

**DEVELOPMENT ASSESSMENT PANEL  
AGENDA FOR MEETING TO BE HELD ON  
WEDNESDAY 21 JUNE 2017**

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DEVELOPMENT ASSESSMENT PANEL  
Wednesday 21 June 2017

**Agenda Ref No:** DAP210617 – 2.1

**Originating Officer:** Joanne Reid  
Development Officer - Planning

**Applicant:** Aira Homes

**Development Description:** Two storey detached dwelling with associated earthworks and retaining walls

**Site Location:** 22 James Street, Darlington

**Zone:** Residential Zone

**Policy Area:** Hills Policy Area 11

**Application Type:** Category 2 / Consent

**Lodgement Date:** 20/12/2016

**Development Plan:** Consolidated – 28 April 2016

**Application No:** 100/2016/2388

**Recommendation:** That Development Plan Consent be **GRANTED** subject to conditions

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#### CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of the Public Notification section of the Residential Zone of the Marion Council Development Plan, which assigns retaining walls and earthworks that, in the opinion of the relevant authority, are not deemed to be minor in nature, as Category 2 development. In this instance the extent of earthworks and retaining proposed were not considered to be of a minor nature and therefore required Category 2 Public Notification. Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel.

#### BACKGROUND

During the assessment process, Council staff requested modifications to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
Reduce roof pitch to lower overall height of the dwelling	Roof pitched reduced from a 25 degree pitch to 22.5 degree pitch
Ensure privacy is maintained to property at 24	Obscure glazing provided to upper storey

James Street by obscuring windows and providing screening to POS areas	windows on western side.
Provide details of colours and finishes	Information provided

## SUBJECT LAND & LOCALITY

The subject site is located at 22 James Street in Darlington. It is a vacant, rectangular allotment with a frontage width of 22m and a depth of 39.84m, culminating in a total site area of 876m<sup>2</sup>.

The site maintains a slope of approximately 1 in 8 with a fall of approximately 5 metres descending towards the street. There is no vegetation on the land, however a Council street tree is located on the verge.

There is no current access arrangements to the site but a rollover kerb suggests access can easily be achieved.

The locality comprises a range of single storey and two storey dwellings on large allotments. The area, known as 'The Balconies', was subdivided in 2003 and the dwellings to the north and west of the subject land are relatively recent builds, namely within the last 10 to 15 years. The area to the south and east of the subject site reflect the original housing stock, most likely dating back to the 1970s.

The site adjoins a Council Reserve to the east of the site which contains pathways linking to the surrounding streets of Mostyn Road, Peregrine Court and Eagle Rise.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The proposed development comprises the construction of a two storey detached dwelling and garage.

The development will involve a moderate level of earthworks, predominantly the cutting of land to accommodate the lower storey and accommodate an 'underground' storeroom/wine cellar at the rear of the dwelling.

The lower storey will also comprise two bedrooms, bathroom, theatre/lounge room and a double garage with workshop.

The second storey accommodates the master bedroom with walk-in-robe and ensuite, study, open plan kitchen/living/dining area and utility room and laundry.

Access to the garage is to the western side of the dwelling and will maintain an 11.3m long driveway with an average grade of approximately 1:5.

The proposed earthworks will result in approximately 900mm of fill to the front of the dwelling and approximately 1m to 1.3m of cutting to the rear of the dwelling. The rear wall of the lower storey will 'retain' the remaining land at the back of the block, resulting in the lower storey effectively being buried (when viewed from the rear). Some additional filling to a section of private open space that is accessible from the upper storey will be required in order to match the floor level and minimise the need for steps.

*Refer Attachment III*

PUBLIC NOTIFICATION

<p><b>Properties notified:</b></p>	<p>12 properties were notified during the Category 2 public notification process.</p>
<p><b>Representations:</b></p>	<p>4 representations were received by Council.          Mr L and Mrs F Jucha – In favour          City of Marion – In favour          K Johnstone – Against          B Gaskin – Primarily against, although objection would be lessened if certain amendments/provisions met.</p>
<p><b>Persons wishing to be heard:</b></p>	<p>K Johnstone has indicated a desire to be heard personally.</p>
<p><b>Summary of representations:</b></p>	<p><b>City of Marion</b></p> <ul style="list-style-type: none"> <li>• It is the owner's responsibility to ensure that no structure (including retaining wall) will encroach on the Council reserve and strongly recommend that a boundary survey be undertaken and site pegged at the cost of the owner.</li> <li>• No claim is to be made against the Council, either now or in the future, in relation to the maintenance, repair and structural stability of the retaining wall.</li> <li>• There is to be no off-site spoil during the construction and the developer will not be granted access to the reserve for construction purposes.</li> </ul> <p><b>K Johnstone</b></p> <ul style="list-style-type: none"> <li>• Concern expressed regarding loss of city skyline.</li> </ul> <p><b>B Gaskin</b></p> <ul style="list-style-type: none"> <li>• Balconies and windows will be facing east which will look directly into family/living room, swimming pool and outdoor entertaining area.</li> <li>• Single storey dwelling with opaque windows on east side should be considered.</li> <li>• Balcony alfresco balcony and large eastern side windows to be omitted from proposal.</li> <li>• Any windows or glass doors on the upper level eastern side to be opaque.</li> <li>• North facing balcony on opposite side and mirror reverse of dwelling would be less invasive.</li> <li>• Trees to be planted on the east fence line to create privacy and screening.</li> </ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<p><b>Applicant's response:</b></p>	<ul style="list-style-type: none"> <li>• The property has already been surveyed as part of the existing contour and site plan.</li> <li>• A boundary survey is not warranted as the site is already fully fenced with concrete base as part of the subdivision by the developer.</li> <li>• The retaining wall will be built parallel to the boundary fence and at least 1m in from the boundary.</li> <li>• Mrs Johnstone will not lose all her views of the city and the extensive sea views of the coast will not be affected.</li> </ul>

	<ul style="list-style-type: none"> <li>• The previous owner had a similar sized house approved and it would have blocked similar views if it had been built.</li> <li>• Mrs Gaskin's house is approximately 50-60m away from the closes part of the balcony and any views between the trees are at a distance from her house and her pool that will not be visible from the balcony at all.</li> <li>• The side balcony, alfresco and large windows were designed to look over the Mostyn Street Reserve.</li> <li>• Mrs Gaskin's concerns regarding her privacy are completely unfounded and a complete redesign is considered unreasonable.</li> <li>• Pictures taken from a ladder looking towards her house though a gap in the trees show how far away her house is and give some indication of what is visible of her house.</li> </ul> <p style="text-align: right;"><i>Refer Attachment V</i></p>
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## ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Hills Policy Area 11 are listed in the following table and discussed in further detail below:

<b>Residential Zone</b>
<p><b>Objectives</b></p> <p><i>1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</i></p> <p><i>2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.</i></p>
<b>Hills Policy Area 11</b>
<p><b>Objectives</b></p> <p><i>1 A policy area primarily comprising detached dwellings at low densities.</i></p> <p><i>2 Residential development which is sensitive to the particular topography of the locality.</i></p> <p><i>3 Residential development which has minimal visual and environmental impacts.</i></p> <p><i>4 Development that contributes to the desired character of the policy area.</i></p>
<p><b>Desired Character</b></p> <p><i>The policy area encompasses parts of the escarpment which forms an east-west band through the centre of the council area, including elevated land visible from the Adelaide Plains in the suburbs of Seacliff Park, Seaview Downs, Seacombe Heights and Darlington. The policy area also contains undulating to steep land along the coast from Marino to Hallett Cove. Many dwelling sites have good views of the Adelaide Plains or the coast.</i></p> <p><i>The desired character is a high quality residential environment containing site appropriate houses set in attractively landscaped, relatively large gardens. This desired character is derived from the existing prevailing character where it is based on low-density detached dwellings of a variety of architectural styles on relatively large, sloping allotments. The importance of the landscape character, the protection of existing trees and vegetation and the re-vegetation of land are all emphasised, particularly in those parts of the policy area that function as a backdrop to the Adelaide Plains or contribute to scenic coastal landscapes. Other important features are the varied natural topography, natural watercourses and steep gullies, and interfaces with adjoining areas of open space including Hills Face and coastal land. This landscape character warrants protection from inappropriate development and earthworks.</i></p> <p><i>Development should not result in the removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</i></p>

