

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 1 FEBRUARY 2023**



1.1 OPEN MEETING

The Meeting commenced at 6.30pm

1.2 PRESENT

Michael Davis – Presiding Member
Yvonne Svensson – Independent Member
Ben Russ – Independent Member
Bryn Adams – Independent Member
Councillor Nathan Prior – Council Member

1.3 APOLOGIES

Alex Wright – CAP Assessment Manager – Team Leader - Planning

1.4 IN ATTENDANCE

Kai Wardle – Acting Team Leader - Planning
Kristen Sheffield – Development Officer - Planning
Warwick Deller-Coombs – Manager - Development & Regulatory Services

2. GENERAL OPERATIONS

No items listed for discussion.

3. DEVELOPMENT ACT 1993 APPLICATIONS

No Items listed for discussion

4. PDI ACT APPLICATIONS

4.1 Report Reference: CAP010223 - 4.1

Application No: 22034359

Site Location: 15 Gardiner Avenue Warradale

- Mr Nick Simos addressed the Panel on behalf of Williams Building Group Pty Ltd t/a G.J. Gardner Homes Adelaide Northeast (Applicant)

The Council Assessment Panel resolved that;

RECOMMENDATION

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

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concurs that the proposed development is not seriously at variance¹ to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and
- (c) That Planning Consent for Development Application ID: 22034359 Two Storey Detached Dwelling at 15 Gardiner Avenue, Warradale be GRANTED subject to the following Conditions.

CONDITIONS

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).
3. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.
4. All car parking areas, driveways and vehicle manoeuvring areas must be constructed in accordance with the approved plans and recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.

¹ Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act).

What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

5. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
6. Any form of development on the property boundary (such as mortar joints on any face brickwork, blueboard material or similar, render etc) shall be finished in a professional manner and to the same standard as the remainder of the subject dwelling.
7. All devices/treatments proposed and nominated on the approved plans, and forming part of the Development Application, to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.

NOTES

1. The applicant is reminded that Development Approval is required for any retaining wall over one metre in height, any masonry fence over one metre in height, any non-masonry fence (eg colorbond, wood paling, brush etc) over 2.1 metres in height, and any retaining wall with a fence on top with a total height over 2.1 metres in height (measured from the lower of the two adjacent ground levels).
2. The Fences Act 1975 details certain requirements and procedures in order to remove, replace or repair boundary fencing. If you intend to remove or repair an existing boundary fence, you are obligated to give the other affected neighbours 30 days notice to comment and respond as per a "Form 2". If a fence is removed (even if only temporarily) by a neighbour without the consent of the adjoining owner, or without following the procedure under the Fences Act, you may be liable to compensate the other owner.

For more information, please refer to the Legal Services Commission brochure titled "Fences and the Law". Copies are available at Council's Administration Centre, or online at <http://www.lawhandbook.sa.gov.au/ch31s02.php>.
3. As the proposal involves work on or near the boundary, it is recommended that the boundaries are clearly defined by a Licensed Surveyor prior to the commencement of any building work.
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.

4.2 Report Reference: CAP010223 - 4.2**Application No: 22020483****Site Location: 479 Marion Rd South Plympton**

- No persons addressed the Panel in relation to this item

The Council Assessment Panel resolved that;

RECOMMENDATION

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

- The Panel notes this report and concur with the findings and reasons for the recommendation;**
- The Panel concurs that the proposed development is not seriously at variance² to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- That Planning Consent for Development Application ID: 22020483 Three two storey group dwellings at 479 Marion Road, South Plympton be REFUSED for the following reasons:**

REASONS FOR REFUSAL

- The proposed vehicle access point conflicts with an existing Council street tree which has not been granted permission for removal. As such, the proposed access cannot be achieved, and is contrary to Design in Urban Areas PO 23.4 and Transport, Access and Parking PO 3.5.**
- The proposed development achieves limited soft landscaping areas forward of the building line, which contributes to a poor environmental and aesthetic streetscape outcome, contrary to Design in Urban Areas PO 22.1. The constrained landscaping does not contribute to a 'landscaped street frontage' as sought by Design in Urban Areas PO 23.3. The high proportion of hard-paved area also contributes to garage dominance and provides limited softening to the appearance of the common driveway area, contrary to Design in Urban Areas POs 20.1, 34.1 and 34.2.**
- The proposed density, including average site areas and dwelling widths, is not compatible with the pattern of development in a predominantly low-density neighbourhood, contrary to General Neighbourhood Zone PO 2.1.**
- The boundary-to-boundary aspect of the development emphasises garage dominance, and does not provide separation between dwellings in a way that**

² Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a "development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code" (or the Development Plan if under the Development Act).

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contributes to a suburban character, contrary to General Neighbourhood Zone PO 8.1.

5. The proposed development is not considered to be 'contextual', and is notably out of character with the surrounding built environment. It integrates poor landscaping design by prioritising vehicle access and manoeuvring areas forward of the dwellings, causing areas for soft landscaping and pedestrian access to be marginalised; and demonstrates poor environmental sustainability outcomes. These matters are contrary to Design in Urban Areas DO 1.

5. APPEALS UPDATE**5.1 APPEALS AGAINST PANEL DECISIONS**

Verbal update provided

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

No items listed

6. POLICY OBSERVATIONS

No items listed for discussion

7. OTHER BUSINESS

7.1 Delegated powers of Assessment Panel as a Relevant Authority under the Planning, Development and Infrastructure Act 2016 to Assessment Manager

The Council Assessment Panel resolved that;

- 1. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed to the Report dated 01/02/2023 and entitled '*Marion Council Assessment Panel - Instrument of Delegation – Instrument C*' and marked Attachment II) are hereby delegated on 1st of February 2023 to the City of Marion Assessment Manager subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation.**
- 2. Such powers and functions may be further delegated by the City of Marion Assessment Manager in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.**

7.2 Amended General Operating Procedures

The Council Assessment Panel;

- 1. NOTES the report**
- 2. ENDORSES the amended General Operating Procedures, subject to amending Clause 7.1 to read, “One or more CAP Members may attend a meeting via electronic means with prior approval of the Presiding Member and Assessment Manager.”**

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 1 February 2023 taken as read and confirmed this the first day of February 2023

9. MEETING CLOSURE

- **Length of meeting:** 50 minutes
- **Number of Representors appearing before the Panel:** 0
- **Number of Applicants appearing before the Panel:** 1

MEETING DECLARED CLOSED AT 7.20PM

A handwritten signature in blue ink, appearing to read 'Michael Davis', with a long horizontal flourish extending to the right.

Michael Davis
Presiding Member