing vegetation wherever possible and additional landscaping to assist in reducing the apparent bulk and scale of the building and any site works.	Partially Complies (a) Northern pitch of roof is complementary to the slope of the land. (b) Bright and reflective materials have been avoided (c) Limited vegetation exists. No additional vegetation proposed.	Complies (a) Northern pitch of roof is complementary to the slope of the land. (b) Bright and reflective materials have been avoided (c) Limited vegetation exists. Screening plantings along a portion of the northern boundary have been incorporated into the proposal. These plantings will soften the appearance of the dwelling when viewed from the north and provide additional protection to privacy.



PDC 6	<p><i>Development of more than one storey in height should take account of the height and bulk of the proposed building relative to adjoining dwellings by:</i></p> <p><i>(a) incorporating stepping in the design in accordance with the slope of the land</i></p> <p><i>(b) where appropriate, setting back the upper storey of a dwelling a greater distance from front and side boundaries than the lower storey.</i></p>	<p><b>Partially Complies</b></p> <p>The western 'half' of the building incorporates a floor level 500mm below the eastern 'half'.</p> <p>There is no setting-in of the upper floor (see below for further assessment).</p>	<p><b>Complies</b></p> <p>The western 'half' of the building incorporates a floor level 500mm below the eastern 'half'.</p> <p>The eastern end of the northern elevation has been 'stepped back' / has an increased setback from the northern boundary to provide greater articulation in the built form.</p>
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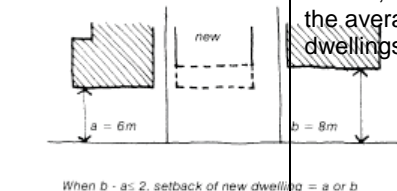
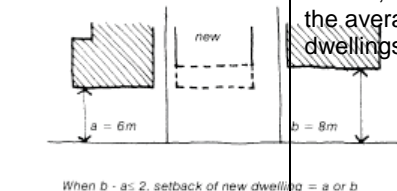
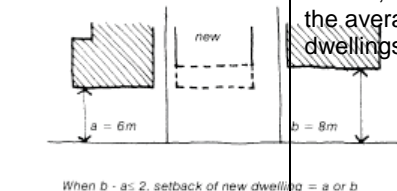
## Site Coverage

<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><b>Complies</b></p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>	<p><b>No change</b></p>
<p><i>A minimum of 20 per cent of the total site area should be pervious and remain undeveloped including driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>	<p><b>Complies</b></p>	<p><b>No change</b></p>