*Buildings and associated earthworks will be designed to minimise alteration of the natural or existing landform. Appropriate designs will continue to include split-level buildings to reduce visual bulk and reduce the need to cut and fill sloping sites.*

*Buildings, particularly on a site in a highly visible and prominent location or adjoining an area of open space or other natural character, will be finished with colours and materials complementing the surrounding environment. Highly reflective and very bright materials and colours that detract from the prevailing residential or natural character are inappropriate.*

*It is important when designing new buildings and extensions (and associated finished levels and decks) on sloping sites to pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development.*

*Buildings and subdivision of land will reflect the existing pattern and scale of nearby development, except in areas where land has been subdivided into smaller allotments than now desired in this policy area, any new land division and development will be at a lower density and intensity than existing. In addition, larger-than-minimum allotments may be preferable due to the natural topography.*

PDC 1	<i>The following forms of development are envisaged in the policy area:</i> ▪ detached dwelling ▪ group dwelling	<b>Complies</b>
PDC 2	<i>Development should not be undertaken unless it is consistent with the desired character for the policy area.</i>	<b>Complies</b>
PDC 3	<i>Development should be designed and sited to relate to the slope of the land, so that:</i> (a) <i>the bulk and scale of the buildings do not dominate the landscape</i> (b) <i>the amount of cutting and filling of the natural ground profile is minimised.</i>	<b>Complies</b> See comments below
PDC 4	<i>Wherever possible, existing vegetation should be used to screen buildings and excavation or filling from view.</i>	<b>Not applicable</b> There is no existing vegetation on the land
PDC 5	<i>Development that would be prominently visible from the Adelaide Plains should:</i> (a) <i>achieve a profile that blends with the topography of the land</i> (b) <i>avoid the use of bright and highly reflective external materials and finishes</i> (c) <i>incorporate existing vegetation wherever possible and additional landscaping to assist in reducing the apparent bulk and scale of the building and any site works.</i>	<b>Complies</b>
PDC 6	<i>Development of more than one storey in height should take account of the height and bulk of the proposed building relative to dwellings on adjoining land by:</i> (a) <i>incorporating stepping in the design in accordance with the slope of the land</i> (b) <i>where appropriate, setting back upper storeys a greater distance from all boundaries than the lower storey.</i>	<b>Partially Complies</b>

## Assessment

The proposed development is reflective of the existing low-density character of the Hills Policy Area in that it proposes a split level detached dwelling that has been designed to minimise the alteration of land on a sloping site.

The overall earthworks proposed are not considered to be excessive with a maximum of 900mm of fill and a maximum cut of 1.3m. The resultant retaining walls are mostly concealed in cut and as such will not be visually intrusive on the land or unreasonably impact upon adjoining properties.

The building will use colours and materials that is consistent with the locality and surrounding environment. The façade and roof will consist of light and dark grey tones that will not be bright or reflective such that it will detract from its setting.

The Policy Area seeks for new buildings on sloping sites to pay considerable attention to, and reduce the potential impact on, the privacy and amenity of existing development.

With regard to privacy, I have discussed this in the relevant section of the table discussion below.

Given that loss of view is an amenity consideration, it is important when assessing such a development to have regard to the potential loss of view(s) experienced by adjacent land, should the proposed development be approved in its current form. In assessing the loss of views, I have not only had regard to the City of Marion's Development Plan, but also recent Environment, Resources and Development (ERD) Court and Supreme Court Decisions.

In assessing the potential loss of view, in my view, the dwelling potentially most affected by the proposed development is the property at 13 Camelot Crescent, Seacombe Heights, which is the adjoining property to the rear of the subject land. Views that can be gained from this property are of both the coast and the Adelaide City Skyline.

It should be noted the owner of the subject land has the right to develop their property for a residential dwelling, and given that adjacent dwellings are designed to take advantage of views over the subject land, and that two storey dwellings are envisaged in the Policy Area, it is inevitable that any reasonably sized dwelling on this land will have an impact upon the views currently available to the adjoining property.

In the Supreme Court judgment of *Hutchens v City of Holdfast Bay*, Justice Debelle stated that when determining whether to grant consent to a new building which will obstruct views enjoyed by existing developments, regard *"must be had to the nature and extent of the view, the extent to which the view will be obstructed by the proposed development, and the reasonableness of the proposal as determined by reference to planning controls"*.

I believe it is also worthwhile providing context to the Debelle J decision to the City of Marion. In *Alexander & Anor v The City of Marion* [2010] SASC 86, Bleby J stated that *"[i]t should be noted that in Hutchens v City of Holdfast Bay the relevant Development Plan contained many more specific provisions relating to protection of coastal views..."* (para 19). It was further stated that *"[the] protection of coastal views receives less attention in this [Marion Council] Development Plan than in some others"* (para 23).

The view loss in this instance relates to the City skyline view as coastal views will be retained, however, the above statement is nonetheless relevant, as I believe that this could equally be applied to views of the Adelaide Plains.

This is not to say that view loss should not be considered – the Marion Development Plan nonetheless contains principles relating to the protection of amenity (Design and Appearance PDC 2, Siting and Visibility Objective 1, PDC 1, PDC 2, PDC 3, PDC 4 and PDC 5, Sloping land Objective 1, PDC 2 and PDC 7 and Hills Policy Area 11 Desired Character). However, it is also appropriate to conclude that the protection of views, as is now an established planning consideration, can be given less weight where the applicable Development Plan places less importance on such matters.

Justice DeBelle endorsed the following four-part test for the assessment of a development which proposed to obstruct the views of existing developments. An outline of the process has been provided below.

- The first step in the assessment is to assess the views to be affected, i.e. water, land, coast etc. In this regard, iconic views are valued more highly than views without icons and whole views are valued more highly than partial views.
- The second step is to consider from which part of the property the views were being obtained – taking into account that views across side boundaries are harder to protect than those over the front or rear boundaries, and sitting views are harder to protect than standing views. Whether a view is considered to be “hard” to protect will be relevant to whether the loss of the view is acceptable or not.
- The third step is to assess the extent of impact of the loss of views.
- The fourth step is to assess the reasonableness of the development proposal, which will cause the impact on the views from existing developments.

The following assessment considers the potential loss of view experienced by the property identified, following the four-part test.

### **Views assessment at 13 Camelot Crescent, Seacombe Heights**

The dwelling at 13 Camelot Crescent is a two storey split level dwelling and is located to the south-west of the subject site. In taking the approach of Justice DeBelle, it is considered that views of the coast which include “icons” such as Glenelg are valued higher than other views.

Views of the ocean and coastline are available looking north-west from the living room (either sitting or standing) as well as from the western and northern balcony. Although the balcony is accessible from the living room, its limited depth makes it more appropriate for standing than sitting or the placement of outdoor furniture. In my opinion, the view of the ocean will unlikely be reduced as a result of the proposed development.

Concerns raised by the applicant relate to the loss of view of the Adelaide city skyline. From inside the living room, this view has limited visibility through a window which contains a security screen but can be seen when standing at the corner of the western balcony and facing in a northerly direction. The view is also gained from a balcony on the eastern side of the dwelling.

It is acknowledged that a single storey dwelling would enable views towards the Adelaide city skyline over the roof-top of that dwelling from the affected dwelling. However, two-storey dwellings are acceptable in the Policy Area and as such, the appropriateness of the proposal, in part, lies with the “reasonableness” of the proposal when assessed against the relevant planning controls.

