

1. MEETING PROCEDURES

1.1 OPEN MEETING

1.2 PRESENT

1.3 APOLOGIES

1.4 IN ATTENDANCE

2. GENERAL OPERATIONS

No items listed for discussion

3. PDI ACT APPLICATIONS

3.1 DEVELOPMENT NO 22040748

13 Clacton Road Dover Gardens

Variation of cellar door and functions uses, including redefinition of licence area and increase licensed capacity from 150 to 300 persons

Report Reference: CAP030523 - 3.12

4. DEVELOPMENT ACT 1993 APPLICATIONS

4.1 DEVELOPMENT NO 100/2021/195 – CONFIDENTIAL ITEM

3 and 7-9 Franklin Street STURT SA 5047

Demolition of 22 existing dwellings and construction of 24 dwellings (comprising 3 x two-storey residential flat buildings each with two dwellings, 8 x single storey residential flat buildings each with two dwellings and 2 x single storey dwellings) with associated access, fencing and landscaping and the removal of two (2) significant trees and seven (7) regulated trees.

Report Reference: CAP030523 - 4.14

5. APPEALS UPDATE

- Verbal update provided.

6. POLICY OBSERVATIONS

- Verbal update provided.

7. OTHER BUSINESS

**8. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL
MEETING HELD ON 03 MAY 2023**

9. MEETING CLOSURE

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 03 MAY 2023**



1.1 OPEN MEETING

The Meeting commenced at 6.30pm

1.2 ACKNOWLEDGMENT OF COUNTRY

1.3 PRESENT

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

1.4 IN ATTENDANCE

Alex Wright – CAP Assessment Manager – Team Leader - Planning
Michael Hughes - Development Officer - Planning
Phil Mabbs - Development Officer - Planning
Tony Lines - General Manager – City Development
Warwick Deller-Coombs – Manager - Development & Regulatory Services

1.5 APOLOGIES

Nil

2. GENERAL OPERATIONS

3. HEARING OF APPLICATIONS

3.1 Report Reference: CAP030523 – 3.1

Application No: 22040748

Site Location: 13 Clacton Road Dover Gardens

- No representors addressed the Panel in respect of this Item.
- The following representatives of the Applicant answered questions of the Panel;
 - Justin Tiller and Matthew Mungall of Patritti
 - Darren Jurevicius of Resonate
 - Frank Siow Frank of Siow & Associates; and
 - Tom Gregory of Ben Green & Associates

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: 22040748 to vary the existing cellar door and functions uses, including redefinition of licence area and increase licensed capacity from 150 to 300 persons, at 13 Clacton Road, Dover Gardens, be GRANTED subject to the following Reserved Matter and Conditions.

RESERVED MATTER

1. An event parking management and implementation plan shall be submitted to the Council Assessment Manager documenting plans, procedures, detailed car park setup in line with Frank Siow & Associates Traffic and Parking Assessment (dated 27 February 2023).

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. From 10:00pm, the number of persons located outdoors shall not exceed 150, and shall be confined to Area A as illustrated on the plan titled 'Licensed Area' prepared by Ben Green & Associates dated 03 May 2023.
3. The following hours of operation will be maintained:

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.

CAP030523

- Monday to Thursday: 7:00am to 12:00 midnight
 - Friday and Saturday: 7:00am to 2:00am (of the next day)
 - Sunday: 9:00am to 10:00pm
4. The applicant will adhere to the recommendations outlined in the Resonate Environmental Noise Assessment dated 24 March 2023, *Section 5.4 Patron noise predicted noise levels*, to the satisfaction of Council.
 5. All existing landscaping shall be maintained in accordance with the plans and details forming part of the development authorisation.

NOTES

1. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
2. The owner/applicant is advised that consent from any relevant easement or encumbrance owner may be required prior to any construction.

Easements may include, but are not limited to: drainage, Council easements (i.e. stormwater, encroachments, access etc), power transmission (SA Power Networks), telecommunications, or other forms of access (such as vehicle) rights of way.

Easements and encumbrances would be registered on the relevant Certificate of Title. The location of easements on the land would be shown on the Deposited Plan. A copy of the Certificate of Title and Deposited Plan can be obtained from the South Australian Integrated Land Information System (SAILIS) at: <https://sailis.lssa.com.au/home/auth/login>

3. The Local Nuisance and Litter Control Act 2016 has restrictions relating to the control of noise, dust, smoke, odours and unsightly conditions in the urban environment. Please note that conditions of this nature which unreasonably affect the amenity of neighbours may contravene the Act.
4. 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>.

4.1 Report Reference: CAP030523

7:26pm Pursuant to Section 13(2)(a)(ix) of the Planning, Development and Infrastructure Regulations, the Panel resolve to exclude the public from attendance for the deliberation of Item 4.1

4.1 CONFIDENTIAL ITEM

Report Reference: CAP030523– 4.1

Application No: 100/2021/195

Site Location: 3 and 7-9 Franklin Street STURT SA 5047

- No Persons addressed the Panel.

The Council Assessment Panel resolved that;

The Council Assessment Panel having considered this matter in confidence under Section 13(2)(a)(ix) of the Planning, Development and Infrastructure Regulations determined that the decision of the Council Assessment Panel on this item be kept confidential and not available for public inspection until such time that appeal ERD-23-000003 has concluded

7.39pm: Meeting re-opened to the Public

5. APPEALS UPDATE**5.1 APPEALS AGAINST PANEL DECISIONS****5.2 APPEALS AGAINST DELEGATED APPLICATIONS****6 POLICY OBSERVATIONS****7. OTHER BUSINESS****8. CONFIRMATION OF MINUTES**

The minutes of this meeting held Wednesday 03 May 2023 taken as read and confirmed this third day of May 2023

2. MEETING CLOSURE

- Length of meeting: 74 Minutes
- Number of Representors appearing before the Panel: 0
- Number of Applicants appearing before the Panel: 1

MEETING DECLARED CLOSED AT 7.44PM



Michael Davis
Presiding Member