## Private Open Space

<p><i>Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</i></p> <p><i>(a) to be accessed directly from a habitable rooms of the dwelling</i></p> <p><i>(b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy</i></p> <p><i>(c) to take advantage of, but not adversely affect, natural features of the site</i></p> <p><i>(d) to minimise overlooking from adjacent buildings</i></p> <p><i>(e) to achieve separation from bedroom windows on adjacent sites</i></p> <p><i>(f) to have a northerly aspect to provide for comfortable year round use</i></p> <p><i>(g) not to be significantly shaded during winter by the associated dwelling or adjacent development</i></p> <p><i>(h) to be partly shaded in summer</i></p> <p><i>(i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</i></p> <p><i>(j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.</i></p> <p><i>General Section: Residential Development: PDC 15</i></p>	<p><b>Complies</b></p> <p>a) All POS areas are directly accessible from habitable rooms of the associated dwelling</p> <p>b) POS is located at ground level and via balconies to the side/rear of the dwelling. The ground level POS is capable of being screened for privacy</p> <p>c) The subject land does not maintain natural features which warrant preservation</p> <p>d) The POS areas should not be directly overlooked by adjacent buildings</p> <p>f) The proposed POS areas maintain a northern and western aspect to provide for comfortable year round use</p> <p>g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development</p> <p>h) POS areas are capable of being shaded during</p>	<p><b>No change</b></p>
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	<p>summer</p> <p>i) Traffic, industry or other business activities should not affect the subject land</p> <p>j) The POS areas are considered to have sufficient shape and area to be functional.</p> <p><b>Does Not Comply</b></p> <p>e) The northern balcony area is located next to bedrooms of the adjacent dwelling</p>	<p><b>Partially complies</b></p> <p>The setback of the north facing balcony has been increased creating greater separation between the balcony and the adjoining dwellings bedroom windows</p>
<p><b>Site Area 250 m<sup>2</sup> or greater:</b></p> <p><i>Minimum area of POS: 20% of the site area</i></p> <p><i>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.</i></p> <p><i>One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <p>Approximately 78% (690 square metres – including balconies) of the allotment is provided as private open space</p>	<p><b>No change</b></p>
<b>Street Setbacks</b>		
<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <p><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></p> <p><i>(b) contribute positively to the function, appearance and/or desired character of the locality.</i></p> <p><i>General Section: Design and Appearance: PDC 23</i></p>	<p><b>Complies</b></p> <p>The proposed front setback is considered to be compatible with and similar to the setbacks of buildings on adjacent land on the northern side of Jervois Terrace (given most dwellings have their secondary frontage to Jervois Terrace). As such, the front setback of 5.9 metres to the main face of the dwelling should contribute positively to the function, appearance and desired character of the locality.</p>	<p><b>Complies</b></p> <p>The front setback of the dwelling to Jervois Terrace has been reduced to 4.4 metres to the wall of the dwelling and 2.9m to the balcony. Although this front setback is closer than originally proposed it is not considered to unreasonably or detrimentally impact on the Jervois Terrace streetscape. Especially as a majority of existing dwellings in the locality with frontage to Jervois Terrace have a reduced setback as Jervois Terrace represents their secondary street setback.</p>

<p>Except where specified in a particular zone, policy area or precinct, the main face of a building should be set back from the primary road frontage in accordance with the following table:</p> <table><tr><th>Setback difference between buildings on adjacent allotments</th><th>Setback of new building</th></tr><tr><td>Up to 2 metres</td><td><p>The same setback as one of the adjacent buildings, as illustrated below:</p></td></tr><tr><td>Greater than 2 metres</td><td>At least the average setback of the adjacent buildings</td></tr></table> <p>General Section: Design and Appearance: PDC 25</p>	Setback difference between buildings on adjacent allotments	Setback of new building	Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p> 	Greater than 2 metres	At least the average setback of the adjacent buildings	<p><b>Complies</b></p> <p>The two adjacent dwellings are sited 2.5 metres and 3.0 metres from Jervois Terrace.</p> <p>The front setback, of 5.9 metres, therefore exceeds the average setback of dwellings on adjacent sites.</p>	<p><b>Complies</b></p> <p>The two adjoining dwellings have an average setback of 2.75 metres. At its closest point to the balcony the dwelling maintains a setback of 2.9 metres, excluding the stairway entry and corner-cut off.</p> <p>The setback is considered to be appropriate for the locality.</p>
Setback difference between buildings on adjacent allotments	Setback of new building							
Up to 2 metres	<p>The same setback as one of the adjacent buildings, as illustrated below:</p> 							
Greater than 2 metres	At least the average setback of the adjacent buildings							
<p>Minimum setback from secondary road frontage: 3 metres</p> <p>Residential Zone: PDC 7</p>	<p><b>Complies</b></p> <p>Dwelling setback 3.5 metres</p>	<p><b>No change</b></p>						
<p>Dwellings should be setback from allotment or site boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</p> <p>General Section: Residential Development: PDC 36</p>	<p><b>Complies</b></p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>	<p><b>No change</b></p>						
<h2>Side Setbacks</h2>								
<p>Where the wall height is between 3 metres and 6 metres:</p> <p>(a) 3 metres if adjacent southern boundary</p> <p>(b) 2 metres in all other circumstances.</p> <p>Where the wall height is greater than 6 metres:</p> <p>(a) if not adjacent the southern boundary, 2 metres plus an additional setback equal to the increase in wall height above 6 metres</p> <p>(b) if adjacent the southern boundary, 3 metres plus an additional setback equal to the increase in wall height above 6 metres.</p> <p>Residential Zone: PDC 7</p>	<p><b>Complies</b></p> <p>Minimum setback of wall with a height of 6.0 metres is no less than 4.376 metres</p> <p><b>Complies</b></p> <p>Minimum setback of wall with a height of 6.5 metres is no less than 4.376 metres (minimum 3.5 metres required).</p>	<p><b>Complies</b></p> <p>Minimum setback of wall with height of 6.0 metres is no less than <b>5.876 metres</b></p> <p><b>Complies</b></p> <p>Minimum setback of wall with a height of 6.5 metres is no less than <b>5.876 metres</b> (minimum 3.5 metres required).</p>						
<p>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</p> <p>(a) the visual impact of the building as viewed from adjacent properties</p> <p>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</p> <p>General Section: Design &amp; Appearance: PDC 2</p>	<p><b>Does Not Comply</b></p> <p>Whilst the proposed dwelling is setback some 4.3 metres from the northern boundary, the balcony incorporates a width of 3.0 metres; providing separation of 1.3 metres from the boundary. This is considered to result in an unreasonable impact upon the adjoining property via visual bulk and loss of privacy amenity (see discussion below).</p>	<p><b>Complies</b></p> <p>The increased setback from the northern side boundary has resulted in an increased balcony setback. From the northern boundary the balcony will have a minimum setback of 2.876 metres increasing to 3.8 metres at the eastern end of the north facing balcony. The increased and stepped setback and will provide additional separation in the built form and visual relief to the adjoining property.</p>						