Regarding the finished floor level of the dwelling, I am of the view that it is set down appropriately on the land. The proposal consists of no more than 900mm of fill to the front of the site, with the dwelling predominantly excavated into the land approximately 1.3m. The extent of earthworks is considered to be consistent with the dwellings on adjacent land and finds an appropriate ‘balance’ that minimises the alteration of land as sought within the Policy Area and the Sloping Land/Siting and Visibility provisions of the Development Plan.

In considering the building’s height, bulk and scale, the dwelling complies with the Development Plan’s numerical provisions for site coverage and floor area ratio. The building is limited to two-storeys in height, with a total vertical height of 8m and a total building height of 8.9m when the additional fill is taken into consideration. This also meets the standards set within the



Development Plan. The side setbacks of the dwelling also exceed the 2m minimum requirement of the Hills Policy Area 11.

A site inspection was undertaken at 13 Camelot Crescent and photographs taken from the living room and balcony (see attachment VI). In using 24 James Street as a guide, it is noted that the horizon can be seen just below the pitch of the roof above the rear section of the dwelling. The engineered siteworks plan estimates the finished floor level of this dwelling at 102.49. Assuming this is correct and accurate, the pitch of the roof sits at a level of approximately 109.6, meaning that the horizon could be seen approximately 500mm below this level at around 109.1.

The roof pitch of the proposed dwelling will have a level of 110.6 at the highest point, this is some 2.7m higher than the estimated finished floor level of the affected dwelling, (as identified in the siteworks plan) suggesting that the view from the eastern side balcony is likely to be lost.

The eave height level of the proposed dwelling will be set at 108.45, 650mm below the horizon level. I am of the opinion that with the proposed dwelling maintaining a side setback of 3.15m and the additional setback of 3m to the eastern side of the adjacent dwelling at 24 James Street, a view of the City Skyline could still be achieved looking in a north-easterly direction from the western balcony between the two dwellings, albeit somewhat interrupted.

It is apparent that the proposed dwelling will have an impact upon the (City Skyline) view currently enjoyed by the adjacent dwelling at 13 Camelot Crescent. Whilst it is noted that a single storey dwelling would enable greater views to be retained, the potential loss of view is somewhat anticipated and an unavoidable result of the development. In my opinion, it would be unreasonable to request a reduction to a single storey dwelling given what already exists in the locality and that the dwelling itself achieves relative compliance with the Development Plan. In considering whether a lowering in the floor level would improve the situation for the dwelling to the rear, I believe that the excessive earthworks required to achieve this would be to the detriment of the occupants of the land with limited gains upon the additional views that would be achieved from the affected property. The proposed floor levels are consistent with that of the adjacent dwelling and are considered to adequately relate to the lay of the land.

When taking into account that existing views of the coastline will be unaffected, a portion of the City Skyline will still remain from a section of balcony that is accessible from the living room and the overall reasonableness of the proposal as a whole, the loss of view is not considered to be so substantial as to warrant further amendments to the proposal or a refusal of the application. Whilst the amenity of 13 Camelot Crescent will be affected, it will not, in my opinion be so eroded as to have a devastating impact upon the liveability and enjoyment of the occupants. Certainly, the view currently enjoyed by the adjacent property will not be "obliterated".

## **Conclusion**

It is my opinion that the proposed development satisfactorily adheres to the Desired Character of the Policy area, by providing a dwelling that is typical of dwellings in the locality and has been designed to protect the landscape character of the Policy Area by minimising the alteration of the natural landform, whilst maintaining satisfactory amenity to the adjoining land.

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## DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control:

Assessment:

Site Coverage			
<p><i>Dwellings should be designed to have a maximum site coverage of 35 per cent of the allotment area and a maximum floor area ratio of 0.4.</i></p> <p><i>Hills Policy Area 11: PDC 7</i></p>		<p><b>Site coverage:</b></p> <p><b>Complies</b> 24.9%</p> <p><b>Floor area ratio:</b></p> <p><b>Complies</b> 0.39</p>	
<p><i>Site coverage should not exceed the amount specified by the relevant policy area unless it is demonstrated that doing so:</i></p> <p><i>(a) would not be contrary to the relevant setback and private open space provisions</i></p> <p><i>(b) would not adversely affect the amenity of adjoining properties</i></p> <p><i>(c) would not conflict with other relevant criteria of this Development Plan.</i></p> <p><i>Residential Zone: PDC 9</i></p>		<p><b>Complies</b></p>	
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <p><i>(a) pedestrian and vehicle access and vehicle parking</i></p> <p><i>(b) domestic storage</i></p> <p><i>(c) outdoor clothes drying</i></p> <p><i>(d) rainwater tanks</i></p> <p><i>(e) private open space and landscaping</i></p> <p><i>(f) convenient storage of household waste and recycling receptacles.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>		<p><b>Complies</b></p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>	
<p><i>Except within the Suburban Activity Node Zone, a minimum of 20 per cent of the area of the development site should be pervious, remain undeveloped and be free from driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 15</i></p>		<p><b>Complies</b></p>	
Private Open Space			
<p><i>Dwellings should include POS that conforms to the requirements identified in the following table:</i></p>		<p><b>Complies</b> 440m<sup>2</sup> (50.2%)</p> <p><b>Does not comply</b> See table discussion</p>	
Site area of dwelling	Minimum area of POS		Provisions
175 square metres or greater	20 per cent of site area		<p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater and they have a minimum dimension of 2 metres.</p> <p>One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p> <p>The remainder of the space should have a minimum dimension of 2.5 metres.</p>
<p><i>Residential Zone: PDC 7</i></p>			

<p><i>Private open space should be provided for exclusive use by residents of each dwelling, and should be sited and designed:</i></p> <p><i>(a) to be accessed directly from the internal living rooms of the dwelling</i></p> <p><i>(b) to be generally at ground level (other than for dwellings without ground level internal living rooms)</i></p> <p><i>(c) to be located to the side or rear of a dwelling and screened for privacy</i></p> <p><i>(d) to take advantage of, but not adversely affect, natural features of the site</i></p> <p><i>(e) to minimise overlooking from adjacent buildings</i></p> <p><i>(f) to achieve separation from bedroom windows on adjacent sites</i></p> <p><i>(g) to have a northerly aspect to provide for comfortable year round use</i></p> <p><i>(h) to not be significantly shaded during winter by the associated dwelling or adjacent development</i></p> <p><i>(i) to be partly shaded in summer</i></p> <p><i>(j) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</i></p> <p><i>(k) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.</i></p> <p><i>General Section: Residential Development: PDC 16</i></p> <p><i>Private open space should not include:</i></p> <p><i>(a) any area covered by a dwelling, carport, garage or outbuildings</i></p> <p><i>(b) driveways, effluent drainage areas, rubbish bin storage areas, site for rainwater tanks and other utility areas</i></p> <p><i>(c) common areas such as parking areas and communal open spaces</i></p> <p><i>(d) any area at ground level at the front of the dwelling (forward of the building line)</i></p> <p><i>(e) any area at ground level with a dimension less than 2.5 metres</i></p> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <p>b) There is POS is located at ground level</p> <p>c) All POS is located to the side/rear of the dwelling and capable of being screened for privacy.</p> <p>d) The subject land does not maintain natural features which warrant preservation.</p> <p>f) POS areas are not located next to bedrooms of dwellings on adjacent sites.</p> <p>g) A portion of the proposed POS area located on the balcony maintains a northerly aspect to provide for comfortable year round use.</p> <p>h) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development.</p> <p>i) POS areas are capable of being shaded during summer.</p> <p>j) Traffic, industry or other business activities should not affect the subject land.</p> <p>k) The POS areas are considered to have sufficient shape and area to be functional.</p> <p><b>Does Not Comply</b></p> <p>a) Not all areas of POS are directly accessible from the internal living rooms of the dwellings (see table discussion)</p> <p>e) The POS area will be overlooked by the adjacent dwelling to the rear which is an inherited trait of the site and characteristic of the locality.</p>
<p><i>A minimum of 50 per cent of the private open space provided should be open to the sky and free from verandas.</i></p> <p><i>General Section: Residential Development: PDC 22</i></p>	<p><b>Complies</b></p>
<p><b>Building Setbacks from Road Boundaries</b></p>	
<p><i>Minimum setback from primary road frontage where an established streetscape exists:</i></p> <p><i>8 metres from arterial roads shown on Overlay Map – Transport and any road within Hills Policy Area 11.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p><b>Does Not Comply</b></p> <p>Balcony located 7m from front boundary</p>
<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <p><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></p> <p><i>(b) contribute positively to the function, appearance and/or desired character of the locality. 34</i></p> <p><i>General Section: Design and Appearance: PDC 21</i></p>	<p><b>Complies</b></p> <p>The proposed front setback of 7 metres is similar to that of the balcony of the adjacent dwelling to the west. As such, the proposed front setback is considered to contribute positively to the function, appearance and desired character of the locality.</p>
<p><i>Dwellings should be setback from boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.</i></p> <p><i>General Section: Residential Development: PDC 37</i></p>	<p><b>Complies</b></p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>

