

**DEVELOPMENT ASSESSMENT PANEL
AGENDA FOR MEETING TO BE HELD ON
WEDNESDAY 16 MARCH 2016**

- 1.1 PRESENT**
- 1.2 APOLOGIES**
- 1.3 IN ATTENDANCE**
- 1.4 COMMENCEMENT**
- 2. APPLICATIONS:**
 - 2.1 45 MYER ROAD STURT**
Two single storey residential flat buildings comprising two dwellings each and a two storey residential flat building comprising six dwellings, with associated car parking, fencing and landscaping
DAP160316 – 2.1.....1
 - 2.2 79 FINNISS STREET, MARION**
Three, two storey row dwellings, incorporating a garage wall on the eastern side boundary
DAP160316 – 2.2.....58
 - 2.3 1/9 MOY AVENUE, WARRADALE**
A garage (7.9m x 6.2m x 3.05m wall height) located on the southern side boundary
DAP160316 – 2.3.....118
 - 2.4 634 SOUTH ROAD, GLANDORE**
Telecommunications facility and associated works
DAP160316 – 2.4.....137
- 3. OTHER BUSINESS:**
 - 3.1 APPEALS UPDATE**
 - 3.2 POLICY OBSERVATIONS**
- 4. CONFIRMATION OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 16 MARCH 2016**
- 5. CLOSURE**

DEVELOPMENT ASSESSMENT PANEL
Wednesday 16 March 2016

Agenda Ref No:	DAP160316 - 2.1
Originating Officer:	Emily Nankivell Senior Development Officer - Planning
Applicant:	House & Land SA Pty Ltd
Development Description:	Two single storey residential flat buildings comprising two dwellings each and a two storey residential flat building comprising six dwellings, with associated car parking, fencing and landscaping
Site Location:	45 Myer Road Sturt
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 3 / Consent
Lodgement Date:	23/07/2015
Development Plan:	Consolidated – 19 March 2015
Application No:	100/2015/1301
Recommendation:	That, subject to support from Full Council to waiver compliance with the Land Management Agreement, the Granting of Development Plan Consent be sub-delegated to the Manager – Development and Regulatory Services

CATEGORISATION & DELEGATION

The subject application is a Category 3 form of development pursuant to Schedule 9 of the Development Regulations 2008, by virtue of being an undefined form of development comprising the construction of more than one residential flat building where one of the buildings is two storeys in nature. Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans and that the development results in a dwelling density that will result in site areas below the minimum standard in the Development Plan, Council has delegated authority to the Development Assessment Panel.

BACKGROUND

The subject land is a unique allotment that primarily faces onto an existing Council reserve. The creation of the allotment resulted from a land 'swap' and subsequent land division between Renewal SA and Council during 2013/14. Prior to 2013 the land identified as the Travers Street reserve comprised two allotments, the northern most allotment was owned by Council and the southern most allotment was owned by Renewal SA. The reason for the land 'swap' was to ensure that Travers Street reserve would retain access from Travers Street, access which would have been lost had Renewal SA decided to develop the land in the original allotment layout.

The land 'swap' and land division resulted in the creation of three new parcels of land:

1. The Council owned reserve taking up the eastern part of the site with frontage to both Travers Street and Myer Road;
2. The Renewal SA owned allotment located to the western side of the site with frontage to Travers Street and a total area of 378m²; and
3. The Renewal SA owned larger residential allotment also located towards the western side of the land with a total area of 2658m² with access from Myer Road.

As part of the land 'swap', a Land Management Agreement (LMA) was created over the larger parcel of land, subject of this application, to ensure that certain development outcomes were achieved for the site. These outcomes included:

- Install a visually permeable fence allowing passive surveillance on the boundary of the land adjacent the reserve (eastern boundary of the site) to be approved by Council;
- To install a 1 metre wide landscaping strip adjacent the boundary between the land and the reserve;
- That the dwellings, including main entrances of each dwelling, face in an easterly direction toward the reserve; and
- The driveway(s) to the dwellings to be located between the dwellings and landscaping.

It was anticipated that the land would be sold by Renewal SA to a private developer. The LMA was to ensure that Council had some level of control over the layout of the allotments given the relationship of the site to the Council reserve. Further discussion relating to the development's compliance with the LMA is contained within the body of the report.

In addition to the above, Council's property department are in the process of having an application assessed to create two more detached dwelling allotments with frontage to Travers Street (marked on the plan of division as indicative allotments). This application is likely to be presented to the DAP at a later date for consideration.

Refer Attachment I

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

Amendments Requested	Amendments Made
Reduction in the setback to Residences 3 to 8 to 5.5m	Setbacks of Residences 3 to 8 reduced to 5.5 metres
Improved solar access to Residence 2 by increasing the setback of Residences 3 to 8 from the southern boundary	Residences 3 to 8 relocated 2.5 metres from the southern boundary between Residence 2 and 3 to improve solar access to Residence 2
Reduction in hard paved surfaces on the site	Hard paved surfaces have been reduced over the site.

SUBJECT LAND & LOCALITY

The subject land is a large (generally) rectangular shaped allotment located at the southern end of Myer Road with access located at the end of the cul-de-sac. The land has a northern boundary of 43 metres in length, an eastern boundary 62 metres in length and a total area of 2658m². The south-west corner of the land is cut-off and this is the only irregularity demonstrated by the allotment shape. The land is identified as allotment 481 in Certificate of Title Volume 6158 Folio 570.

The land is currently vacant having previously formed part of the Council reserve. The land is relatively flat with some mature vegetation scattered throughout. None of the trees that exist on

the land are regulated or significant. It is proposed for all future development on the site to gain vehicle access from Myer Road.

The subject land is located approximately 750 metres from the Marion Shopping Centre, approximately 450 metres from Diagonal Road and Sturt Road and approximately 500m from the Marion Council administration building.

The locality is predominantly characterised by residential development of varying densities, both single and two storey in scale. Immediately located to the east of the site are existing Renewal SA units two storey in height. Much of the redevelopment that has occurred throughout the locality has been a result of existing detached dwellings being replaced by either semi-detached or row dwellings. These examples are scattered throughout. Myer Road and Grandview Grove have largely maintained their original dwellings and pattern of division and predominantly comprise single storey detached dwellings.

Refer Attachments II & III

PROPOSED DEVELOPMENT

The application proposes the construction of two, single storey residential flat buildings each comprising two dwellings and a two storey residential flat building comprising six dwellings (a total of ten dwellings) with associated fencing, landscaping and car parking.

The four single storey dwellings are sited on the external sides of the site to the south and north. The single storey dwellings each comprise three bedrooms (main with ensuite), study, living area, kitchen and garage. In addition to the rear private open space areas of each dwelling, a courtyard area is provided to Residences 2, 9 and 10 which will provide natural light to two of the bedrooms.

The two storey dwellings all comprise a living, kitchen, laundry, toilet and garage on the lower level and three bedrooms (main with ensuite), balcony and separate bathroom on the upper level.

All ten dwellings face in an easterly direction, with the balconies of Residences 3 to 8 overlooking the reserve.

The vehicle access for all dwellings is located on the eastern side of the site and is gained from Myer Road.

Landscaping is proposed throughout the site with a 1 metre landscape strip along the eastern boundary. A black tubular fence with a height of 1.5 metres is proposed along the eastern boundary of the site. This fence is permeable and will allow views into and out of the site whilst delineating the public and private realms. Two gates are proposed in the fence, opposite Residences 2 and 9, which will allow residents to access to the reserve directly from the subject land.

Refer Attachment IV

PUBLIC NOTIFICATION

Properties notified:	22 properties were notified during the Category 3 public notification process.
Representations:	3 representations were received by Council. One opposed to the development, one in favour of the application subject to amendments and one neutral regarding the outcome of the application although noting concerns.
Persons wishing to be heard:	None of the representors indicated that they would like to be heard.

Summary of representations:	<ul style="list-style-type: none"> • Insufficient car parking on site for the number of dwellings proposed. • Concern that residents of the dwellings will not use the car parking spaces allocated and there will be overflow parking into Myer Road and Grandview Grove. • Request that Crepe Myrtle not be planted along the back fence adjacent the border with 33A Duncan Street due to overshadowing and the plant taking moisture from the soil. • Suggested Verbinium as an alternative planting along the rear fence line. <p style="text-align: right;"><i>Refer Attachment V</i></p>
Applicant's response:	<ul style="list-style-type: none"> • The proposal complies with the Development Plan in regard the car accommodation. • Agreed to substitute the Crepe Myrtle with Viburnum Tinus. <p style="text-align: right;"><i>Refer Attachment VI</i></p>

INTERNAL DEPARTMENT COMMENTS

Engineering:	<p>Council's Development Engineer was asked to provide comment on the vehicle manoeuvring, driveway width, driveway gradient car parking, potential vehicle conflict between the proposed vehicle access/egress and the driveway of 43 Myer Road, stormwater management and finished floor levels, and has confirmed:</p> <ul style="list-style-type: none"> • The driveway entrance being 5.5 metres for the first 14 metres, reducing to 5.1 metres is in accordance with AS 2890.1:2004. • Manoeuvring is satisfactory for all residences. • Access should not impact on the Council infrastructure, namely a pram ramp and path which may need reconstruction at the developers expense. Should these be impacted by the proposed development/access repair and reinstatement will be at the developers expense. • 3000 litre rainwater retention tanks fully plumbed into toilet and laundry connected to at least 80% roof area, instead of dual retention/detention tanks, should be installed to those dwellings whose yard areas can reasonably accommodate such. The applicant has agreed to install 3000L tanks and has asked that this be included as a condition. • The site is not subject to flooding.
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ZONE & POLICY AREA ASSESSMENT

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

Residential Zone		
<p>Objectives</p> <p>1 A residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing. 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.</p>		
Northern Policy Area 13		
<p>Objectives</p> <p>1 A policy area primarily accommodating low scale, low to medium density housing. 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities. 3 Development that contributes to the desired character of the policy area.</p>		
<p>Desired Character</p> <p>The desired character of the policy area is of an attractive residential environment containing one and two storey, low-to-medium density dwellings of a variety of architectural styles. This will be achieved through a combination of the retention of existing housing stock in good condition, and the redevelopment of other properties generally at greater densities than that of the original housing. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.</p> <p>Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Medium density development should not be achieved at the expense of mature vegetation or significant trees on the development site or located where additional or relocated access points require removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ detached dwelling ▪ group dwelling ▪ residential flat building ▪ row dwelling ▪ semi-detached dwelling ▪ supported accommodation. 	<p>Complies</p> <p>The proposal results in dwellings in a residential flat building format, an envisaged form of development in the Policy Area.</p>
PDC 3	<p>Minimum Site Area:</p> <p>300m² average site area per dwelling in a residential flat buildings</p>	<p>Does Not Comply</p> <p>Average allotment size per dwelling (including driveway): 265.8m²</p> <p>Average allotment size per dwelling (excluding driveway): 226.6m²</p> <p>Individual allotment size per dwelling:</p> <p>Residence 1: 268.2m² Residence 2: 272m² Residence 3: 252m² Residence 4: 180m² Residence 5: 180m² Residence 6: 180m² Residence 7: 180m² Residence 8: 215m² Residence 9: 269m² Residence 10: 269m² NOTE: the site areas</p>

		nominated on the site plan differ from my calculations in some instances. The differences are only by 1-2 square metres.
	<i>Minimum Frontage: 20m</i>	Does Not Comply Frontage to Myer Road of 12.44m (Total length of boundary 43m)
	<i>Minimum Depth: 45m</i>	Complies 62m

Assessment

The application proposes the construction of three residential flat buildings on the site, two single storey and one two storey, comprising a total of ten dwellings. The subject allotment is quite unique in that, although it is a fairly conventional allotment shape, it has a limited frontage to Myer Road. Whilst not technically achieving the frontage requirements specified for residential flat buildings in the Northern Policy Area 13, the dimensions of the allotment will exceed the standard frontage and depth requirements, indicating that the allotment is of a size and shape suitable for the intended form of development.