	<b>Complies</b> The proposed dwelling will not result in unreasonable overshadowing of the adjoining property.	<b>No change</b>
<b>Rear Setbacks</b>		
8 metres for a single storey dwelling Residential Zone: PDC 7	<b>Does Not Comply</b> Rear setback of 4.376 metres	<b>Does not comply (to a lesser extent)</b> Rear setback has been increased to a minimum of 5.876 metres.
8 metres for a 2 or more storey dwelling Residential Zone: PDC 7	<b>Does Not Comply</b> Rear setback of 4.376 metres	<b>Does not comply (to a lesser extent)</b> Rear setback has been increased to 5.876 metres
<p>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:</p> <p>(a) a minimum of 6 metres for single storey components of dwellings, although the minimum setback can be reduced to 3 metres for a portion of the building as long as that portion does not exceed half the total width of the rear allotment boundary</p> <p>(b) a minimum of 8 metres for two storey components of dwellings</p> <p>General Section: Residential Development: PDC 37</p>	<b>Does Not Comply</b> Rear setback of 4.376 metres	<b>Complies</b> Rear setback 6.376 metres for a length of 8.5 metre and 5.876 metres for 13.2 metres equivalent to 26.4% of the rear allotment boundary length.
<b>Building Height</b>		
Maximum building height (from natural ground level): 2 storeys of not more than 9 metres Residential Zone: PDC 7	<b>Complies</b> The proposed dwelling incorporates a maximum building height of 9.0 metres, which is equal to the maximum permitted in the Policy Area.	<b>No change</b>
<b>Garages, Carports and Outbuildings</b>		
<p>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</p> <p>Minimum setback from primary road frontage:  8 metres for a freestanding structure.  5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</p> <p>Minimum setback from secondary road frontage:  5.5 metres for a single-width structure.  Not less than the specified setback of the associated dwelling for a double-width structure.</p> <p>Residential Zone: PDC 8</p>	<b>Partially Complies</b> The garage is not setback 500mm from the main face of the dwelling, failing to comply with part of Principle 8.  However, the expanse of the front façade is extensive, diluting the prominence of the garage. In addition, the balcony protrusion and stairwell forward of the building aid to draw the eye away from the garage element.	<b>No change in appearance</b> Setback of garage from the street has been reduced to 4.4 metres which <b>does not comply</b> with the 5.5 metre setback requirement.