## Side Setbacks

*Minimum setback from side boundaries:*

*Where the wall height is not greater than 3 metres:  
2 metres*

*Where the wall height is between 3 metres and 6 metres:  
(a) 3 metres if adjacent southern boundary  
(b) 2 metres in all other circumstances.*

*Residential Zone: PDC 6*

### **Complies**

Wall height – 5.75m

Upper and lower storey  
Eastern side – 3m  
Western side – 3m

*Buildings should be sited with respect to side and rear property boundaries to:  
(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight  
(b) minimise the impact of bulk and scale of development on adjoining properties  
(c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.*

*General Section: Design and Appearance: PDC 2*

### **Complies**

The setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight. The setbacks are considered to be compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.

## Rear Setbacks

*Minimum setback from rear boundary:*

*(a) 8 metres for single storey parts of the dwelling (where no wall height exceeds 3 metres)  
(b) 8 metres for all other parts of the dwelling with a wall height greater than 3 metres*

*Residential Zone: PDC 6*

### **Complies**

15.35m

*Buildings should be sited with respect to side and rear property boundaries to:  
(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight  
(b) minimise the impact of bulk and scale of development on adjoining properties  
(c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.*

*General Section: Design and Appearance: PDC 2*

### **Complies**

The proposed rear setback complies with PDC 6 for rear setback with both the ground floor and upper floor setback 15.35m from the rear boundary. As such, the setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight. The setbacks are considered to be compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.

## Building Height

*Maximum building height (from natural ground level):  
2 storeys of not more than 9 metres*

*Residential Zone: PDC 6*

### **Complies**

The proposed dwelling is 2-storey and incorporates a maximum building height of 8 metres. The maximum amount of fill required will be 900mm below the eastern side of the balcony, taking the maximum building height to 8.9m; less than the maximum 9 metres permitted in the Policy Area.

## Garages, Carports, Verandas and Outbuildings

Garages, carports, verandas and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.

General Section: Residential Development: PDC 10

### Complies

The garage is located directly below the upper storey of the main dwelling.

Garages, carports, verandas and outbuildings, whether freestanding or not, should not dominate the streetscape and (except where otherwise specified) be designed within the following parameters:

General Section: Residential Development: PDC 12

### Parameter

### Value

Minimum setback from a primary road frontage

Garages and carports; 5.5 metres and at least 0.5 metres behind the main face of the dwelling, or in line with the main face of the dwelling if the dwelling incorporates minor elements such as projecting windows, verandas, porticos, etc which provide articulation to the building as it presents to the street. Outbuildings should not protrude forward of any part of the associated dwelling.

### Complies

The garage is setback at 11m and is located 1.2m behind the main face of the dwelling.

Maximum frontage width of garage or carport with an opening facing the street

6 metres or 50 per cent of the width of the front façade of the dwelling to which the garage or carport is associated (whichever is the lesser)

### Complies

6m wide

Carports and garages should be setback from road and building frontages so as to:  
(a) not adversely impact on the safety of road users  
(b) provide safe entry and exit.

General Section: Residential Development: PDC 13

### Complies

## Vehicle Parking

Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.

General Section: Transportation & Access: PDC 34

### Complies

The dwelling contains at least 4 car parks, 2 of which are undercover.

Detached

2 per dwelling containing up to 3 bedrooms one of which is to be covered.  
3 per dwelling containing 4 or more bedrooms one of which is to be covered.

Table Mar/2 - Off-street Vehicle Parking Requirements.

## Access

The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of:

- (a) 3 metres wide for a single driveway
- (b) 5 metres wide for a double driveway.

General Section: Residential Development: PDC 39

### Complies

5m (double driveway)

Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).

General Section: Residential Development: PDC 40

**Complies**

The proposed crossover is set back 5 metres from the existing street tree.

**Design & Appearance**

Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:

- (a) building height, mass and proportion
- (b) external materials, patterns, colours and decorative elements
- (c) roof form and pitch
- (d) façade articulation and detailing
- (e) verandas, eaves, parapets and window screens.

General Section: Design & Appearance: PDC 1

The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.

General Section: Design & Appearance: PDC 3

**Complies**

The proposed dwelling reflects the desired character of the locality, as it incorporates an attractive presentation to the streetscape and utilise colours and materials that blend in with the site's surroundings.

The dwellings façade incorporates the following elements to enhance it design and appearance:

- Mixture of rendered power panel and brick.
- Vertical elements (rendered masonry columns) and balconies to provide articulation and visual interest to the façade.
- Varying roof lines and stepping of upper and lower storeys to minimise building height, mass and proportion
- Fenestration to the upper and lower storey.
- Eave overhang and pitched roof form at 20 degree slope.

The dwelling incorporates a 22.5 degree pitch with roof tiles in a 'Basalt' colour, rendered facades in Surfemist and Morning Grey and bricks in 'Gun metal Blue'. The garage features a Panel lift door in Colorbond 'Surfemist'. These materials should not result in glare to neighbouring properties, drivers or cyclists.

On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.

Balconies should:

- (a) be integrated with the overall form and detail of the building
- (b) include balustrade detailing that enables line of sight to the street
- (c) be recessed where wind would otherwise make the space unusable.

General Section: Design & Appearance: PDC 5

**Complies**

The proposed balconies are integrated into the portico design, with clear glass balustrade that enables line of sight to the street.

**Relationship to the Street and Public Realm**

Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.

General Section: Design & Appearance: PDC 13

Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.

**Complies**

The dwelling is designed so that its main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

The front elevation of the dwelling features a mixture of render, brick and vertical elements, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.

General Section: Design & Appearance: PDC 14

*Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.*

General Section: Design & Appearance: PDC 15

*Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.*

General Section: Design & Appearance: PDC 16

The side elevations are well articulated to avoid areas of uninterrupted walling exposed to the reserve and to the adjacent dwelling. The walls incorporate a variation in setback, a mixture of materials and colours and fenestration.

## Overshadowing

*The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:*

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

General Section: Design & Appearance: PDC 9

*Except where otherwise specified in a zone, policy area or precinct, development should ensure that:*

- (a) north-facing windows to living rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level private open space of existing buildings receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:*
  - (i) half of the existing ground level private open space*
  - (ii) 35 square metres of the existing ground level private open space*
- (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the area overshadowed.*

General Section: Design & Appearance: PDC 10

### Complies

a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June

North forms the street boundary, a majority of winter shadow will be cast within the rear yard of the subject site. The setback provided from the rear property boundary is considered sufficient to ensure that the shadow will be limited to the subject site and will not unreasonably affect the adjoining site to the rear.

Shadow cast into the western adjoining property will subside throughout the morning, such that all areas of private open space and habitable windows will be free from shadow by midday.

To this end, the proposed dwelling will not result in unreasonable overshadowing to the adjacent land.