The dwellings being both single and two storey in nature provide a variety in the built form and are considered *to meet a variety of accommodation needs* in the locality as called for in the Desired Character. The siting of the built form with the two storey dwellings contained in the middle of the site and the single storey dwellings sited on either side of the two storey building creates a graduation in the built form, which will also limit the impact of the two-storey development on adjacent residential development. This is particularly critical given that the site essentially creates a hammerhead shaped allotment that also proposes two storey development (further discussion on this is contained in the following table).

The primary shortfall demonstrated by the proposal in relation to the Policy Area criteria is the lack of site area. Each dwelling site is provided with an average allotment size of 265.8m² over the entire allotment. If the common driveway is excluded from the calculation the average allotment size is reduced to 226.5m². This results in an allotment size shortfall of 11.4% and 24.5% respectively. In reality, each dwelling site varies in size, with each dwelling being provided with its own individual site (demonstrated by the land division that has been lodged for the site). The individual site areas proposed range from 180m² up to 272m², with the dwellings that have the smaller two storey dwelling footprint utilising the smaller site area and the larger single storey dwelling footprint generally being provided with the larger site area. Although the development fails to achieve the density requirements specified by the Policy Area, each dwelling demonstrates appropriate setbacks from front, side and rear boundaries, adequate private open space areas, vehicle access, car parking and landscaping throughout the site, such that the shortfall in site density is not considered fatal in this instance.

In my view, the shortfall in site area is justified, in part, given the subject land's proximity to the public reserve. Residents will be able to utilise the reserve for additional open space for larger social occasions, providing greater activity within the reserve.

Further to this point, Council's Development Plan seeks to encourage increased densities in close proximity to public open space, and in this regard, a site area dispensation (from 250 sq metres to 210 sq metres) is provided for row dwellings that adjoin a public open space greater than 2500 square metres.

Whilst the proposed development is not defined as row dwellings, the form of development is similar to that of row dwellings, with the exception that the dwellings do not have frontage to a public road. In this regard, the site areas proposed by the development are similar to that specified for row dwellings that adjoin a public reserve, which indicates the density

demonstrated by the proposal is envisaged by the Development Plan in circumstances similar to that of the subject application.

In conclusion, I am satisfied the shortfall in site areas is not fatal to the application and more so, the proposal represents a built form and density encouraged by the Development Plan.

DEVELOPMENT ASSESSMENT

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

Principles of Development Control:

Assessment:

Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Does Not Comply</p> <p>Site Coverage over Entire Allotment: 49.6%</p> <p>Site Coverage over Allotment (excluding Driveway): 58.1%</p> <p>Site Coverage for Individual Dwelling Sites:</p> <p>Residence 1: 56.7%</p> <p>Residence 2: 60.6%</p> <p>Residence 3: 44.4%</p> <p>Residence 4, 5, 6 & 7: 62.2%</p> <p>Residence 8: 52.1%</p> <p>Residence 9: 61.3%</p> <p>Residence 10: 61.3%</p> <p>(NOTE: the site plan indicates a total combined site coverage of 44% however this has changed as a result of a small increase to the dwelling footprints and as such is no longer the applicable standard.</p>
<p><i>Maximum floor area ratio: 0.6</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Complies</p> <p>FAR over Entire Allotment: 0.56</p> <p>Does Not Comply</p> <p>FAR for Individual Dwelling Sites:</p> <p>Residence 3: 0.65</p> <p>Residence 4, 5, 6 & 7: 0.91</p> <p>Residence 8: 0.76</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <p><i>(a) pedestrian and vehicle access and vehicle parking</i></p> <p><i>(b) domestic storage</i></p> <p><i>(c) outdoor clothes drying</i></p> <p><i>(d) rainwater tanks</i></p> <p><i>(e) private open space and landscaping</i></p> <p><i>(f) convenient storage of household waste and recycling receptacles</i></p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>
<p><i>A minimum of 20 per cent of the total site area should be pervious and remain undeveloped including driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>	<p>Complies</p> <p>21.6% of the site is landscaped.</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 habitable rooms of the associated dwelling.
- b) All POS is located at ground level to the side/rear of the dwellings and capable of being screened for privacy.
- c) The subject land does not maintain natural features which warrant preservation.
- d) The POS areas should not be directly overlooked by adjacent buildings.
- e) POS areas are not located next to bedrooms of dwellings on adjacent sites.
- f) The proposed primary areas of POS for each dwelling maintain a northerly aspect to provide for comfortable year round use.
- g) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development.
- 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.

Site Area 250 m² or greater:

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

Site area less than 250 m²:

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

**Applicable standard is 20%*

General Section: Residential Development: PDC 17

Complies

Site areas of less than 250m²:
Residence 4, 5, 6 & 7: 31%
Residence 8: 30.2%

Residences 4 to 8 are provided with POS areas that meet the minimum size requirement, are directly accessible from living areas of the associated dwelling, have an area greater than 16m², a minimum dimension of 4.93m (6.43m for Residence 8) and a gradient of less than 1-in-10.
The balconies located to the front of these dwellings have a minimum area of 8m².

Complies

Site areas of 250m² or greater:
Residence 3: 30.5%

Residence 3 is provided with an areas of POS that meets the minimum size requirement, is directly accessible from the living areas of the dwelling, has a minimum dimension of 7.43m and a gradient of less than 1-in-10.
The balcony associated with this dwelling does not achieve a 10m² area and as such has not been included in the POS calculation.

Does Not Comply

Site areas of 250m² or greater:
Residence 1: 18.6%
Residence 2: 18.3%
Residences 9 & 10: 18.8%

Residence 1, 2, 9 & 10 fail to achieve the minimum area requirement and minimum dimension of 5m. However, the POS area is directly accessible from the living areas of the associated dwelling, with this area being greater than 10% of the site (equivalent to 18.6% of the site for Residence 1 and 13.2% of the site for Residence 2, 9 & 10). The POS is provided with a minimum dimension of 4m for Residence 1 and 3.725m for Residences 2 and 3.085 for Residences 9 and 10.

Street Setbacks

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

General Section: Design and Appearance: PDC 23

Complies

The subject locality is one where a new character is desired, and therefore the setback of the proposed buildings from the public road need not necessarily be similar to or compatible with the setbacks of buildings on adjoining land and other buildings in the locality. In this instance the relationship of the dwellings to the road is slightly different due to the orientation and shape of the allotment in relation to the Myer Road cul-de-sac. This has resulted in the dwellings not strictly relating to the dwelling setback established in the Myer Road but rather creating a setback that relates to the reserve and the subject land to ensure vehicle manoeuvrability, car parking and landscaping.

By approximation, the front wall of Residence 10 will align with the front boundary of 43 Myer Road and from the proposed dwelling to the kerb the setback will be approximately 8 metres.

Given the shape and location of the subject land the proposed front setback is considered to contribute positively to the function, appearance and desired character of the locality.

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

General Section: Residential Development: PDC 36

Complies

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

Does Not Comply

Wall height not greater than 3 metres

Residence 1: 0.9 metres increasing to 1.8 metres from the southern boundary.

Residence 2: 0.6 metres increasing to 0.9 metres from the northern boundary of the site.

Residence 9: 0.6 metres increasing to 0.9 metres from the southern boundary.

Residence 10: 0.6 metres increasing to 1.5 metres from the northern boundary.

The proposed side setbacks fall between 0.1 and 0.4 metres short of that prescribed by PDC 7. The shortfall should not result in unreasonable impacts to adjacent land. Further, it is noted that a setback of 0.9 metres and 0.6 metres complies with the Building Code of Australia.

Does Not Comply

Wall height between 3 metres and 6 metres

Residence 3: 1.9 metres from the southern boundary

(NOTE: the separation between Residence 2 and 3 is 2.5 metres for the first 9.5 metres of dwelling and then increases to 2.8 metres for the remaining length of Residence 3).

Residence 8: 1.5m from the northern boundary.

