

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 7 SEPTEMBER 2022**



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 Matthew Shilling – Council Member

1.3 APOLOGIES

Nil

1.4 IN ATTENDANCE

Warwick Deller-Coombs - Manager - Development & Regulatory Services
Alex Wright – CAP Assessment Manager – Team Leader - Planning
Kristen Sheffield - Development Officer - Planning
Joanne Reid - Development Officer - Planning

2. GENERAL OPERATIONS

No items listed for discussion.

3. DEVELOPMENT ACT 1993 APPLICATIONS

3.1 Report Reference: CAP070922 - 3.1
Application No: 100/2021/195
Site Location: 3 and 7-9 Franklin Street, Sturt

- Necia Pascale & Julie Jansen on behalf of Adelaide Benevolent Society (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

Having considered all relevant planning matters in relation to the subject development application, be deferred for the following reasons:

- 1. To allow the applicant to provide further information on the habitat value and landscape quality of the trees and to provide further information on the design and method of stormwater discharge from the site.**

3.2 Report Reference: CAP070922 - 3.2
Application No: 100/2020/659
Site Location: 1 Wattle Terrace, Plympton Park

- Nathan Sim (Applicant) was available to answer questions from the Panel

The Council Assessment Panel resolved that;

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

- The Panel note this report and concur with the findings and reasons for the recommendation;**
- The Panel concur that the proposed development is not seriously at variance¹ to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and**
- That Development Plan Consent for Development Application No: 100/2020/0659 for construction of a two-storey residential flat building comprising three dwellings as well as a carport, associated driveway and landscaping at 1 Wattle Terrace, Plympton Park, be REFUSED for the following reasons:**

REASONS FOR REFUSAL

- The proposed site areas fail to meet the prescribed minimum for residential flat dwellings as outlined by Medium Density Policy Area 12 Principle of Development Control 6**
- The proposed development does not maintain a front setback in accordance with Residential Zone Principle of Development Control 6, with the lack of setback to Arthur Street contrary to the Desired Character of the Medium Density Policy Area 12 and Objective 4, as well as Residential Development Principle of Development Control 37.**
- The proposal's design and appearance fails to satisfy the Desired Character of the Medium Density Policy Area 12 and Objective 4, as well as Design and Appearance Objective 1 and Principles of Development Control 1 and 15.**
- The proposal does not minimise direct overlooking of habitable rooms of adjacent dwellings as sought by Design and Appearance Principle of Development Control 11.**
- The provision of on-site car parking fails to accord with Transportation and Access Principle of Development Control 34 and Table Mar/2- Off Street Vehicle Parking Requirements.**

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.

CAP070922

6. The vehicle parking area is not considered to serve users safely and conveniently as sought by Transportation and Access Principle of Development Control 44(a).
7. The proposed development does not incorporate open space and landscaping in order to complement built form, reduce the visual impact of larger buildings or enhance the appearance of the Arthur Street frontage as sought by Landscaping, Fences and Walls Principle of Development Control 1(a) and (b).

4. PDI ACT APPLICATIONS

- 4.1 Report Reference: CAP070922 - 4.1**
Application No: 22014132
Site Location: 80 Lascelles Avenue, Warradale

Item withdrawn prior to meeting.

4.2 Report Reference: CAP070922 - 4.2
Application No: 22016917
Site Location: Unit 2, 115 Perry Bar Road, Hallett Cove

- Aron & Ricky Saether-Jackson (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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 variance² 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: 22016917 for a swimming pool, outbuilding retaining, fencing, earthworks and associated landscaping at 2/115 Perry Barr Road, Hallett Cove 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. 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.**
- 3. 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.**
- 4. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.**

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

No items listed for discussion.

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

No items listed for discussion.

6. POLICY OBSERVATIONS

No items listed for discussion.

7. OTHER BUSINESS

No items listed for discussion.

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 7 September 2022 taken as read and confirmed this seventh day of September 2022

9. MEETING CLOSURE

- Length of meeting: 1 hour
- Number of Representors appearing before the Panel: 0
- Number of Applicants appearing before the Panel: 3

MEETING DECLARED CLOSED AT 7.31PM

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

Michael Davis
Presiding Member