## Visual Privacy

*Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:*

- (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- (b) building setbacks from boundaries (including boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

General Section: Design & Appearance: PDC 11

### Complies

The dwellings incorporate fixed obscure glazing to 1.7 metres above floor level for windows on the western side. Upper storey windows and balcony on the front elevation remain unobscured to provide surveillance to the street, and therefore should not result in direct overlooking of habitable areas of adjacent properties.

The windows and balcony on the eastern side will also remain unobscured to provide views and surveillance over the adjoining reserve.

The dwellings at 20 James Street and 14 Mostyn Road are located some 37 metres and 55 metres from the subject land respectively and I am of the opinion that there is sufficient separation from these properties to ensure that direct overlooking will not occur. Furthermore, the existing structures and trees will mitigate the views into the POS areas of these properties.

	<p>I have also considered the possibility of overlooking from the raised section of POS of the proposed dwelling into the POS area of 24 James Street. A line of sight diagram suggests that when standing at the edge of this section which is 6m away from the fenceline, the existing fence is at a level which would restrict views into the POS area of the adjoining property.</p> <p>The dwellings have therefore been designed to minimise direct overlooking of habitable rooms and private open spaces, whilst still providing outlook and passive surveillance to the public realm.</p>
<p><i>Permanently fixed external screening devices should be designed and coloured to complement the associated building's external materials and finishes.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 12</i></p>	<p><b>Complies</b></p>
<b>Energy Efficiency</b>	
<p><i>Development should provide for efficient solar access to buildings and open space all year around.</i></p> <p><i>General Section: Energy Efficiency: PDC 1</i></p> <p><i>Buildings should be sited and designed:</i>  <i>(a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings</i>  <i>(b) so that open spaces associated with the main activity areas face north for exposure to winter sun.</i></p> <p><i>General Section: Energy Efficiency: PDC 2</i></p>	<p><b>Complies</b></p> <p>The dwellings are oriented so that their main activity areas face north for exposure to winter sun, and thereby provide for efficient solar access to open space all year around.</p> <p>The private open space is located to the south of the dwelling and will be overshadowed in some sections during the winter months. However the overall size of the POS area provided and the apparent height of the dwelling as single storey will allow some sunlight to remain over a portion of the POS area.</p> <p>As identified in the Overshadowing section of this table, the proposed dwellings are designed and sited to ensure adequate winter sunlight remains available to the main activity areas of adjacent buildings.</p>
<p><i>Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by:</i>  <i>(a) taking into account overshadowing from neighbouring buildings</i>  <i>(b) designing roof orientation and pitches to maximise exposure to direct sunlight.</i></p> <p><i>General Section: Energy Efficiency: PDC 3</i></p>	<p><b>Complies</b></p> <p>The dwellings incorporate a hipped roof form set at a 22.5 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.</p>



## Landscaping, Fences and Walls

*Development should incorporate open space and landscaping in order to:*

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

*General Section: Landscaping, Fences & Walls: PDC 1*

*Landscaping should:*

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*
- (c) result in the appropriate clearance from powerlines and other infrastructure being maintained.*

*General Section: Landscaping, Fences & Walls: PDC 2*

*Landscaped areas along road frontages should have a width of not less than 2 metres and be protected from damage by vehicles and pedestrians.*

*General Section: Landscaping, Fences & Walls: PDC 3*

### **Complies**

The siting of the dwelling provides sufficient space for the planting of low maintenance trees and shrubs, similar to what exists within the locality.

The terracing of retaining walls enables the opportunity for planting between the walls to reduce the appearance of walls on the land.

*Fences and walls, including retaining walls, should:*

- (a) not result in damage to neighbouring trees*
- (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality*
- (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance*
- (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street*
- (e) assist in highlighting building entrances*
- (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites*
- (g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land*
- (h) be constructed of non-flammable materials.*

*General Section: Landscaping, Fences & Walls: PDC 5*

### **Complies**

All retaining walls are not proposed to be located on the boundary with the larger walls associated with the building of the dwelling being located 1m and 2m respectively from the eastern and western side boundaries. These walls will be concealed in cut and only visible to the occupants of the land.

The application proposes retaining walls varying in height with a maximum of 1.3m on the western side and 1.6m on the eastern side.

Retaining walls to achieve a 'level' area of open space that is accessible from a living area are limited to 1m in height and a minimum of 5m from the boundary and as such, despite retaining some filling of land, will not be visible from adjoining properties.

To this end, the fencing/retaining is considered to maintain privacy, security and adequately retain the land without unreasonably affecting the visual amenity or access to sunlight of adjoining land.

## Sloping Land

*Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:*

- (a) minimises their visual impact*
- (b) reduces the bulk of the buildings and structures*
- (c) minimises the extent of cut and/or fill*
- (d) minimises the need for, and the height of, retaining walls*
- (e) does not cause or contribute to instability of any embankment or cutting*
- (f) avoids the silting of watercourses*
- (g) protects development and its surrounds from erosion caused by water runoff.*

*General Section: Sloping Land: PDC 2*

*The cutting and/or filling of land should:*

- (a) be kept to a minimum and be limited to a maximum depth or height no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation*
- (b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment*
- (c) only be undertaken if the resultant slope can be stabilised to prevent erosion*
- (d) result in stable slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the area.*

*General Section: Sloping Land: PDC 7*

*Retaining walls should:*

- (a) not exceed 1.5 metres in height*
- (b) be stepped in a series of low walls if more than 1.5 metres is to be retained in total*
- (c) be constructed to a high standard from high amenity materials*
- (d) be landscaped to enhance their appearance.*

*General Section: Sloping Land: PDC 8*

### **Complies**

I am satisfied that the siting of the dwelling adequately relates to the slope of the land and will not result in earthworks or retaining walls that will result in visual impacts upon the adjoining land.

The majority of earthworks involve the cutting of land which results in a lower finished floor level for the dwelling. The extent of cut however is limited to a maximum of 1.3m, which, given the context of the locality, is not excessive and sufficient enough to minimise the visual bulk and overall height of retaining walls.

The retaining walls are predominantly below 1.5m. The siteworks plan does indicate a wall up to 1.6m to retain a portion of POS along the eastern side which will be levelled out to create a slightly flatter area. This wall however is not located on the boundary and will have no impacts beyond the subject site.

The terracing of walls has occurred where it is appropriate to do so.

Accordingly, I am satisfied that the proposed development complies with the majority of the provisions within the Sloping Land section of the Development Plan.

## Siting and Visibility

*Buildings and structures should be designed to minimise their visual impact in the landscape, in particular:*

- (a) the profile of buildings should be low and the rooflines should complement the natural form of the land*
- (b) the mass of buildings should be minimised by variations in wall and roof lines and by floor plans which complement the contours of the land*
- (c) large eaves, verandas and pergolas should be incorporated into designs so as to create shadowed areas that reduce the bulky appearance of buildings.*

*General Section: Siting and Visibility: PDC 4*

*The nature of external surface materials of buildings should not detract from the visual character and amenity of the landscape.*

*General Section: Siting and Visibility: PDC 5*

### **Partially Complies**

When viewed from the street, the building's profile is not considered to be inconspicuous within its surroundings and its rooflines do not complement the natural form of the land. However, this is reflective of the existing character of the locality where large buildings, to some degree, dominate the appearance of the land.

From the rear however, the lower storey of the dwelling will be set down below natural ground level and the ground level associated with the POS at rear raised to match that of the upper storey. In essence, the lower storey is effectively underground and the upper storey will present as a single storey dwelling when viewed from the rear. In this regard, I consider the proposal to, in part, have reduced the overall mass of the building.

To this end, the dwelling has been sited to relate to the slope of the land and the colours and materials are reflective of the existing locality such that it will not detract from the visual character or amenity of the landscape.

## TABLE DISCUSSION

The proposal satisfies a majority of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- POS area does not contain a 5m x 5m directly accessible area from living room.
- Front setback of 7m instead of 8m.