	(NOTE: the separation between Residence 8 and 9 is 1.5 metres for the first 9.5 metres of dwelling and then increases to 2.4m for the remaining length of Residence 8).
<p><i>Dwellings with walls located on the boundary should be designed in accordance with the following:</i></p> <p><i>(a) the walls should not abut more than one side allotment boundary</i></p> <p><i>(b) a wall from an adjacent dwelling already exists on the boundary:</i></p> <p><i>(i) be located immediately abutting the adjacent wall</i></p> <p><i>(ii) be constructed to the same or to a lesser length and height as the adjacent wall</i></p> <p><i>(iii) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(c) no wall exists on the adjacent boundary:</i></p> <p><i>(i) be setback 2 or more metres behind the main face of the adjacent dwelling</i></p> <p><i>(ii) not exceed 6 metres in length</i></p> <p><i>(iii) not exceed 3 metres in height</i></p> <p><i>(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window</i></p> <p><i>(d) adjoining communal open space or a public reserve, not to exceed</i></p> <p><i>(i) 50 per cent of the length of the boundary</i></p> <p><i>(ii) 4 metres in height.</i></p> <p><i>General Section: Residential Development: PDC 38</i></p>	<p>Complies</p> <p>All dwellings are connected by party walls between Residences 1 and 2, Residences 3, 4, 5, 6, 7, 8 and Residences 9 and 10, respectively. In all cases the dwellings share a party wall that abuts the adjoining dwelling, with the exception of the non-compliances outlined below.</p> <p>Does Not Comply</p> <p>Residence 2: The wall for this dwelling extends for an additional 2.6 metres along the internal boundary between the two dwellings.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies</p> <p>Although the side setbacks do not comply with quantitative criteria, the 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>
Rear Setbacks	
<p><i>6 metres for a single storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>Residences 3, 4, 5, 6, 7 & 8: 12.35m to rear wall of dwelling and 9.3m from verandah.</p> <p>Partially Complies</p> <p>Residence 1: 3.8m increasing to 6.2m.</p> <p>Does Not Comply</p> <p>Residence 2: 3.72m at closest point</p> <p>Residence 9: 3.085m at closest point</p> <p>Residence 10: 3.085m at closest point</p>
<p><i>8 metres for a 2 or more storey dwelling</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>Residences 3, 4, 5, 6, 7 & 8: 12.35m</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>Complies</p> <p>Residences 1, 3, 4, 5, 6, 7, 8 all comply with this provision.</p> <p>Does Not Comply</p> <p>Residence 2: Dwelling setback 3.72m for a width equivalent to 55.5% of the dwelling site.</p> <p>Residence 9: Dwelling setback 3.085m for a width equivalent to 55.5% of the dwelling site.</p> <p>Residence 10: Dwelling setback 3.085m for a width equivalent to 55.5% of the dwelling site.</p>

<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies</p> <p>Although the rear setback of Residences 2, 9 and 10 do not comply with quantitative criteria, the separation from the rear boundary is considered sufficient to minimise the visual impact of the building from the adjacent property. Furthermore, the shortfall in setback should not result in unreasonable overshadowing of adjacent properties, as discussed in the Overshadowing section of this table.</p>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>The proposed dwellings incorporate a maximum building height of 7.2 metres, which is less than the maximum permitted in the Policy Area.</p>
<h2>Garages, Carports and Outbuildings</h2>	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage:</i></p> <p><i>8 metres for a freestanding structure.</i></p> <p><i>5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies</p> <p>Given the layout of the site it could be argued that this provision does not strictly apply to the proposed development as none of the dwellings have a frontage to a public road. That said, the provision does provide some guidance in relation to the location of garaging to ensure that it will not dominate the appearance of dwellings. In this regard the garages for each of the proposed dwellings are setback 5.5 metres from the common driveway and are either setback in line with or behind the main face of the associated dwelling.</p>
<p><i>Carports and garages should be setback from road and building frontages so as to:</i></p> <p><i>(a) not adversely impact on the safety of road users</i></p> <p><i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies</p> <p>All ten dwellings will utilise the common access located to the east of the site. There was some discussion during the creation of the subject parcel of land in relation to potential conflict of vehicle movements between the proposed development and the vehicle access of the adjacent dwelling located at 43 Myer Road. Council's Development Engineer considered that the potential for conflict between the two access points was minimal and that the movement of vehicles from the subject land would not adversely impact on the safety of road users. This is aided by the ability of vehicles to leave the site in a forward direction.</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p>Complies</p> <p>The proposed garages incorporate a roof form, materials and detailing which complement the associated dwelling.</p>

Car Parking

Minimum number of on site car parking spaces (one of which should be covered) :
1.5 per dwelling plus 1 visitor space per 3 dwellings for a group dwelling or residential flat building.

This provision requires the proposed development to have a total number of spaces per dwelling of 15 spaces and a total number of 3 to 4 visitor spaces.
Requiring a total of 19 car parking spaces.

Residential Zone: PDC 7

Partially Complies

Each dwelling is provided with two car parking spaces, one within the garage and one in front of the garage for each dwelling. This equates to a total of 20 on site car parking spaces which achieves the number of spaces required by the Development Plan. Where the provision of car parking does not strictly meet the requirement of this provision is in relation to the allocation of the spaces. The site does not provide any specified visitor spaces. However, it is considered that the provision of on-site car parking achieves the requirements of the provision.

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

General Section: Transportation & Access: PDC 43

Complies

a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7.
b) Centre facilities and public transport are located in walking distance of the dwellings
c) The likely occupants are anticipated to have standard mobility and transport requirements.

Does Not Comply

d) e) there will be one on street space lost as a result of the new vehicle access, which will leave two spaces available in the cul-de-sac. Although the space will be lost each dwelling is provided with two onsite spaces.

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

General Section: Land Division: PDC 22

Does Not Comply

As the proposed development has limited road frontage, there was already limited on street parking associated with and available to the site. Three spaces were available at the end of the cul-de-sac, one of which will be lost as a result of the development. Two spaces will still be available at the end of the cul-de-sac and additional spaces are located along Myer Road and into Grandview drive. Although the proposed development is not provided with the required on street car parking, each dwelling is provided with two on site car parking spaces which exceeds the requirement of the Development Plan and in this regard the shortfall of on street parking is not considered fatal to the application.

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

Partially Complies

The proposed access is 6 metres wide as stipulated by the access requirements for driveways servicing more than 8 dwellings.

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

General Section: Residential Development: PDC 40

Complies

The proposed crossovers are set back a minimum of 1 metre from existing street infrastructure.

Access ways servicing a hammerhead allotment or more than one dwelling should provide for an access onto a public road, with the driveway 'handle' being designed within the following parameters:

No. of dwellings served by driveway	Width at front property boundary & for first 6 metres	Width beyond first 6 metres	Widening required for passing	Minimum landscaped strip either side of driveway (metres)
8+	6	5	-	1.0

General Section: Residential Development: PDC 41

Partially Complies

The proposal provides a common driveway that will service all 10 dwellings. As proposed the driveway is 5.5 metres in width for the first 14.75 metres reducing to 5.1 metres for the remaining length of the driveway. The driveway is also provided with a 1.03m wide landscaping strip along its eastern side with the exception of a 3 metre length at the southern end of the driveway, excluded to provide for vehicle manoeuvring. Due to the layout of the driveway and access to each of the dwellings a 1 metre landscaping strip has not been provided along the western side of the driveway. In lieu of such, eight garden beds between the individual driveway/parking areas for each dwelling have been provided to soften the appearance of the driveway and hard paved surfaces on the site.

Although the driveway does not achieve the minimum width of 6 metres, the proposal has been assessed by Council's Development Engineer who has confirmed that vehicle manoeuvring is satisfactory and that the driveway is still an adequate width to service the number of dwellings proposed.

Design & Appearance

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

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

General Section: Design & Appearance: PDC 1

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

General Section: Design & Appearance: PDC 3

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

General Section: Design & Appearance: PDC 17

Partially Complies

The proposed dwellings are considered to reflect the desired character of the locality, although not presenting to the public street they incorporate an attractive presentation to the public reserve. The dwelling façades incorporate the following elements to enhance their design and appearance:

- Rendered front façades
- Protruding porticos and balconies
- Clade walls between the balconies
- Pitched colorbond roof with a 25 degree pitch
- Fenestration

The dwellings incorporate a 25 degree Colorbond roof in Grey, with rendered façades. The garage of each dwelling features Colorbond Panel lift door. These materials should not result in glare to neighbouring properties, drivers or cyclists.

The side elevations of the single storey dwellings will feature brick finish and the two storey dwellings will provide a render to the upper level and brick to the lower level. Each dwelling will provide fenestration to avoid extensive areas of uninterrupted walling exposed to public view. The two storey dwellings also incorporate an alfresco area that will break up the rear walls of these dwellings.

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

<p><i>Balconies should:</i></p> <p>(a) <i>be integrated with the overall form and detail of the building</i></p> <p>(b) <i>include balustrade detailing that enables line of sight to the street</i></p> <p>(c) <i>be recessed where wind would otherwise make the space unusable.</i></p> <p>General Section: Design & Appearance: PDC 5</p>	<p>Complies</p> <p>The proposed balconies provided to the front facades of the two storey dwellings are integrated into the design, with wire balustrading that enables line of sight to the reserve.</p>
<p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p>General Section: Design & Appearance: PDC 15</p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p>General Section: Design & Appearance: PDC 18</p> <p><i>Residential development should be designed to ensure living rooms have an external outlook.</i></p> <p>General Section: Residential Development: PDC 6</p> <p><i>Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings and entrance foyers.</i></p> <p>General Section: Residential Development: PDC 6</p>	<p>Partially Complies</p> <p>The dwellings are designed so that their main facade faces into the reserve, presenting an entrance door, portico and habitable windows to the street. The orientation of the dwellings to overlook the reserve in this instance was preferable to provide passive surveillance over the reserve and to integrate the relationship between public and private spaces. In this regard the subject site is quite unique.</p> <p>It is considered that although the front façades of the dwellings do not strictly face into the public street, they do face into a public space. Furthermore, the design of the dwellings are considered to provide clear delineation and entry of each dwelling.</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>General Section: Design and Appearance: PDC 14</p>	<p>Does Not Comply</p> <p>The development will result in two storey dwellings on a battleaxe allotment.</p> <p>Complies</p> <p>The dwellings have been designed to maintain the privacy of adjoining properties.</p>
<h2>Overshadowing</h2>	
<p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i></p> <p>(a) <i>windows of habitable rooms</i></p> <p>(b) <i>upper-level private balconies that provide the primary open space area for a dwelling</i></p> <p>(c) <i>solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p>General Section: Design & Appearance: PDC 9</p> <p><i>Except where specified in a zone, policy area or precinct, development should ensure that:</i></p> <p>(a) <i>north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June</i></p> <p>(b) <i>ground level open space of existing buildings receives direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:</i></p> <p>(i) <i>half of the existing ground level open space</i></p> <p>(ii) <i>35 square metres of the existing ground level open space (with at least one of the area's dimensions measuring 2.5 metres)</i></p> <p>(c) <i>where overshadowing already exceeds the requirements contained in part (b), development should not increase the overshadowed area.</i></p> <p>General Section: Design & Appearance: PDC 10</p>	<p>Partially Complies</p> <p>a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June.</p> <p>With the exception of Residence 2, all North-facing windows of dwellings proposed will achieve the same requirement.</p> <p>b) Given that south forms, what is identified as, the side boundary of the site, a majority of winter shadow will be cast towards the south of Residence 3 impacting primarily on Residence 2.</p> <p>Due to the nature of the development with single storey dwellings proposed to the external sides of the subject land and the two storey dwellings being positioned towards the centre of the site, the extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 9 and 10.</p>

Visual Privacy

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

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

General Section: Design & Appearance: PDC 12

Complies

The two storey dwellings incorporate fixed obscure glazing to 1.7 metres above floor level for windows on the side and rear elevations. Upper storey windows on the front elevation remain unobscured to provide surveillance to the reserve, and therefore should not result in direct overlooking of habitable areas of adjacent properties.

The balcony on the front façade is oriented to obtain views of the public reserve and blade walls of balconies will prevent oblique views into adjoining properties.

