

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 5 JUNE 2024**



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

Nil

1.4 IN ATTENDANCE

Alex Wright – CAP Assessment Manager - Acting Manager - Development & Regulatory Services
Katherine Thrussell - Team Leader - Planning
Kristen Sheffield - Senior Urban Planner - Planning

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: CAP050624 - 4.1 Application No: 23035404 Site Location: 7 Esplanade, Marino

- Louise Carthew (Representor) addressed the Panel
- Andrew and Rebecca Heithersay (Landowners), Rebecca Thomas (Town Planner) and Alex Hall (Architect) (Applicant) addressed the Panel
- The Presiding Member noted the acceptance of correspondence from Greg Vincent of MasterPlan on behalf of the representors of 13 and 15 Shaftesbury Terrace, Marino.

It is noted that the correspondence was provided to the applicant prior to this meeting.

The Council Assessment Panel resolved that;

In accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016 the Council Assessment Panel;

- (a) **Notes the assessment and recommendation(s) made by the report author;**
- (b) **Resolves that the proposed development, pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, IS NOT seriously at variance¹ with the Planning and Design Code; and**
- (c) **Resolves that, pursuant to Section 102 (1) *Planning, Development and Infrastructure Act 2016*, Development Application 23035404 seeking construction of a three-storey detached dwelling, swimming pool and spa as well as associated earthworks, retaining, and landscaping at 7 Esplanade, Marino, be GRANTED, subject to the following Reserved Matter and Conditions:**

RESERVED MATTER

1. **A fully engineered site works and drainage plan, which details top of kerb levels, existing ground levels throughout the site and on adjacent land, proposed bench levels and finished floor levels, extent of cut/fill required, location and height of any proposed retaining walls, driveway gradients, proposed and existing crossovers, and the location of all existing street infrastructure and street trees shall be provided to the assessment manager for consideration and acceptance.**

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.

2. A roof plan which specifies the proposed materials shall be provided to the assessment manager for consideration and acceptance.

CONDITIONS

1. The development granted Development Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
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. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details, with on-site water retention systems connected to collect roof stormwater from each dwelling, prior to the occupation of the premises to the reasonable satisfaction of the Council.
4. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.
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 the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
6. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.
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.
8. Any swimming pool pump and/or filtration system ancillary to a dwelling erected on the same site is:
 - enclosed in a solid acoustic structure located at least 5m from the nearest habitable room located on an adjoining allotment; or
 - located at least 12m from the nearest habitable room located on an adjoining allotment.

NOTES

1. 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 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 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>.

2. 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.
3. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.
4. 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 (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).
5. Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).
6. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
7. If excavating, it is recommended you contact *Before You Dig Australia (BYDA)* (www.byda.com.au) to keep people safe and help protect underground infrastructure.

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

No items listed.

6. POLICY OBSERVATIONS

The Panel observed that the immediate coastal areas within Marino are considerably different to other areas within the Hills Neighbourhood Zone. General Council may wish to consider this in relation to future code amendments.

7. OTHER BUSINESS

No items listed for discussion.

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 5 June 2024 taken as read and confirmed this fifth day of June 2024.

9. MEETING CLOSURE

- **Length of meeting: 57 minutes**
- **Number of Representors appearing before the Panel: 1**
- **Number of Applicants appearing before the Panel: 1**

MEETING DECLARED CLOSED AT 7.27PM



Michael Davis
Presiding Member