### **Accessible area of POS**

The balcony of the dwelling which is directly accessible from the living room and maintains a minimum depth of 2.8m whilst the rear POS area is accessed via a large utility room. This area comprises an alfresco area which maintains a minimum width of 3.8m. Consequently, it fails to meet that part of the Development Plan which seeks for *one part of the space to be directly accessible from a living room and have an area with a minimum dimension of 5 metres*.

Despite this, the areas provided are, in my opinion, suitably sized with the balcony being wide enough to accommodate tables and chairs and the rear POS meeting the Development Plan requirements for the provision of a 20% area. It is considered reasonable for the design of the dwelling to accommodate living areas at the front of the dwelling given a view is able to be gained in this direction and access to the rear POS is easily attained from the living room.

To this end, the proposed dwelling is considered to be functional and suitable for the likely needs of the occupants.

### **Front setback**

The Development Plan provides a standard setback of 8m for dwellings within the Hills Policy Area, however, at 7m, the proposed dwelling maintains the same setback as the adjacent dwelling at 24 James Street.

Therefore a new character has been established in the locality and it is appropriate to apply Design and Appearance Principle 21, where proposed setback will result in compatibility with the adjoining land and other buildings in the locality and will contribute positively to the function and appearance of the locality.

## REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to privacy and the loss of visual amenity have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

A representor has also raised concerns over property valuations. While this concern is noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

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## ANALYSIS/CONCLUSION

The proposed dwelling displays a high level of consistency with the Development Plan in relation to the nature of built form, building height, use of colours and materials within the locality, setbacks, site coverage, floor area ratio, private open space and car parking.

In saying this, the building's scale and height does have the potential to affect the visual amenity of the occupiers of adjacent land. I believe I have had regard to this, and consider that whilst the proposal will result in some view loss for the dwelling to the rear of the land, namely that of the Adelaide city skyline, substantial views of the ocean will remain. As such, I am of the opinion that the impact of the view loss is not so significant as to warrant a change in the building's height, floor area or warrant refusal of the application.

Furthermore, the siting of the dwelling has taken into consideration the sloping nature of the land and the extent of earthworks sufficiently relates to the lay of the land minimises the height of retaining walls on and close to boundaries, and is consistent with what currently exists within the locality.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Development Plan, and warrants Development Plan Consent subject to conditions.

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## RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2016/2388 for a two storey detached dwelling with associated earthworks and retaining walls at 22 James Street Darlington be GRANTED subject to the following conditions:

## CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2016/2388, being File No. AH-357, Sheets 1 of 6 to 6 of 6 (inclusive) prepared by Aira Homes and Received by Council on 4 May 2017, except when varied by the following conditions of consent.
2. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plan and details (being the Siteworks and Drainage Plan with File No. C1610-094, Sheet 1 of 1, Rev.B, Date of Issue: November 2016; prepared by Herriot Consulting and received by Council on 4 May 2017)
3. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
4. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
5. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
6. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

## NOTES

1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.
2. 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, to the reasonable satisfaction of the Council. (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).

3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.
4. Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).
5. 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.

#### Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph &amp; Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment IV:</i>	<i>Statement of Representations</i>
<i>Attachment V:</i>	<i>Applicant's Response to Representations</i>
<i>Attachment VI:</i>	<i>Photographs</i>

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 21 June 2017

**Agenda Ref No:** DAP210617 – 2.2

**Originating Officer:** Rob Tokley  
Acting Manager Development and Regulatory Services

**Applicant:** Kenneth John Wade

**Development Description:** Stacked rock retaining wall and associated treatments

**Site Location:** 49 Lighthouse Drive, Hallett Cove

**Zone:** Residential Zone

**Policy Area:** Southern Policy Area 18

**Application Type:** Category 2 / Consent

**Lodgement Date:** 03/11/2016

**Development Plan:** Consolidated – 28 April 2016

**Application No:** 100/2016/2037

**Recommendation:** That Development Plan Consent be **GRANTED** subject to conditions

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### CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of the Public Notification section of the Residential Zone of the Marion Council Development Plan, which assigns development that involves earthworks and/or retaining walls not of a minor nature as Category 2 development. Given that the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel.

### BACKGROUND

The application was granted Development Plan Consent and Development Approval, under delegated authority, in November 2016.

The owner of the adjoining land appealed this decision to the Environment, Resources and Development Court. During proceedings, and on a without prejudice basis, Council agreed for the application to be re-processed as a Category 2 form of development, to enable the adjoining landowner an opportunity for formally consider and if desired, make representation regarding the application.

## SUBJECT LAND & LOCALITY

The land subject to the application is situated at 49 (Lot 8) Lighthouse Drive, Hallett Cove.

A single storey detached dwelling is constructed centrally on the allotment, with an attached verandah and detached outbuilding situated towards the north-western corner of the land.

The land incorporates a considerable grade, albeit the northern 'half' of the land has been augmented over time to accommodate the dwelling and associated area of private open space. The grade of the land generally falls towards the south-west.

The locality comprises a mix of single and double storey detached dwellings on large, sloping allotments between 600 – 800 square metres in area.

Two large Council reserves are situated to the south and west of the subject land.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The application (retrospectively) proposes to place additional retaining (by way of stacked rock) above the existing concrete sleeper retaining wall adjacent the northern section of the western boundary. Additional treatments, as recommended by a structural engineer, are proposed to be employed, if Development Approval is granted.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	9 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	1 representation was received by Council.
<b>Persons wishing to be heard:</b>	Mrs Joyce Marden
<b>Summary of representations:</b>	Concerns the additional retaining will; <ul style="list-style-type: none"><li>• Place additional weight upon the existing (concrete sleeper) wall;</li><li>• Not provide appropriate drainage; and</li><li>• Not permit placement of fencing.</li></ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	The applicant has provided a response to the representation received – please refer Attachment V.



## ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Southern Policy Area 18 are listed in the following table and discussed in further detail below:

Residential Zone		
<p><b>Objectives</b></p> <p>1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</p> <p>2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.</p>		
Southern Policy Area 18		
<p><b>Objectives</b></p> <p>1 A policy area primarily comprising low scale, low to medium density housing.</p> <p>2 Development that minimises the impact of garaging of vehicles on the character of the locality.</p> <p>3 Development that reflects good residential design principles.</p> <p>4 Development that contributes to the desired character of the policy area.</p>		
<p><b>Desired Character</b></p> <p><i>This policy area encompasses the generally established residential areas in the suburbs of Hallett Cove (east of the Adelaide-Seafood railway), Sheidow Park (north), and Trott Park. Land is typically undulating with some areas of steeper terrain. The existing character of streetscapes is largely derived from single-storey detached dwellings built since the 1970s which incorporate generous front and rear setbacks.</i></p> <p><i>The desired character of the policy area is an attractive residential area comprising predominantly single-storey, low density dwellings exhibiting a variety of architectural styles. Future development of vacant land within the policy area will contribute to a mix of housing densities and housing types to improve housing diversity.</i></p> <p><i>New buildings will minimise alteration of the natural or existing landform. The built form, architectural and landscape design of individual sites should make a positive contribution to the streetscape.</i></p> <p><i>Buildings should not exceed two storeys in height and sloping sites should be developed at lower densities. Where buildings and extensions (including decks) are proposed on sloping land, particular attention will be given to the protection of the privacy and amenity of neighbouring properties and the avoidance of construction problems involving retaining walls and fences on boundaries.</i></p> <p><i>Development should not result in the removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.</i></p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ dwelling including a residential flat building</li> <li>▪ supported accommodation.</li> </ul>	<p><b>Complies</b></p> <p>The retaining proposed is in association with an existing dwelling</p>
PDC 2	<p>Development should not be undertaken unless it is consistent with the desired character for the policy area.</p>	<p><b>Partially Complies</b></p> <p>See comments below</p>

### Assessment

The Desired Character of the Southern Policy Area 18 seeks for new development to avoid “construction problems involving retaining walls and fences on boundaries”.