<p><i>Carports and garages should be setback from road and building frontages so as to:</i>  <i>(a) not adversely impact on the safety of road users</i>  <i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p><b>Complies</b></p>	<p><b>No change</b></p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p><b>Complies</b>  The proposed garage is located under the upper floor and its façade incorporates materials and detailing which complements the associated dwelling.</p>	<p><b>No change</b></p>
<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p><b>Does Not Comply</b>  The garage incorporates a width of some 9.5 metres. Whilst this exceeds the 6.0 metres sought, the window on the eastern side prevents the garage 'reading' as such a dominant element upon the streetscape elevation of the building.</p>	<p><b>No change</b></p>
<p><b>Car Parking</b></p>		
<p><i>Minimum number of onsite car parking spaces (one of which should be covered) :</i>  <i>3 per detached, semi-detached, or row dwelling containing 4 or more bedrooms.</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b>  4 on-site car parks will be available.</p>	<p><b>Does not comply</b>  2 on-site car parks will be available.</p>
<p><i>On-site vehicle parking should be provided having regard to:</i>  <i>(a) the number, nature and size of proposed dwellings</i>  <i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i>  <i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i>  <i>(d) availability of on-street car parking</i>  <i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></p> <p><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Complies</b>  a) Sufficient car parking is provided for the number, nature and size of the proposed dwelling, as demonstrated by compliance with PDC 7  d) e) A minimum of 4 on-street car parking spaces shall remain available adjacent the subject land</p>	<p><b>Does not comply</b>  a) insufficient car parking will be provided for the size of the proposed dwelling</p> <p><b>Complies</b>  d) a minimum of 4 on street car parking spaces will remain available adjacent the subject land.</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p><b>Complies</b>  A minimum of 4 on-street car parking spaces are provided for the proposed allotments, which satisfies PDC 22</p>	<p><b>No change</b></p>

## Access

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

General Section: Residential Development: PDC 39

**Complies**

**Complies**

The existing driveway will be utilised

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**

**No change**

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**

**No change**

## 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

**Partly Complies**

The proposed dwelling reflects a number of design elements sought by the desired character of the locality, including;

- Horizontal cladding to the building façades;
- Clerestory/dormer window protrusions in the southern roof form;
- Protruding balcony and verandah above;
- Pitched roof form at a 15 degree slope; and
- Fenestration.

The dwelling incorporates a 15 degree colorbond roof in 'Monument' (near slate grey), whilst the weatherboard panelling will incorporate a light grey colour. These materials and colours should not result in glare to neighbouring properties, drivers or cyclists.

The proposal however, does not incorporate a stepping-in of the upper level, which combined with the rectangular footprint, does not result in a level of articulation as sought by the Desired Character of the Hills Policy Area.

**Partly Complies (to a greater extent)**

The dwelling largely maintains its previous design and appearance; however, amendments have been proposed to provide a greater level of articulation in the built form. These include:

- Stepping of bedrooms 1 and 2 by 0.5 metres to increase the setback of the building from the northern boundary.
- Stepping of the north facing balcony to increase the setback and break up the appearance of the built form.
- Elevated ceiling skylight to the northern roof elevation.
- Gable end incorporated into the north facing balcony verandah.
- Re-designed stair access.

Although the proposal does not strictly adhere to the Development Plan in relation to the built form, it is considered that the alterations to the external appearance of the dwelling, particularly the stepped setback from the northern boundary, will provide greater articulation and visual interest.