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

Site Facilities and Storage

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

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

General Section: Residential Development: PDC 30

Complies

a) Common letterboxes are featured at the entrance to the common driveway.

Partially Complies

b) Each dwelling is considered to have the capability for individual bicycle parking and storage.

c) Although common waste storage areas are not provided, this is not considered necessary given that Residences 1, 2, 3, 8, 9 and 10 will maintain side access to their rear garden area and Residences 3, 4, 5, 6, 7 and 8 are provided with additional garage storage space. 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

Partially Complies

The dwellings are oriented so that their open spaces and main activity areas face west. The primary private open space of each dwelling and the main activity areas of Residences 2 and 10 have a northern aspect for exposure to winter sun, and thereby provide for efficient solar access to open space all year around.

The main activity areas of the dwellings are oriented west, which should nonetheless receive some northern winter sunlight.

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

<p><i>Roof pitches should facilitate the efficient use of solar hot water services and photovoltaic cells.</i></p> <p><i>General Section: Energy Efficiency: PDC 4</i></p> <p><i>Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.</i></p> <p><i>General Section: Energy Efficiency: PDC 5</i></p>	<p>Complies</p> <p>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.</p>
<p>Landscaping, Fences and Walls</p>	
<p><i>Development should incorporate open space and landscaping in order to:</i></p> <ul style="list-style-type: none"> <i>(a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)</i> <i>(b) enhance the appearance of road frontages</i> <i>(c) screen service yards, loading areas and outdoor storage areas</i> <i>(d) minimise maintenance and watering requirements</i> <i>(e) enhance and define outdoor spaces, including car parking areas</i> <i>(f) provide shade and shelter</i> <i>(g) assist in climate control within buildings</i> <i>(h) maintain privacy</i> <i>(i) maximise stormwater re-use</i> <i>(j) complement existing native vegetation</i> <i>(k) contribute to the viability of ecosystems and species</i> <i>(l) promote water and biodiversity conservation.</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 1</i></p> <p><i>Landscaping should:</i></p> <ul style="list-style-type: none"> <i>(a) include the planting of locally indigenous species where appropriate</i> <i>(b) be oriented towards the street frontage</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 2</i></p>	<p>Complies</p> <p>The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the development and parking areas.</p>
<p><i>Fences and walls, including retaining walls, should:</i></p> <ul style="list-style-type: none"> <i>(a) not result in damage to neighbouring trees</i> <i>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</i> <i>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</i> <i>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</i> <i>(e) assist in highlighting building entrances</i> <i>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</i> <i>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</i> <i>(h) be constructed of non-flammable materials.</i> <p><i>General Section: Landscaping, Fences & Walls: PDC 5</i></p>	<p>Complies</p> <p>The proposal incorporates 1800mm colorbond fence to the northern, southern and western boundaries of the site and all internal boundary fencing. The fencing along the eastern boundary will incorporate a 1.5m high black tubular fence. The fencing meets the requirements of PDC 5.</p>

TABLE DISCUSSION

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

- The application proposes two storey dwellings on a battleaxe allotment.
- Site coverage exceeds the maximum 40% specified for dwellings in the Northern Policy Area 13.
- Floor area ratio for Residences 4, 5, 6, 7 and 8 exceed 0.6.
- Private open space to Residences 1, 2, 9 and 10 do not meet the Development Plan requirements.

Two Storey Dwellings on a Battleaxe Shaped Allotment

The proposal involves the development of two storey dwellings on a battleaxe allotment. In many instances this would not be appropriate given the clear direction of the Development Plan to restrict this type of development. In considering the appropriateness of two storey dwellings on this site, the location, dimensions and layout of the development as a whole were taken into account. The transition in the built form from single storey to two-storey (when viewed from the north and south) reduces the visual dominance of the development on the adjacent residential development. The setback of the two-storey dwellings was also taken into consideration, with the rear setbacks exceeding the requirement for two storey dwellings. Achieving the rear setback requirements was also aided by the depth of the dwelling sites which allow considerable separation of the built form rear boundaries. The dwellings have also been designed with obscure glazing to 1700mm above finished floor level to ensure that the dwellings will not result in overlooking of adjoining properties. The two storey dwellings forming part of this development are also considered to provide greater opportunity for passive surveillance of the public reserve, which would be lost if the site was restricted to single storey dwellings.

It is considered that given the unique location of the subject land, design of the development to transition from single to two-storey buildings, the generous rear boundary setbacks and the privacy treatments incorporated into the dwelling design, two storey dwellings on a battleaxe shaped allotment are acceptable in this instance, and will not have an unreasonable impact upon the privacy and amenity of adjoining land.

Site Coverage

The site coverage for the development taken from a whole of site perspective is 49.6%, when the common driveway is removed the site coverage increases to 58.1% and when considered in the context of each individual dwelling site the site coverage ranges from (at its highest) 62.5% to 44.4%. Although the site coverage numbers vary when calculated against the different site area standards, the site coverage calculation taken over the entire allotment demonstrates a 9.6% increase on the site coverage standard of 40%, this is equivalent to an additional 255.1 square metres over the site or 25.5 square metres per dwelling when averaged over the dwelling density. Although this demonstrates a ratio of built form to land that exceeds the Development Plan standard, the site coverage demonstrated over the site is generally consistent with site coverage demonstrated by similar new development throughout the locality. The site coverage also includes alfresco areas to all but one of the proposed dwellings. Furthermore, each dwelling is provided with adequate POS and appropriate setbacks from side, front and rear boundaries, such that the excess in site coverage is not considered detrimental to the application in this instance.

Floor Area Ratio

The floor area ratio (FAR) has been calculated over the whole site, being 0.56. When calculated for each individual site, Residences 4, 5, 6, 7 and 8 all exceed the maximum FAR by between 0.05 and 0.31. This is equivalent to 1.1m² and 55.8m² respectively. Similarly to the site coverage percentage, when calculated over the entire site the FAR did not exceed the maximum 0.6 specified in the Development Plan and this indicates that as a whole, the

development does not represent an overdevelopment of the site. The additional floor area will not unreasonably impact on the function of each dwelling and aids in keeping the footprints of the two storey dwellings quite compact. In this instance the FAR is considered acceptable.

Private Open Space

The private open space areas for Residences 1, 2, 9 and 10 fail to achieve the required area and/or dimension specified in Principle of Development Control 17 (refer Table for specific shortfalls). Although failing to achieve the minimum standards, the POS areas provided to each dwelling is considered to provide a functional area that will serve the needs of the residents of each property. Furthermore, these allotments adjoin a public reserve that can be utilised as additional outdoor space. It is considered that the POS areas for all dwellings is satisfactory in this instance.

COMPLIANCE WITH THE LAND MANAGEMENT AGREEMENT

As discussed above, the land is subject to an LMA which requires the proposal achieve certain requirements. The level of compliance of the proposal with the LMA is outlined below.

1. Permeable Fencing between the Subject Land and Reserve

The application proposes the installation of a 1.5m high tubular fence. This fencing will be visually permeable allowing for passive surveillance between the subject land and the Council reserve. In this regard the application is considered to satisfactorily meet the requirements of the LMA.

2. Landscaping between the Subject Land and Reserve

The site plan demonstrates a landscape strip 1.03 metres in width, located between the eastern boundary and proposed driveway. The landscape strip extends for almost the entire length of the eastern boundary with the exception of 3 metres at the southern end of the site. The failure of the landscaping to extend for the entire length of the eastern boundary fails to achieve the requirements of the LMA and as such full Council approval will be required to seek this variation from the LMA, hence the recommendation.

3.1 Orientation of the Proposed Dwellings

The proposed dwellings, including the main entrances, all face in an easterly direction and overlook the reserve. In this regard the proposal is considered to meet the requirements of the LMA.

3.2 Location of the Driveway/Vehicle Access

The driveway is located between the front fence and the proposed dwelling. In this regard the proposal is considered to meet the requirements of the LMA.

As the proposal fails to satisfactorily meet all of the requirements in the LMA, the consent of Full Council will be required to vary the LMA in regard to the landscaping proposed along the eastern boundary of the site.

The recommendation of this report has been worded to allow Council staff to seek the approval of Full Council to vary the LMA.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to car parking 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 the type of tree species proposed for the site. 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. It is relevant to note that the applicant has agreed to change the plant species.

ANALYSIS/CONCLUSION

The proposed development is considered to result in a dwelling outcome that respects the neighbouring residential development by providing a transition from the single storey to the two-storey built form on the site. The development is also considered to result in an efficient use of a large parcel of land that provides an opportunity to create a higher density development that directly adjoins a public reserve. The shortfalls of the proposal in relation to the density, setbacks and built form are, in my view, overcome by a functional development that provides good passive surveillance over the public realm.

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

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That, subject to support from Full Council to waiver compliance with the Land Management Agreement, the Granting of Development Plan Consent be sub-delegated to the Manager – Development Services Development Application No: 100/2015/1301 for two single storey residential flat buildings comprising two dwellings each and a two storey residential flat building comprising six dwellings, with associated car parking, fencing and landscaping at 45 Myer Road, Sturt 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. 100/2015/1301, being job number 1026.14 drawing number(s) PD01, PD02, PD03, PD04, PD05, PD06, PD07, PD08, PD09, PD10, PD11 (inclusive) prepared by House & Land SA, received by Council on 7 March 2016, 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. Stormwater from Residences 3, 4, 5, 6, 7 and 8 approved herein shall be collected and directed into a 3000 litre rainwater tank rainwater retention tank fully plumbed into the toilet and laundry of the associated dwelling and connected to at least 80% of each dwellings roof area, to the reasonable satisfaction of the Council.
4. Stormwater for Residences 1, 2, 9 and 10 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

5. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
6. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
7. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

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

NOTES

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

Attachments

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

DEVELOPMENT ASSESSMENT PANEL
Wednesday 16 March 2016

Agenda Ref No: DAP160316 – 2.2

Originating Officer: Rob Tokley
Team Leader - Planning

Applicant: In Property Design

Development Description: Three, two storey row dwellings, incorporating a garage wall on the eastern side boundary

Site Location: 79 Finnis Street, Marion

Zone: Residential Zone

Policy Area: Northern Policy Area 13

Application Type: Category 2 / Consent

Lodgement Date: 06/10/2015

Development Plan: Consolidated – 19 March 2015

Application No: 100/2015/1816

Recommendation: That Development Plan Consent be **GRANTED**
subject to conditions

CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of the Public Notification section of the Residential Zone of the Marion Council Development Plan, which assigns development that has a wall abutting a side or rear property boundary as Category 2 development. Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel.