Whilst there remains a dispute between the two landowners regarding the proposed (and constructed) retaining, as can be seen from the 'Google Street View' image below (taken December 2009), the area subject to the proposed retaining was previously un-retained.



The proposed retaining has been assessed by a qualified and well-respected engineer who is comfortable the proposed retaining method is sound and adequately satisfies the applicable engineering standards.

The proposed retaining does not increase the overall height difference between the two properties, but rather seeks to provide stability. As such, future occupiers of the land at 67 Quailo Avenue, will not experience greater visual/amenity impacts as a result of the proposed retaining.

As such, I do not consider the proposed retaining offends the Desired Character Statement as the proposal does not result in "construction problems involving retaining walls and fences on boundaries", but rather seeks to provide a greater level of stability to an un-retained embankment.

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## DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control:

Assessment:

Landscaping, Fences and Walls	
<p><i>Fences and walls, including retaining walls, should:</i></p> <p>(a) not result in damage to neighbouring trees</p> <p>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</p> <p>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</p> <p>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</p> <p>(e) assist in highlighting building entrances</p> <p>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</p> <p>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</p> <p>(h) be constructed of non-flammable materials.</p> <p><small>General Section: Landscaping, Fences &amp; Walls: PDC 5</small></p>	<p><b>Complies</b></p> <p>(a) Complies</p> <p>(b) N/A</p> <p>(c) N/A</p> <p>(d) Complies</p> <p>(e) N/A</p> <p>(f) Retaining is not in close proximity to the existing street boundaries of the land</p> <p>(g) Complies</p> <p>(h) Complies</p>
Sloping Land	
<p><i>Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:</i></p> <p>(a) minimises their visual impact</p> <p>(b) reduces the bulk of the buildings and structures</p> <p>(c) minimises the extent of cut and/or fill</p> <p>(d) minimises the need for, and the height of, retaining walls</p> <p>(e) does not cause or contribute to instability of any embankment or cutting</p> <p>(f) avoids the silting of watercourses</p> <p>(g) protects development and its surrounds from erosion caused by water runoff.</p> <p><small>General Section: Sloping Land: PDC 2</small></p>	<p><b>Complies</b></p> <p>(a) Proposed retaining does not increase levels between properties</p> <p>(b) N/A</p> <p>(c) N/A</p> <p>(d) N/A</p> <p>(e) The proposed retaining will secure previously un-retained soils.</p> <p>(f) Complies</p> <p>(g) Complies</p>
<p><i>The cutting and/or filling of land should:</i></p> <p>(a) be kept to a minimum and be limited to a maximum depth or height no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation</p> <p>(b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment</p> <p>(c) only be undertaken if the resultant slope can be stabilised to prevent erosion</p> <p>(d) result in stable slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the area.</p> <p><small>General Section: Sloping Land: PDC 7</small></p>	<p><b>Partially Complies</b></p> <p>(a) The proposed retaining will result in a total retaining height of approximately 2.5 metres.</p> <p>(b) The proposed retaining will secure previously un-retained soils.</p> <p>(c) The proposed retaining will provide stability and minimise erosion</p> <p>(d) Due to the method proposed to stabilise the rock wall, limited options for landscaping will be available.</p>

*Retaining walls should:*

*(a) not exceed 1.5 metres in height*

*(b) be stepped in a series of low walls if more than 1.5 metres is to be retained in total*

*(c) be constructed to a high standard from high amenity materials*

*(d) be landscaped to enhance their appearance.*

*General Section: Sloping Land: PDC 8*

**Does Not Comply**

The proposed retaining will result in a total retaining height of approximately 2.5 metres

## TABLE DISCUSSION

The proposal satisfies a majority of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- The height of the retaining exceeds 1.5 metres; and
- The method of construction will not permit the retained area to be landscaped.

Whilst the total height of retaining exceeds 1.5 metres, as discussed above, the proposal seeks to provide stability to a previously un-retained embankment. As such, the height difference between the two properties is not being increased as a result of the retaining and therefore there is limited change to the appearance of this part of the property when viewed from adjoining land.

Due to the method of construction (applying 'shotcrete') to stabilise the existing stacked rock wall, there will be limited opportunities for landscaping to be provided that could, over time, soften the appearance of the total height of retaining.

Whilst the ability for landscaping to be provided would be preferred, it is acknowledged that, at present, the adjoining property is vacant and future development on the land is likely to accommodate the primary area of private open space in the north of the allotment, not in direct line-of-sight of the proposed stacked rock retaining.

In conclusion, the failure of the proposal to not exceed 1.5 metres in height or to provide landscaping is not considered a sufficient weakness or negative for the development proposal to be refused.

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## REPRESENTOR'S CONCERNS

The representor has raised concerns that the additional retaining will;

- Place additional weight upon the existing (concrete sleeper) wall;
- Not provide appropriate drainage; and
- Not permit placement of fencing.

While these concerns are noted, a planning assessment under the Development Act 1993 does not allow consideration of these matters and hence are outside the scope of this assessment.

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## ANALYSIS/CONCLUSION

The proposed retaining is to stabilise an existing un-retained embankment. The retaining does not increase the height difference between the two properties and the solution proposed has been recommended by a well-respected structural engineer.

Whilst it would be preferable for the method of construction to enable landscaping to be placed between the stacked rocks, it is acknowledged the retaining does not increase the height between the two properties and the adjoining property (67 Quailo Avenue) is of sufficient size to provide ample private open space not in direct line-of-sight of the structure.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent subject to conditions.

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## RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;**
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and**
- (c) That Development Plan Consent for Development Application No: 100/2016/2037 for a stacked rock retaining wall and associated treatments at 49 Lighthouse Drive, Hallett Cove be GRANTED subject to the following conditions:**

## CONDITIONS

- 1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2016/2037.**

## NOTES

- 1. 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.**

## Attachments

- Attachment I: Certificate of Title*
- Attachment II: Aerial Photograph & Site Locality Plan*
- Attachment III: Proposal Plan and supporting documentation*
- Attachment IV: Statement of Representations*
- Attachment V: Applicant's Response to Representations*

# DEVELOPMENT ASSESSMENT PANEL

Wednesday 21 June 2017

**Agenda Ref No:** DAP210617 – 2.3

**Originating Officer:** Alex Wright  
Development Officer - Planning

**Applicant:** Scott Salisbury Homes

**Development Description:** A two storey building comprising three (3) dwellings and associated landscaping

**Site Location:** 26 Kingston Avenue, Seacombe Gardens

**Zone:** Residential Zone

**Policy Area:** Regeneration Policy Area 16

**Application Type:** Category 2/Consent

**Lodgement Date:** 16/01/2017

**Development Plan:** Consolidated – 28 April 2016

**Application No:** 100/55/2017

**Recommendation:** That Development Plan Consent be **GRANTED** subject to conditions

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## CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development pursuant to Schedule 9 (Part 2: 18(a)) of the Development Regulations 2008, which assigns the construction of a building of 2 storeys comprising dwellings as Category 2 development. Given the development received written representations from third parties expressing opposition to the proposal that cannot be satisfied by conditions or modification to the plans, Council has delegated authority to the Development Assessment Panel.

It is staff's view that the dwellings should be assessed as row dwellings as, for all intents and purposes, the dwellings are erected side by side (incorporating party walls) to form a single building each occupying a site that has exclusive frontage to a public road, pursuant to the Schedule 1 definition in the Development Regulations 2008.

## BACKGROUND

During the assessment process, Council staff requested modifications to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
Greater visual interest and presentation required to the front façade of each dwelling.	A greater mixture of colours and materials provided.
Driveway of Dwelling 1 should be tapered	Driveway tapered to ensure a minimum width

further east to ensure a minimum distance of 6 metres can be provided between Dwellings 1 and 2.	of 6 metres.
Information Requested	
Fully engineered site works and drainage plan.	Provided
Generous landscape plan that provides a range of species at various heights.	Provided.