<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><i>General Section: Design &amp; Appearance: PDC 5</i></p>	<p><b>Complies</b>  The proposed balcony is integrated into the dwelling's design, in that it 'wraps' around the whole of the building. The balcony is to incorporate clear glass balustrading to the east and south elevations that enables line of sight to the street.</p>	<p><b>No change</b>  (Note: translucent balustrading to the north elevation of the balcony)</p>
<p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 15</i></p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 18</i></p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p> <p><i>Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings and entrance foyers.</i></p> <p><i>General Section: Residential Development: PDC 6</i></p>	<p><b>Complies</b>  The dwelling is designed so that the main facade faces the primary street frontage, presenting an entrance door, stairwell, balcony and habitable room windows to the street.</p>	<p><b>No change</b>  (Note: change to stairwell design)</p>
<h2>Overshadowing</h2>		
<p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i>  <i>(a) windows of habitable rooms</i>  <i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i>  <i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p><i>General Section: Design &amp; Appearance: PDC 9</i></p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i>  <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>  <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>  <i>(i) half of the existing ground level open space</i>  <i>(ii) 35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres)</i>  <i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 10</i></p>	<p><b>Complies</b>  <i>Principle 9</i>  a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on 21 June.  b) Adjacent dwellings do not incorporate balconies.  c) Solar collectors on adjacent dwellings are unlikely to be affected by the proposed development</p> <p><i>Principle 10</i>  a) See above  b) Given that south forms the street boundary, a majority of winter shadow will be cast within the front yard of the subject land. Early morning shadow will fall upon the undeveloped yard of the site, whilst late afternoon shadow will fall upon McConnell Street.</p>	<p><b>Complies</b>  The increase setback of the dwelling from the northern boundary will further reduce any overshadowing and improve access to natural light to the adjacent dwelling.</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*

### Does Not Comply

### Partially Complies

The increased setback from the northern boundary has resulted in the sightlines from the balcony being directed to the roof of the neighbouring dwelling rather than into the side path and south facing windows. The screening on the north-west corner of the deck will provide obscuring of views to the rear yard of the adjoining dwelling which is located towards the west. The plantings proposed along the boundary are also considered to further obscure overlooking. While some overlooking may still be possible from the upper level it is considered that privacy of the POS areas and windows of the adjoining dwelling will be protected and adequately obscured by the privacy treatments proposed.

## Built Form & Setback

The amended plans generally maintain the same design and appearance of the dwelling as when originally presented to the Panel including the 500mm internal floor level split.

To address the concerns raised in relation to the bulk and visual dominance of the built form the applicant has provided alteration and additional features to the dwelling including the stepping in the northern elevation and increased northern setback, gable feature to the north facing balcony verandah and elevated skylight in the north facing portion of the roof. The proposed amendments coupled with the increased setback are considered to provide a greater level of articulation to the built form such that it will reduce the visual dominance of the dwelling when viewed from the adjoining property.

In the context of the streetscape and broader locality, it is acknowledged that the dwelling will be a visually prominent building due to the subject land being located on a corner which is elevated above surrounding properties. The reduced front setback is likely to make the proposed dwelling more prominent within the Jervois Terrace streetscape however, not that significantly greater than what it would have been had the original front setback been maintained. That said the dwelling generally fits within the parameters of the Development Plan in relation to building height and setback. In this context the dwelling is not considered to be of a size, height or scale that is unreasonable or at odds with the Development Plan or the character of the locality. Despite the reduced primary setback the dwelling is it not considered to result in a detrimental outcome for the streetscape or locality.

In considering the previous proposal and report it appears that the primary concern in relation to the built form was its visual impact on the adjoining dwelling. As discussed above, the amendments to the design and increased setback are considered to reduce the visual dominance of the dwelling when viewed from the neighbouring land. Therefore reasons for refusal 1 and 3 are considered to be largely resolved through the amended plans.



## **Overlooking**

The balance between allowing someone to utilise a view from their property and ensuring that the privacy of the neighbouring dwelling is protected is a complex one. On the one hand protecting personal privacy is paramount whereas on the other hand enabling a reasonable development to occur on land is also important. What the applicant is seeking to do by maintaining largely unobscured north and west facing balconies is to utilise the views available from the subject land.

The primary area of private space utilised by the adjoining property at 2 McConnell Street is located towards the west and north of the existing dwelling, most likely to take advantage of the views. The proposed dwelling still incorporates a translucent balustrade on the northern elevation of the balcony to a height of 1 metre and a 1700mm screen that will wrap around the north-west corner of the balcony to provide privacy to the adjoining property. I consider the screening that is proposed, along with the location of the adjoining dwelling and its private open space will protect the privacy of the adjoining property to a reasonable level. Although the screen doesn't extend around the entire northern and western sides of the balcony, where it is proposed will prevent opportunities for direct overlooking into the POS areas of the neighbouring dwelling.