BACKGROUND

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

Amendments Requested	Amendments Made
Proposal should be amended to incorporate three row dwellings to better reflect the site areas sought for dwellings types in the Northern Policy Area	Proposal amended from one detached and a pair of semi-detached dwellings to three row dwellings
The upper level rear setback of the dwellings should better reflect that sought in the Policy Area (8.0 metres), although a lesser setback may be acceptable, given the (new) rear	Upper level rear setback increased from 3.9 – 4.5 metres to 5.2 – 6.6 metres

boundary is currently the side boundary of the property	
Overlooking should be addressed by ensuring upper level windows are treated in a manner that protects the privacy of adjoining land	Upper level windows to the east and south incorporate a sill height of no less than 1700mm above floor level and/or service wet areas only with obscure glazing
The window servicing bedroom 3 of Dwelling 3 should incorporate more generous dimensions and be placed on western façade to provide greater amenity to this room and passive surveillance to the street	Three windows provided on western façade of bedroom 3 of Dwelling 3
Information Requested	Information Provided
Shadow diagrams that demonstrate the extent of shadow cast at June 21	Provided
Colour and materials schedule	Provided

SUBJECT LAND & LOCALITY

The subject land is located at 79 Finnis Street, Marion, located on the south-eastern corner with Parslow Road. The allotment is rectangular in shape, with a corner cut-off at the northern-western corner. The site has a primary frontage to Finnis Street of 14.4 metres, secondary frontage to Parslow Road of 39.7 metres and a depth (measured north-south) of 17.98 metres, resulting in a total site area of 763 square metres.

The allotment contains a single storey detached dwelling, attached verandahs and a detached outbuilding adjacent Parslow Road. The site maintains no discernible slope and none of the trees on the site are deemed to be Regulated or Significant pursuant to the Development Act and Regulations. The site has one existing access point from Parslow Road.

The locality comprises a mixture of dwelling types including original detached dwellings typically constructed in the 1960s, on large allotments of approximately 600 – 800 square metres and more recently-developed dwellings, typically comprising single storey detached and semi-detached dwellings. The Regeneration Policy Area 16 is located 100 metres to the west where a number of properties have undergone redevelopment for two storey row and residential flat dwellings. A small group of shops within a Local Centre Zone is located 100 metres to the north, whilst the Marion Regional Centre Zone is located 300 metres to the west.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The applicant seeks to construct a two storey building comprising three dwellings, which when subdivided would form row dwellings. All three dwellings will have presentation to Parslow Road. The dwellings are made up of a similar floor plan which includes an open plan kitchen/living/dining area, laundry and WC downstairs and three bedrooms (main with ensuite) and a bathroom upstairs.

Each dwelling incorporates a double garage, with one on-site visitor parking space. An under-main-roof alfresco is provided to the rear of each dwelling.

The dwellings are to be constructed using a combination of face brick (to garage and side and rear elevations on ground floor), rendered finish to the lower front façade and upper storey and Sycon 'Matrix' Cladding to the portico feature post. The roof is proposed to be constructed of Colorbond with a 25 degree pitch.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	19 properties were notified during the Category 2 public notification process.
Representations:	5 representations were received by Council.
Persons wishing to be heard:	3 representors identified they will be represented by Mr Mark Kwiakowski, who provided a planning statement on behalf of the representors
Summary of representations:	<ul style="list-style-type: none"> • Out of character with locality; • Visual impact and building bulk; • Increased traffic; • Overshadowing; • Lack of landscaping; • Overlooking to adjacent property at 77 Finniss Street. <p style="text-align: right;"><i>Refer Attachment IV</i></p>
Applicant's response:	The applicant's planning representative has provided a response and can be found in Attachment V

ZONE & POLICY AREA ASSESSMENT

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

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

PDC 1	<p><i>The following forms of development are envisaged in the policy area:</i></p> <ul style="list-style-type: none"> ▪ <i>affordable housing</i> ▪ <i>detached dwelling</i> ▪ <i>group dwelling</i> ▪ <i>residential flat building</i> ▪ row dwelling ▪ <i>semi-detached dwelling</i> ▪ <i>supported accommodation.</i> 	Complies
PDC 3	<p><i>Minimum Site Area:</i></p>	<p>Does Not Comply Dwg 1: 241m² Dwg 2: 240m²</p> <p>Complies Dwg 3: 271m²</p>
	<p><i>Minimum Frontage:</i></p>	<p>Complies Dwg 1: 13.5m Dwg 2: 13.68m Dwg 3: 12.51m</p>
	<p><i>Minimum Depth:</i></p>	<p>Does Not Comply Dwg 1: min 17.8m Dwg 2: min 17.7m Dwg 3: min 17.5m</p>

Assessment

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

It is acknowledged the proposed dwellings will incorporate a height and density that is not prevalent within the immediate locality, and as such, the proposal represents one of the first 'incursions' of this form of development. Having said this, the Policy Area does not necessarily seek for new development to be complementary to the existing housing stock. Rather, the Desired Character anticipates change over time, via *"one and two storey, low-to-medium density dwellings of a variety of architectural styles"* which will occur *"through... the redevelopment of other properties generally at greater densities than that of the original housing."*

Further, it is noted the Regeneration Policy Area, which seeks for dwellings of up to three storeys on site areas of 150 square metres, is situated 120 metres to the east. This Policy Area is experiencing high levels of redevelopment of single and double storey dwellings on site areas similar to, or less than that demonstrated in the subject proposal. In this regard, the wider locality incorporates a similar density and built form as sought in the subject proposal.

It is noted that two of the three allotments support a site area below the 250 square metres minimum sought for row dwellings in the Northern Policy Area 13. Dwelling 1 is 9 square metres (3.6%) below the requirement and Dwelling 2 is 10 square metres (4.0%) below the minimum.

However, in terms of site density, I consider the proposal displays sufficient merit for the following reasons:

- 1) The site is located in close proximity to public transport options on Sturt and Diagonal Road, 150 metres from a substantial area of public open space and within convenient walking distance to the Regional Centre Zone, which comprises a wide variety of

shopping, employment and community services and facilities. The Objectives of the Residential Zone and Policy Area seek for increased densities in close proximity to Centres, public open space and public transport. The subject site is suitably located to achieve this Objective. It is widely known that higher densities in close proximity to services and infrastructure improve the viability of services which satisfy Objective 3 of the Policy Area.

- 2) The total site area of 763 square metres exceeds the minimum sought for three row dwellings (750 square metres).
- 3) The undersized allotments each maintain a frontage width greater than the minimum requirement of 7.0 metres. Therefore, the undersized nature of each of the allotments will not be apparent when viewed from the street.
- 4) It will be shown in the assessment throughout this report that each of the dwellings achieve relative compliance when assessed against the remaining provisions of the Development Plan and in my view, will not adversely affect the amenity of existing neighbouring properties or the streetscape.

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

To this end, despite the undersized nature of two of the three allotments, I am of the view that the proposal displays consistency with the Objectives, Desired Character and Principles of the Northern Policy Area 13.

DEVELOPMENT ASSESSMENT

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

Principles of Development Control:

Assessment:

Site Coverage	
<i>Maximum site coverage: 40%</i> <i>Northern Policy Area 13: PDC 4</i>	Does Not Comply Dwg 1: 48.8% Dwg 2: 49.05% Dwg 3: 41.85%
<i>Maximum floor area ratio: 0.6</i> <i>Northern Policy Area 13: PDC 4</i>	Complies Dwg 1: 0.54 Dwg 2: 0.54 Dwg 3: 0.47
<i>Site coverage should ensure sufficient space is provided for:</i> <i>(a) pedestrian and vehicle access and vehicle parking</i> <i>(b) domestic storage</i> <i>(c) outdoor clothes drying</i> <i>(d) rainwater tanks</i> <i>(e) private open space and landscaping</i> <i>(f) convenient storage of household waste and recycling receptacles</i> <i>General Section: Residential Development: PDC 13</i>	Complies The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.

[illegible]

Street Setbacks

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

General Section: Design and Appearance: PDC 23

Partially Complies

The subject locality is one where a new character is desired, and therefore the setback of the proposed buildings from the public road need not necessarily be similar to or compatible with the setbacks of buildings on adjoining land and other buildings in the locality.

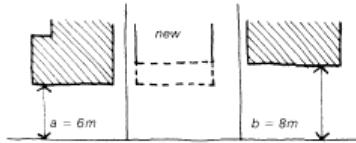
The varied front setback between 3.6 – 5.5 metres is similar to that of new dwellings in the locality, and complementary to the setback of dwellings on adjacent land to the east.

Having said this, the two storey nature of the dwellings will 'emphasise' the limited setback.

By presenting dwellings to the Parslow Road frontage (the longer of the two street boundaries), additional streetscape is 'activated' via presenting dwellings to this street, as opposed to fencing, to the longer of the two street frontages.

As such, given the setback of dwellings immediately to the east, and the lesser setbacks demonstrated by newer development in the locality, the proposed front setback is considered to contribute positively to the function, appearance and desired character of the locality.

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

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

General Section: Design and Appearance: PDC 25

Partially Complies

Dwellings 1, 2 and 3: 4.0 metres

(Dwelling on adjoining land set back approximately 3.8 metres)

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

Minimum setback from secondary road frontage: 3 metres

Residential Zone: PDC 7

Complies

Dwg 3: min 3.15m

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

Does Not Comply

Dwellings 1 and 2: 0.9 m

The proposed side setback falls 0.1 metres short of that prescribed by PDC 7. The minor shortfall should not result in unreasonable impacts to adjacent land. Further, it is noted that a setback of 0.9 metres complies with the Building Code of Australia.

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.

Complies

Dwg 1: min 2.34m

Dwg 2: min 2.34m

Dwg 3: min 2.34m

Residential Zone: PDC 7

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

(a) the walls should not abut more than one side allotment boundary

(b) a wall from an adjacent dwelling already exists on the boundary:

(i) be located immediately abutting the adjacent wall

(ii) be constructed to the same or to a lesser length and height as the adjacent wall

(iii) be setback 2 or more metres behind the main face of the adjacent dwelling

(c) no wall exists on the adjacent boundary:

(i) be setback 2 or more metres behind the main face of the adjacent dwelling

(ii) not exceed 6 metres in length

(iii) not exceed 3 metres in height

(iv) be sited no closer than 2.5 metres to a habitable room window or 3.5 metres if the wall is located to the north of the neighbouring window

(d) adjoining communal open space or a public reserve, not to exceed

(i) 50 per cent of the length of the boundary

(ii) 4 metres in height.

Partially Complies

Dwelling 1 garage wall

(a) Walls of dwelling abuts both side boundaries (however, this dwelling must adjoin the adjacent dwelling for the proposal to satisfy the definition of row dwellings)

(c) (i) Wall is located 2.0 metres behind the main face of the adjacent dwelling

(c) (ii) 6.3m in length

(c) (iii) 2.7m in height

(c) (iv) is greater than 2.5m from a habitable room.

