

**CITY OF MARION  
COUNCIL ASSESSMENT PANEL MINUTES  
FOR THE MEETING HELD ON  
WEDNESDAY 19 OCTOBER 2022**

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**1.1 OPEN MEETING**

The Meeting commenced at 6.31pm

**1.2 PRESENT**

Michael Davis - Presiding Member  
Yvonne Svensson- Independent Member  
Ben Russ - Independent Member  
Bryn Adams - Independent Member  
Councillor Raelene Telfer – Council Member

**1.3 APOLOGIES**

Councillor Matthew Shilling – Council Member  
Alex Wright – CAP Assessment Manager – Team Leader – Planning

**1.4 IN ATTENDANCE**

Warwick Deller-Coombs - Manager - Development & Regulatory Services  
Kai Wardle - Acting Team Leader - Planning  
Matthew Falconer - Development Officer - Planning  
Nick Lupo - Development Officer - Planning

**2. GENERAL OPERATIONS**

No items listed for discussion.

**3. HEARING OF DEVELOPMENT ACT 1993 APPLICATIONS**

No items listed for discussion.

#### 4. HEARING OF PDI ACT APPLICATIONS

##### 4.1 Report Reference: CAP191022 - 4.1

Application No: 22018339

Site Location: 15 Angas Crescent, Marino

- Greg Hall (Representor) addressed the Panel
- Graham Fowlie (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 variance<sup>1</sup> 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: 22018339 To construct additions to an existing detached dwelling, comprising ground and upper storey additions at 15 Angas Crescent, Marino be GRANTED subject to the following Reserved Matter and Conditions.**

#### RESERVED MATTER

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the following matters shall be reserved for further assessment, to the satisfaction of the Council Assessment Manager, prior to the granting of Development Approval (or select stage of Development Approval):

- 1. An updated suite of elevation plans are to be provided which confirm the applicant's intent that obscure glazing is not proposed to the rear elevation of Bedroom 5; and which confirm proposed external materials.**

#### 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.**

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<sup>1</sup> 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.

3. 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 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. 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. 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>.

5. 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).

**4.2 Report Reference: CAP191022 - 4.2****Application No: 22021047****Site Location: 2A Midera Avenue, Edwardstown**

- No persons addressed the Panel in relation to this item.

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 variance<sup>2</sup> 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: 22021047 for additions and alterations to an existing indoor recreation facility at 2A Midera Avenue, Edwardstown 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 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 building.**
- 4. All windows and doors incorporated into the northern façade, to the western end of the building (opposite courts 6 and 7), shall remain closed during use of the Courts.**
- 5. The outdoor area to the north of the building, adjacent courts 6 and 7, shall be closed for use after 7pm (regardless the use of the courts).**

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<sup>2</sup> 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**

The Panel has considered a number of items within Hills Neighbourhood Zone in coastal areas and makes the following observations:

- The same Desired Outcome wording is applied across suburbs with very different topographic and natural and rural features. Does not apply as well to coastal regions of Marion compared to rural adjacent peri-urban regions of other councils.
- Creation of a 'Coastal' Hills Neighbourhood Zone or 'Suburban' Hills Neighbourhood Zone could be appropriate.
- Consideration as to the inclusion of Character Statements to provide more finely tuned provisions.

**7. OTHER BUSINESS**

No items listed for discussion.

**8. CONFIRMATION OF MINUTES**

The minutes of this meeting held Wednesday 19 October 2022 taken as read and confirmed this nineteenth day of October 2022.

**9. MEETING CLOSURE**

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| • Length of meeting:                                 | 1 hour, 11 minutes |
| • Number of Representors appearing before the Panel: | 1                  |
| • Number of Applicants appearing before the Panel:   | 1                  |

**MEETING DECLARED CLOSED AT 7:42PM**



***Michael Davis***  
***Presiding Member***