The relationship in finished floor levels between the proposed and neighbouring dwelling will result in the proposed dwelling looking down onto the roof of the neighbouring dwelling rather than into their private open space areas or southern pathway. It is acknowledged that someone on the north or west facing balcony may be afforded some views into the neighbouring dwelling however, these are not considered to be direct or unreasonable. In considering the context of the locality where a certain level of overlooking exists due to the gradient of the land and in the interest of providing a reasonable balance between the needs of both property owners the screening and plantings are considered an acceptable approach to address the overlooking and privacy issues. In accordance with the Desired Character and Objective 3 and Principle 2 of the Policy Area and Design and Appearance Principle 12(a), 12(b) and 12(c) the proposed privacy treatments along with the increased dwelling setback (discussed above) are considered to protect the privacy of the adjoining property to a reasonable level. Therefore, it is considered that reason for refusal 2 has been resolved through the amended plans.

## **Onsite Car parking**

As a result of the amended plans and reduced primary setback of the dwelling, the garage will have a setback from the primary street of 4.4 metres. This reduces the onsite car parking from 4 spaces to 2 which represents an onsite car parking shortfall of 1 space (requirement 3 spaces). Although the development does not achieve the required on site car parking this is not considered fatal to the application as there are potentially other opportunities for the owner/developer to create on site car parking and there is a considerable amount of on street car parking that could be used should it be required.

## **ANALYSIS/CONCLUSION**

The proposed compromise plans have attempted to address the reasons for refusal relating to visual bulk, overlooking and built form. Whilst the height and size of the dwelling has remained largely the same the increased northern boundary setback, changes to design and layout along with the privacy treatments and landscaping are considered to address the reasons for refusal in relation to the visual appearance of the dwelling and overlooking by providing greater separation from the neighbouring dwelling, visual relief and articulation in the built form and protection of privacy.

Accordingly, it is the staff's view that the amendments to the proposal have addressed the Panel's reasons for refusal, and therefore suggest that the Panel advise the Environment, Resources and Development Court of its support for the compromise plans, 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 the Development Assessment Panel advise the Environment, Resources and Development Court that Council supports the comprise proposal submitted by Diodoro Iuliano for Development Application No: 100/2014/200 and recommends the following conditions:

## **CONDITIONS**

1. The development shall be constructed and maintained in accordance with the plans and details submitted with and forming part of Development Application No.100/200/2014 (being drawing number(s) JER2792-1 A01 Revision J, A02 Revision J, A03 Revision J, A04 Revision J, A05 Revision C prepared by Dean Iuliano & Company, received by Council on 20 March 2015) except when varied by the following conditions of consent.
2. All existing vegetation nominated to be retained and all new vegetation to be planted, including the screening plantings along the northern boundary, 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.
3. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with recognised engineering practices prior to the occupation of the premises or the use of the development herein approved.
4. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
5. The screening on the north-west corner of the balcony proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.
6. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.
7. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
8. 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.
9. 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.

## **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. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time. The Environment Protection Authority has restrictions relating to the control of noise in the urban environment. Further information is available by phoning the Environment Protection Authority on 8204 2000.
3. Before commencing any site works, a temporary vehicular access to the property for machinery, delivery of building materials and general vehicles should be provided. In the case where no driveway invert exists, the kerb can be saw cut and removed at the intended location for the new driveway invert to provide the necessary temporary access. In addition, if a paved Council footpath exists, this should also be removed in alignment with the removed section of kerb. The applicant should also take note of other information provided regarding use of, damage to and construction on Council owned land.
4. 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.
5. 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).
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.
7. 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.
8. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.

## **Attachments**

Attachment I:        *Decision Notification Form and Original Plans*  
Attachment II:      *Compromise Proposal Plans and Supporting Documentation*