The length of the garage wall will not create unreasonable impacts due to being adjacent the garage of the dwelling on the adjoining land.

General Section: Residential Development: PDC 38

Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:

(a) the visual impact of the building as viewed from adjacent properties

(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.

Complies

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.

General Section: Design & Appearance: PDC 2

Rear Setbacks

6 metres for a single storey dwelling

Residential Zone: PDC 7

Does Not Comply

Dwg 1: min 3.9m

Dwg 2: min 4.0m

Dwg 3: min 4.0m

8 metres for a 2 or more storey dwelling

Residential Zone: PDC 7

Does Not Comply

Dwg 1: min 5.2m

Dwg 2: min 5.2m

Dwg 3: min 5.2m

<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>Partially Complies</p> <p>Although the dwellings do not incorporate a rear setback of 6.0 metres (minimum setback of 5.2 metres), the adjoining property to the south incorporates a carport and garage for a substantial length adjacent/abutting the common boundary. As such, view of the rear walls of the dwellings will not be readily available from that property.</p>
<p><i>Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:</i></p> <p><i>(a) the visual impact of the building as viewed from adjacent properties</i></p> <p><i>(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.</i></p> <p><i>General Section: Design & Appearance: PDC 2</i></p>	<p>Complies</p> <p>Although substantially exceeding the rear setback requirements for both the ground and upper levels, it is worth acknowledging that a new dwelling/s with a frontage to Finniss Street could setback 3 metres from the southern boundary.</p> <p>Given the articulated stepping of the ground and upper floors, and the increased setback of the upper floor (whereby the ground floor 'introduces' the upper floor), in my view, sufficient separation has been provided to the adjacent property.</p> <p>Additionally, as noted above, the adjoining property incorporates structures adjacent much of the length of this boundary; reducing the visibility of the proposed dwellings.</p>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>The proposed dwellings incorporate a maximum building height of 7.5 metres, which is less than the maximum permitted in the Policy Area.</p>
<h2>Garages, Carports and Outbuildings</h2>	
<p><i>Sheds, garages, carports and similar outbuildings, whether freestanding or not, should be designed within the following parameters:</i></p> <p><i>Minimum setback from primary road frontage:</i></p> <p><i>8 metres for a freestanding structure.</i></p> <p><i>5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies</p> <p>All garages are setback 5.5 metres from the primary street boundary and 1.5 metres behind the main face of the dwelling.</p>
<p><i>Carports and garages should be setback from road and building frontages so as to:</i></p> <p><i>(a) not adversely impact on the safety of road users</i></p> <p><i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC8</i></p>	<p>Complies</p> <p>The proposed garages incorporate materials and detailing which complement the associated dwelling.</p>

<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies</p>
<p>Car Parking</p>	
<p><i>Minimum number of on site car parking spaces (one of which should be covered) :</i> <i>2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</i></p> <p><i>Table Mar/2</i></p>	<p>Complies Each dwelling comprises three bedrooms and three on site car parking spaces; exceeding that sought by the Development Plan.</p>
<p><i>On-site vehicle parking should be provided having regard to:</i> <i>(a) the number, nature and size of proposed dwellings</i> <i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i> <i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i> <i>(d) availability of on-street car parking</i> <i>(e) any loss of on-street parking arising from the development (eg an increase in number of driveway crossovers).</i></p> <p><i>General Section: Transportation & Access: PDC 43</i></p>	<p>Complies a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 7. b) Centre facilities and public transport are located in walking distance of the dwellings c) The likely occupants are anticipated to have standard mobility and transport requirements. d) e) 5 on-street car parking spaces shall remain available adjacent the subject land (although 2 will not be available when bike lane is operational)</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p>Complies 5 on-street car parking spaces are provided for the proposed allotments (although 2 will not be available when bike lane is operational). Nonetheless, Council's Development Plan seeks two on-street spaces, and as such, the proposal exceeds that sought by PDC 22.</p>
<p>Access</p>	
<p><i>The width of driveway crossovers should be minimised and have a maximum width of:</i> <i>(a) 3 metres wide for a single driveway</i> <i>(b) 5 metres wide for a double driveway.</i></p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p>Complies</p>
<p><i>Vehicle crossovers should be setback a minimum of 1 metre from existing street trees, above ground utility and infrastructure equipment and poles, and stormwater side entry pits.</i></p> <p><i>General Section: Residential Development: PDC 40</i></p>	<p>Complies</p>
<p><i>A maximum of 2 vehicle access points should be provided onto a public road and each access point should be a minimum of 6 metres apart.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p>Complies Vehicle access points are separated by a minimum distance of 19 metres.</p>

Design & Appearance

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

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

General Section: Design & Appearance: PDC 1

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

General Section: Design & Appearance: PDC 3

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

General Section: Design & Appearance: PDC 17

Complies

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

- Mixture of brick and render on the front façade;
- Stepping of upper and lower storeys to minimise building height, mass and proportion;
- Protruding portico;
- Eave overhang and pitched roof form at 25 degree slope; and
- Fenestration

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

The side elevations of the dwellings feature a mixture of render and brick, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.

Furthermore, the secondary street façade of Dwelling 3 has been altered during the assessment process to provide an improved presentation to the street; providing a more attractive façade and surveillance over the public realm.

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

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

General Section: Design & Appearance: PDC 15

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

General Section: Design & Appearance: PDC 18

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

General Section: Residential Development: PDC 6

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

General Section: Residential Development: PDC 6

Complies

The dwellings are designed so that their main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

Overshadowing

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

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

General Section: Design & Appearance: PDC 9

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

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

General Section: Design & Appearance: PDC 10

Complies

The applicant has provided shadow diagrams (enclosed in Attachment III) which illustrate the projected extent of overshadowing on 22 June.

a) The north-facing windows of the adjacent dwelling to the south are shielded/shaded due to the 16.7 metre-long carport and verandah alongside its northern side boundary.

b) Given that south forms the rear boundary, a majority of winter shadow will be cast within the rear yard of the proposed dwellings. However, some shadow will be cast into the southern adjoining property. The shadow plans demonstrate that shadow cast by the proposed dwellings will not impact upon the (open/unroofed) private open space of the adjoining property.

(c) The shadow plans demonstrate the solar panels atop the adjacent dwelling to the south will be free of shadow from the proposed dwellings throughout the day during June 22.

Shadow cast into the eastern adjoining property only begins in afternoon hours. Consequently, the extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 9 and 10.

Visual Privacy

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

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

General Section: Design & Appearance: PDC 12

Complies

The dwellings incorporate fixed obscure glazing to 1.7 metres above floor level for most windows on the side and rear elevations. Those that are openable, service wet areas only and incorporate obscure glazing.

Upper storey windows on the front elevation and the secondary street (western) elevation of Dwelling 3 remain unobscured to provide surveillance to the street, and therefore should not result in direct overlooking of habitable areas of adjacent properties.

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

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

Energy Efficiency

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

General Section: Energy Efficiency: PDC 1

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

General Section: Energy Efficiency: PDC 2

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

General Section: Energy Efficiency: PDC 3

Partially Complies

The proposed dwellings incorporate three, north-facing living room windows, two of which are shaded by the cantilevered upper level.

As such, the living areas of each dwelling are afforded an appropriate level of energy efficiency and solar access.

It is acknowledged the private open space areas are located south of the associated dwelling, and are likely to experience shadow during winter months.

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

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

General Section: Energy Efficiency: PDC 4

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

General Section: Energy Efficiency: PDC 5

Complies

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

Landscaping, Fences and Walls

Development should incorporate open space and landscaping in order to:

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

General Section: Landscaping, Fences & Walls: PDC 1

Landscaping should:

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

General Section: Landscaping, Fences & Walls: PDC 2

Does Not Comply

It is acknowledged that the submitted landscape plan is limited in the provision of taller plantings, failing to satisfy Principle 1(a).

In my view, taller plantings do assist in softening the built form, and provide a relative scale to tall buildings, particularly in a single storey streetscape.

In addition, a high percentage of the front yards will be taken up by turf, which does not aid in settling the building into the landscape, nor is beneficial to the environment.

As such, it has been included as a recommended condition of consent that a revised landscape plan be provided, prior to Development Approval being issued, that details an increased mix in plantings throughout the front yard area, and the inclusion of additional plantings with a growing height exceeding 3.0 metres.

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

TABLE DISCUSSION

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

- Site coverage;
- Private open space orientation;
- Rear setbacks; and
- Front setback.

Site coverage

Whilst site coverage exceeds that sought, the proposal achieves a reasonable level of compliance with the applicable criteria.

The site coverage proposed does not preclude the dwellings being provided with adequate private open space, as 26% - 33% of the allotments will remain as usable private open space.

Furthermore, the positioning of the dwellings will not result in an unreasonable visual impact or excessive overshadowing of the adjoining property's habitable rooms and/or private open space area.

It is acknowledged that the front and rear setbacks demonstrated by the proposed dwellings do not meet that sought by Council's Development Plan. Whilst it could be argued a smaller building footprint would enable greater levels of compliance with Council's setback criteria, for the reasons below, I am satisfied the site coverage proposed is not excessive, nor fatal to the overall merits of the proposal.

Private open space

The private open space areas are located to the south of the associated dwelling, and as such, are likely to be in shadow for the winter months.

It is likely that the POS areas of Dwellings 1 and 3 will receive some morning and afternoon light, respectively, however, the primary area (alfresco) will experience shadow throughout the day.

The orientation of the private open space areas is a failing of the proposal that cannot be easily addressed via amendments to the design of the development, as Council's Development Plan discourages the placement of private open space forward of dwellings to ensure open streetscapes.

To this end, the proposal fails to provide private open space with appropriate orientation.

Rear setbacks

The proposed single storey and two storey rear setbacks do not satisfy the minimum sought in the Policy Area.

Whilst this is the case, the rear setbacks nonetheless enable private open space areas that exceed the applicable minimum dimensions and area required for the site area.

The adjoining property to the south incorporates a carport and garage abutting the shared boundary, reducing the visibility of the proposed dwellings from the habitable rooms and private open space areas from the adjoining property.

The rear elevation of the proposed dwellings incorporate appropriate articulation and stepping, whilst the upper levels of each dwelling is adequately separated (by no less than 4.6 metres), to provide a break in the built form.

lastly, the proposed rear boundary currently functions as the side boundary of the subject land. As such, if a dwelling/s were to be constructed on the land with a primary frontage to Finnis Street, subject to wall/building height, a setback of 3.0 metres to the southern boundary would be acceptable. As such, the proposed dwellings provide greater relief to the rear (southern) boundary than would be anticipated were the dwellings oriented to Finnis Street.

For the reasons above, it is my view the rear setback proposed is acceptable, and will not have an unreasonable impact upon adjoining land.

Front setback

The front setbacks proposed, at a minimum of 3.6 metres (Dwelling 3), 3.8 metres (Dwelling 2) and 4.0 metres (Dwelling 1), is less than the minimum of 5.0 metres sought for new development, and given the two storey height of the building, the setback proposed will be 'emphasised'.

Having said this, the proposal will provide a more attractive streetscape presenting to Parslow Road, by orienting the three dwellings to this street; avoiding extensive length of fencing facing this street.

The dwellings incorporate an articulated front façade, whereby the front setbacks vary between 3.6 metres to 5.5 metres; providing visual interest and reducing the bulk of the dwellings as viewed from the street and adjoining land.

In relation to the setbacks of dwellings on adjoining land, Design and Appearance Principle 25 seeks for setbacks to be on average with dwellings on adjoining land. Whilst there are no dwellings with the same primary street frontage west of the subject land, both dwellings to the immediate east incorporate setbacks between 2.5 – 3.5 metres. As such, the proposed dwellings incorporate a minimum front setback similar to, or greater, than those dwellings applicable in the assessment of Principle 25.

In conclusion, it is my view that given the above, the front setbacks proposed is acceptable, and will not have an unreasonable impact upon the streetscape.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to visual impact and building bulk; overshadowing and lack of landscaping 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 concern that the proposal is out of character with locality. Whilst I agree with this statement, the Desired Character of the Northern Policy Area does not expect that new development will be sympathetic to existing housing. The Policy Area expects to see *"one and two storey, low-to-medium density dwellings of a variety of architectural styles... through...the redevelopment of other properties generally at greater densities than that of the original housing... while the range of dwelling types will increase to meet a variety of accommodation needs"*. In my view, the proposal fulfils these aims.

The representors have also raised increased traffic and a loss of on-street parking as a result of the proposal. Whilst the increased number of dwellings will invariably increase the number of vehicles using the surrounding streets, Finniss Street incorporates generous dimensions, whilst Parslow Road is a local road, likely to service only immediate residents (rather than through-traffic). The proposal also exceeds the number of on-site and on-street parking spaces required for three dwellings.

The representors have also raised concerns regarding overlooking into adjacent property at 77 Finniss Street. Whilst view may be available, it is anticipated by Council's Development Plan for the benefit of an attractive streetscape and surveillance, that the front façade of dwellings (whether single storey or two storey) incorporate clear glazing. Furthermore, the upper level of all three dwellings will be no less than 18.0 metres from the dwelling at 77 Finniss Street, and approximately 28.0 metres from the primary area of private open space.

The representors have also raised concerns over waste collection and infrastructure removal/relocation. While these concerns are noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

ANALYSIS/CONCLUSION

The proposed dwellings display consistency with the Desired Character and Objectives of the Policy Area, in that they are well situated close to open space and public transport and will provide additional accommodation needs at higher densities.

The proposal however, does display some numerical excesses, most notably site coverage, front and rear setbacks. Further consideration of the potential impacts of these matters identifies that they will not jeopardise the function and liveability of the dwellings or result in severe or unreasonable impacts upon the adjacent property owners or the streetscape.

The development is also likely to create some shadow impacts upon the adjacent land at 81 Finniss Street. However, a majority of shadow cast will fall upon the existing carport and garage structures adjacent the shared boundary, whilst the submitted shadow diagrams demonstrate the solar panels atop the adjacent dwelling will be free from shadow throughout the year.

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

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2015/1816 for three, two storey row dwellings, incorporating a garage wall on the eastern side boundary at 79 Finnis Street, Marion be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2015/1816, except when varied by the following conditions of consent.
- 2. A revised landscape plan, detailing a substantial increase in the number and variety of plantings throughout the front yard areas of all three dwellings, including the planting of at least two species that have a mature growing height exceeding 3.0 metres, shall be provided to Council, for consideration and approval prior to Development Approval being issued.
- 3. A revised, fully engineered site works and drainage plan shall be provided to Council for consideration and approval prior to Development Approval being issued. This plan must detail top of kerb level, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, the extent of cut/fill required, the location and height of proposed retaining walls, driveway gradients, and the location of all existing street infrastructure and street trees.
- 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

- 5. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
- 6. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 7. All existing vegetation nominated to be retained and all new vegetation to be planted shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

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

NOTES

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

Attachments

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

DEVELOPMENT ASSESSMENT PANEL
Wednesday 16 March 2016

Agenda Ref No:	DAP160316 – 2.3
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Mr Tim Searle
Development Description:	A garage (7.9m x 6.2m x 3.05m wall height) located on the southern side boundary
Site Location:	1/9 Moy Avenue, Warradale
Zone:	Residential
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	25/01/2016
Development Plan:	Consolidated – 3 December 2015
Application No:	100/2016/109
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

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 exceeding a height of 3.0 metres from existing ground level abutting a side or rear property boundary as Category 2 development.

As representations were received during the notification period that raised concerns that cannot be resolved by modifications to the proposal plans, or conditions of consent, the application is delegated to the Development Assessment Panel.

SUBJECT LAND & LOCALITY

The subject land is situated at Unit 1/9 Moy Avenue, Warradale.

The land incorporates two single storey buildings, comprising a total of three dwellings (one dwelling at the front of the site, and two dwellings to the rear).

All three dwellings remain on one title – incorporating a frontage width of 22.86 metres, a depth of 50.9 metres, providing a total area of 1163.6 square metres.

All three dwellings on the land are in average to good condition.

The land is relatively flat, with no discernible slope.

The locality comprises a mix of the original 1950s – 60s single storey housing stock, and more recently-constructed dwellings, typically in a semi-detached and group dwelling format of single and two storey construction.

The Marion Regional Centre Zone is located 550 metres to the east, with the Warradale train station (on the Adelaide-Seafood line) located some 300 metres to the north.

Refer Attachment I & II

PROPOSED DEVELOPMENT

The application seeks to construct a freestanding garage, incorporating dimensions of 7.9 metres by 6.2 metres, with a wall height of 3.048 metres.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	13 properties were notified during the Category 2 public notification process.
Representations: <i>Refer Attachment III</i>	3 representations were received by Council.
Persons wishing to be heard:	No representor identified they wish to address the Panel.
Summary of representations:	<ul style="list-style-type: none">• Concern regarding use of structure;• Concern with impact upon adjacent trees;• Stormwater disposal;• Overshadowing; and• Colour of structure <i>Refer Attachment IV</i>
Applicant's response:	<p>The applicant has confirmed the following;</p> <ul style="list-style-type: none">• The shed will be used for model trains;• The colour of the shed will be cream colorbond;• The fence will be removed to accommodate shed on boundary; and• Stormwater will be directed to rainwater tank and then to road <i>Refer Attachment V</i>

DEVELOPMENT ASSESSMENT

The relevant provisions of the Marion Council Development Plan are listed in the following table and discussed in further detail below:

Principles of Development Control:

Assessment:

Garages, Carports and Outbuildings	
<p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies</p>
<p><i>Maximum floor area: 60 square metres</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies 48.98 square metres</p>
<p><i>Maximum building height (from natural ground level) 5 metres.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies Maximum 3.764 metres</p>
<p><i>Maximum wall height: 3 metres.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Does Not Comply 3.048 metre wall height on boundary</p>
<p><i>Maximum height of finished floor level (from natural ground level): 300 millimetres.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies Garage to be built on existing ground level</p>
<p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p>Complies</p>
<p><i>Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC10</i></p>	<p>Partially Complies The garage incorporates a gable end, which is complementary to the form of the associated dwelling</p>
Site Coverage	
<p><i>Maximum site coverage: 40%</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>	<p>Does Not Comply 44.3%</p>

<p>Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles <p>General Section: Residential Development: PDC 13</p>	<p>Complies</p>
<p>Site coverage should not exceed the amount specifies by the relevant policy area unless it is demonstrated that doing so:</p> <ul style="list-style-type: none"> (a) Would not be contrary to the relevant setback and private open space provisions (b) Would not adversely affect the amenity of adjoining properties (c) Would not conflict with other relevant criteria of this Development Plan <p>Residential Zone PDC 9</p>	<p>Complies</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>Complies</p>
<p>Private Open Space</p>	
<p>Site Area 250 m² or greater: Minimum area of POS: 20% of the site area Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater. One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p> <p>Residential Zone: PDC 7</p>	<p>Complies Over 140 square metres (26.4%) of the allotment will remain as usable private open space to the side and rear of the dwelling.</p>
<p>Car Parking</p>	
<p>Minimum number of on site car parking spaces (one of which should be covered) : 2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.</p> <p>Table Mar/2</p>	<p>Complies The subject dwelling incorporates a freestanding carport at the rear of the site. Access to the carport will be maintained.</p>
<p>Design & Appearance</p>	
<p>Buildings should be sited with respect to side and rear property boundaries to:</p> <ul style="list-style-type: none"> (a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight (b) minimise the impact of bulk and scale of development on adjoining properties (c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping <p>General Section: Design & Appearance: PDC 2</p>	<p>Complies The proposed garage will not have an unreasonable impact upon adjoining land by way of visual impact or building bulk, given the structure is situated a reasonable distance from adjacent dwellings. Further, ample open space to the rear of the associated dwelling will be maintained to continue the patterns of space between buildings.</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.

General Section: Design & Appearance: PDC 3

Complies

The proposed garage will be constructed of colorbond corrugated iron, in 'cream' colour.

TABLE DISCUSSION

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

- Site coverage exceeds 40%; and
- Wall height exceeds 3.0 metres.

Site coverage

Whilst site coverage exceeds that sought, at 44.3%, the proposal represents a marginal increase in roof area for the land.

The site coverage proposed does not preclude the dwelling being provided with adequate private open space, as 26% of the land will remain as usable private open space.

Furthermore, the length and size of the proposed garage is within the dimensions and area sought by Council's Development Plan.

As such, the resultant site coverage, as identified by the proposal's compliance with Zone Principle 9, does not result in any negative consequences for the function of the subject land, nor the amenity of adjoining properties, and as such, I am satisfied the site coverage proposed is acceptable.

Wall height

The proposed garage incorporates a wall height of 3.048 metres. This is 4.8 centimetres greater than that sought by Council's Development Plan and Schedule 4 of the Development Regulations.

In my view, the additional height will not be overly apparent from adjoining land. In respect to the land which the garage wall abuts, the dwelling on that land is some 25 metres south of the common boundary.

Whilst the garage is located on the southern boundary, and therefore some overshadowing of the adjoining property will occur, a majority of shadow is likely to be cast upon the northern section of the adjacent rear yard – an area frequently in shade by the existing large trees, and an area that does not form the primary area of private open space for that property.

In conclusion, the excess in wall height will not have an unreasonable impact upon adjoining land.

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to the use of structure, stormwater disposal, overshadowing and the colour of structure have been addressed in the body of the report, by recommended conditions of consent and/or the applicant's response to the representations, and I have concluded that the proposal is satisfactory in relation to these matters.

A representor has also raised concerns over the impact the garage may have upon adjacent trees. While these concerns are noted, the nearest tree to the proposed garage is within 10 metres of an existing dwelling, and as this species of tree is not a Eucalypt (but rather a *Corymbia citriodora*), the tree is not a Regulated Tree and therefore a planning assessment under the Development Act 1993 does not allow consideration of this matter and hence are outside the scope of this assessment.

ANALYSIS/CONCLUSION

The proposed garage complies with a majority of Council's design criteria.

Whilst site coverage exceeds that sought, ample private open space is provided, whilst the location, length and height of the proposed structure will not have an unreasonable impact upon adjoining land.

The proposed garage incorporates a wall height 4.8 centimetres higher than that sought by Council's Development Plan, and that which can be constructed 'as of right' pursuant to Schedule 4 of the Development Regulations.

The preceding assessment has identified that the excess in wall height will not unreasonably impact upon adjoining land via bulk or overshadowing, and as such, the additional wall height is not considered unacceptable.

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

RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2016/109 for a garage (7.9m x 6.2m x 3.05m wall height) located on the southern side boundary at 1/9 Moy Avenue, Warradale 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. 100/2016/109, except when varied by the following conditions of consent.
- 2. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
- 3. Stormwater must be disposed of in such a manner that does not flow or discharge into land of adjoining owners, lie against any building, or create insanitary conditions.
- 4. The structure has been granted consent as a domestic outbuilding only and therefore shall not be used for human habitation or for purposes not reasonably incidental to the use of the land for residential purposes, unless the further development approval of the Council is obtained.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL
Wednesday 16 March 2016

Agenda Ref No:	DAP160316 – 2.4
Originating Officer:	Rob Tokley Team Leader - Planning
Applicant:	Vodafone Hutchinson Australia
Development Description:	Telecommunications facility and associated works
Site Location:	634 South Road, Glandore
Zone:	Commercial
Policy Area:	South Road Policy Area 2
Application Type:	Category 2 / Consent
Development Plan:	Consolidated – 15 March 2015
Application No:	100/2015/571
Recommendation:	Advise the Environment, Resources and Development Court that Council supports the compromise plans

BACKGROUND

The subject proposal was previously presented to the Development Assessment Panel (DAP) at the meeting held on 16 September 2015, where the application was deferred “[t]o enable the applicant an opportunity to review the location of the proposed telecommunications facility to significantly increase the distance from the western boundary of the subject property to minimise the visual impact upon adjacent resident land to the west.”

Having considered the Panel’s deferral, the applicants sought for the proposal to be considered in its original position, citing concerns raised by DPTI that the extent of any future widening of South Road was unknown at that stage, and therefore and repositioning of the structure further east was unlikely to be supported by DPTI.

Following consideration of the (unchanged) proposal, the application was refused at the 21 October 2015 DAP meeting for the following reasons:

- 1. The proposed telecommunications facility is not sited to minimise visual impact on the amenity of the local environment, and therefore does not accord with Objective 2 and Principle 1(g) (General Section: Telecommunications Facilities).**
- 2. The proposal does not satisfy PDC 1(a) or Objective 1 of the General Section: Design & Appearance given that the proposed monopole structure does not respond to and reinforce positive aspects of the local environment and built form, nor does it reflect the desired character of the locality and the design does not have regard to building height.**
- 3. The proposed facility has not been located and designed to minimise adverse impact between land uses, protect community health and amenity from adverse impacts of**

development, or to protect desired land uses from incompatible development and therefore fails to comply with Objectives 1, 2 and 3 and PDC 2 of the General Section: Interface between Land Uses.

4. **The proposed development does not create a safe, convenient and pleasant environment in which to live, and therefore conflicts with Objective 1 (General Section: Orderly and Sustainable Development).**

Refer Attachment I

The applicant has subsequently appealed the decision to the Environment, Resources and Development Court. A preliminary conference is scheduled to be held on 21 March 2016. Prior to this conference, the applicant has submitted amended plans for the consideration of the Panel.

The original report, plans and attachments from the 21 October 2015 and 16 September 2015 meetings are attached to this report for Members' reference.

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

- Repositioning the proposed structure 7.8 metres to the east of the original proposed location.

The height of the structure, proposed fencing and associated facilities are otherwise consistent with that previously proposed.

Refer Attachment II

DEVELOPMENT ASSESSMENT

Below is an excerpt from staff's 16 September 2015 DAP report, concluding why, in staff's view, the proposal warranted Development Plan Consent.

"PDC 1(d) (General Section: Telecommunications Facilities) stipulates that telecommunications facilities should be located in industrial, commercial, business, office, centre or rural zones and the proposal is therefore satisfactory in this regard.

However, despite the use being located within a Commercial Zone, the site is located adjacent residential properties. The Policy Area Objectives and Desired Character are explicit in stating that the scale and appearance of development should provide an appropriate transition to the neighbouring residential properties, and with a structure height of 25m and likely to be the tallest element in the locality, it is clearly of a size which far exceeds the scale of development anticipated by the Zone and Policy Area.

Nonetheless, the Policy Area does not discourage telecommunication facilities that are below 30m in height and it is deemed appropriate to further consider the merits of the proposal against other provisions of the Development Plan, and in particular those provisions which relate wholly to Telecommunications Facilities.

The facility satisfies a majority of the applicable provisions of the General Section: Telecommunications Facilities. The facility will meet the needs of the community, as the facility is required to ensure ongoing network coverage for tram commuters as well as residents and businesses of Glandore, Everard Park, Forestville and Black Forest.

Recent decisions by the ERD Court and Supreme Court have recognised the community need for such facilities but have acknowledged that it must be balanced in a way which minimises the visual impact of those facilities on the amenity of the local environment.

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

- a) The antennae headframe being located as close to the monopole as can be achieved;*
- b) The height of the structure being the lowest that it can be to achieve the necessary coverage objectives;*
- c) The use of grey muted materials on the monopole and antennae, which should not be overly bright or obtrusive;*
- d) The setback of the monopole being located 7m away from the residential boundary, as far as possible without jeopardising the function of the existing land use;*
- e) The existing dense vegetation on the adjacent land at 1 Nottingham Street, which will screen the lower portion of the structure;*
- f) The location of the monopole amongst other large scale infrastructure buildings, in particular the tram overpass and associated power-poles.*

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

The proposal does not favourably complement the provisions of the Development Plan in relation to Design and Appearance and some aspects of the Interface Between Land Uses because the facility will not enhance the amenity of the locality, and is likely to result in considerable visual impact. However, telecommunications facilities are requisite infrastructure and are seldom designed to enhance amenity. As such, failure to complement these provisions of the Plan should not necessarily warrant refusal of the application, provided that the provisions under Telecommunications Facilities are reasonably satisfied..."

The proposed repositioning of the structure 7.8 metres to the east of the previously-proposed location will further assist in reducing the visual impact and visibility of the structure when viewed from adjacent residential land.

The structure is now proposed to be located 14.84 metres from the nearest boundary of a residential property (1 Nottingham Crescent).

Furthermore, the north-western corner of the adjacent commercial building (albeit only 4.0 metres in height) will further assist in screening view of the lower part of the structure.

In staff's view, the proposed compromise plans have attempted to address reasons for refusal 1, 2, 3 and 4 and more so, the proposal adequately satisfies the applicable Development Plan criteria.

Accordingly, it is staff's view that the amendments to the proposal have addressed the Panel's reasons for refusal, and therefore it is suggested 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 Vodafone Hutchinson Australia for Development Application No: 100/2015/571 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. 100/2015/571, being drawing numbers 580030-G1 (Rev C), 580030-G3 (Rev C), 580030-G4 (Rev C), 580030-G5 (Rev C) received by Council on 18 August 2015 and 580030-G6 Rev D received by Council on 3 March 2016, except when varied by the following conditions of consent.**
- 2. The telecommunications tower must not exceed a maximum height of 51.232 metres AHD.**
- 3. The tower must be obstacle lit with low intensity steady red lighting in accordance with the Manual of Standards (MOS) for Part 139 of the Civil Aviation Safety Regulations 1998 (Part 139 MOS) Section 9.4. Obstacle lights are to be arranged to ensure the lighting can be observed in a 360 degree radius as per subsection 9.4.3 of Part 139 MOS. Characteristics for low intensity lights are stated in subsection 9.4.6.**
- 4. Adelaide Airport or the structure's owner is to monitor the ongoing availability of the obstacle lighting. For detailed requirements for the monitoring of obstacle lights within the OLS area of aerodromes, refer to subsection 9.4.10 of MOS Part 139.**
- 5. Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the tower. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.**
- 6. The proponent must provide AAL with the finished height of the tower in metres AHD from a certified surveyor upon completion.**
- 7. The electricity and optical cables shall be directed to Nottingham Street, via the right-of-way at the rear of the site, then to South Road to minimise the future impact on these cables as a result of any upgrading of South Road.**
- 8. The structure herein approved shall be maintained, kept tidy, free of graffiti and in good repair and condition at all times.**
- 9. The finished colour of the subject tower hereby approved shall be of light grey hues and non-reflective hues.**

10. If the subject telecommunications facility and/or any associated equipment become obsolete or unused, it shall be removed and, where applicable, the site restored to its original condition within a period of 12 months from the date when the facility or equipment becomes obsolete or unused.
11. All buildings and paved areas shall be connected to a stormwater collection and disposal system that is connected to the street watertable or, where relevant, back of block drainage pipes.
12. 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.

NOTES

1. Breaches of approval conditions are subject to significant penalties under sections 185 and 187 of the *Airports Act 1996*.
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 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. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
5. 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.
6. As part of the North-South Corridor planning, on the 13 December 2013, the Australian Government approved and \$8.5 million South Road Planning Study from Anzac Highway to the Southern Expressway. This included the planning that resulted in \$620 million of funding being committed towards the Darlington Upgrade Project from both the Australian and South Australian Governments.

The study is identifying a broad range of options and associated risks that will inform the next phase of planning for the corridor from Anzac Highway to Darlington. This will help inform decisions on the timing and funding commitments to deliver the North-South Corridor.

For further information, please contact the North South Corridor Project Team via email at dpti.southroad@sa.gov.au.

Attachments

Attachment I:	Aerial photograph
Attachment II:	Decision Notification Form
Attachment III:	Compromise Proposal Plans and Supporting Documentation
Attachment IV:	DAP report of 21 October 2015
Attachment V:	DAP report of 16 September 2015