## SUBJECT LAND & LOCALITY

The subject land is located to the southern side of Kingston Avenue, Seacombe Gardens. The allotment is rectangular in shape and supports a frontage width of 19.81 metres, a depth of 38.1 metres and an overall allotment area of 754.76 square metres.

The land is relatively flat and contains a late 1950's era dwelling in ordinary condition and a small outbuilding to the south-eastern corner of the allotment. The allotment contains a moderate level of vegetation in the form of small trees and shrubs; no Regulated or Significant Trees are located on the allotment. The Certificate of Title confirms that the land is clear of any encumbrances or easements. Vehicular access to the site is currently achieved through a crossover located to the eastern side of the allotment. This crossover is proposed to be reused and modified as part of the proposed development.

The locality is typically defined by a mixture of older single storey detached dwellings on large allotments and recently sub-divided allotments incorporating a variety of modern style single and double storey dwellings at a range of densities (typically in the form of row-dwellings). The subject allotment is within 150 metres of the Regional Centre Zone (Westfield Marion and additional services) and 250 metres of the Sandery Avenue Reserve, which provides open space and recreational facilities.

*Refer Attachments I & II*

## PROPOSED DEVELOPMENT

The applicant proposes the demolition of the existing dwelling and associated outbuildings and the construction of three (3) two storey row dwellings with associated landscaping.

The upper level of each dwelling incorporates three bedrooms, en-suite and bathroom. The ground floor incorporates a water closet, laundry and a combined kitchen/meals/family room with direct access to the associated area of private open space. Dwelling 2 is provided with an additional lounge room facing the street. Each dwelling is afforded a single width garage, which has direct access to Kingston Avenue. Dwelling 1 proposes to gain access through the existing crossover whilst new crossovers are proposed for Dwellings 2 and 3.

*Refer Attachment III*

## PUBLIC NOTIFICATION

<b>Properties notified:</b>	17 properties were notified during the Category 2 public notification process.
<b>Representations:</b>	3 representations were received by Council. <ul style="list-style-type: none"> <li>• 2 representations were against the proposal</li> <li>• 1 representation was primarily against the proposal</li> </ul>



<b>Persons wishing to be heard:</b>	<ul style="list-style-type: none"> <li>• J Abraham Cheruparambil</li> <li>• D M Lynch</li> <li>• P E Cronin</li> </ul>
<b>Summary of representations:</b>	<ul style="list-style-type: none"> <li>• Traffic Congestion is a major issue within the locality and results in vehicles being parked on the street.</li> <li>• Traffic congestion limits/impacts waste collection pick up.</li> <li>• The construction of three dwellings will create a fire hazard.</li> <li>• Proposed building is too bulky.</li> <li>• Insufficient parking in the street to justify an additional three dwellings.</li> </ul> <p style="text-align: right;"><i>Refer Attachment IV</i></p>
<b>Applicant's response:</b>	<p>The applicant's response to the issues raised has been attached to this report.</p> <p style="text-align: right;"><i>Refer Attachment V</i></p>

## INTERNAL DEPARTMENT COMMENTS

<b>Engineering:</b>	The proposed FFL of 100.350 will be adequate for this location.
<b>Traffic and Parking:</b>	The existing no parking sign can be relocated to facilitate appropriate driveway access and provide greater separation between driveways.

## ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Regeneration Policy Area 16 are listed in the following table and discussed in further detail below:

<b>Residential Zone</b>
<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</li> <li>2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.</li> </ol>
<b>Regeneration Policy Area 16</b>
<p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1 Integrated re-development of poor quality housing stock and underutilised land.</li> <li>2 Improved quality of living environments.</li> <li>3 Improved quality of housing.</li> <li>4 Increased mix in the range of dwellings, including a minimum of 15 per cent affordable housing available to cater for changing demographics, particularly smaller household sizes and supported accommodation.</li> <li>5 Improved environmental outcomes.</li> <li>6 Increased dwelling densities and population.</li> <li>7 More efficient use of land.</li> <li>8 Improved community services and infrastructure.</li> <li>9 Higher dwelling densities in close proximity to centres, public transport routes and public open spaces.</li> <li>10 A smooth transition in the character and scale of development between this and adjoining residential policy areas.</li> <li>11 Development that contributes to the desired character of the policy area.</li> </ol>

**Desired Character**

*This area has been identified for regeneration because many of the dwellings and other infrastructure within the area are nearing the end of their economic life. Within the context of the Council area and the surrounding region this policy area represents a key opportunity to achieve strategic goals such as improved living conditions, environmental outcomes, and community services and infrastructure, as well as provide economically viable housing choices for the changing demographics of our population and make more efficient use of land and infrastructure within the Metropolitan area.*

*New development will occur at densities greater than the current density of housing to increase the number of dwellings and the number of residents within the policy area and justify the improvement of infrastructure and other services.*

*This policy area encompasses areas of recent redevelopment and areas that are suitable for comprehensive redevelopment where the density of new development will substantially exceed that of existing low density housing. Much of the existing development in the area comprises older public housing, primarily detached or semi-detached dwellings of varying age and construction materials.*

*The desired character of the policy area is one of a high quality and distinctive living environment at a higher density and generally a lesser setback from the primary road frontage compared to that typical of the original dwelling stock in the area. It will be characterised by residential development at low-medium and medium densities, with a variety of architectural styles and a wide range of dwelling types to meet a variety of accommodation needs.*

*Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles. Buildings of up to two storeys in height are appropriate, with three storey buildings also being appropriate provided the impact of their additional height and bulk does not adversely impact on existing neighbouring development and amenity.*

*Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. For larger development sites, a comprehensive scheme for the development of a range of dwelling types is desirable. Where housing is proposed adjacent to zones or policy areas which are intended to accommodate dwellings at lower densities, consideration needs to be given to transitional built form, scale and design elements to ensure compatibility with that adjacent housing.*

*Development should not result in the removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.*

*Where access to parking areas servicing dwellings is via laneways, common driveways and the like, space should be provided for attractive landscaping and tree planting in order to present an attractive appearance from adjoining roads and to protect the amenity of adjacent dwellings.*

PDC 1	<p><i>The following forms of development are envisaged in the policy area:</i></p> <ul style="list-style-type: none"> <li>▪ <i>affordable housing</i></li> <li>▪ <i>dwelling including a residential flat building</i></li> <li>▪ <i>student housing</i></li> <li>▪ <i>supported accommodation.</i></li> </ul>	<b>Complies</b>
PDC 2	<p><i>Development should not be undertaken unless it is consistent with the desired character for the policy area.</i></p>	<b>Complies</b>
PDC 3	<p><i>Minimum Site Area: 170m<sup>2</sup></i></p>	<p><b>Complies</b>            Dwelling 1: 251.8m<sup>2</sup>            Dwelling 2: 251.1m<sup>2</sup>            Dwelling 3: 251.8m<sup>2</sup></p>
	<p><i>Minimum Frontage: 7m</i></p>	<p><b>Does Not Comply</b>            Dwelling 1: 6.61m            Dwelling 2: 6.59m            Dwelling 3: 6.61m</p>

	<i>Minimum Depth: 20m</i>	<b>Complies</b> Dwelling 1: 38.1m Dwelling 2: 38.1m Dwelling 3: 38.1m
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## Assessment

The applicant proposes to replace one dwelling and construct three dwellings in its place. Objective 1 of the Residential Zone seeks a range of dwelling densities, whilst Objective 2 of both the Residential Zone and Objective 9 of the Regeneration Policy Area 16 encourages development of an increased density close to public open space, neighbourhood centres and public transport nodes. The proposal is considered to reflect the Objectives and Desired Character of the Residential Zone and Regeneration Policy Area 16 by replacing the existing housing stock with greater density development, whilst contributing positively to the area with the establishment of a modern dwelling type at a higher density that provides a cohesive streetscape and attractive architectural style.

The proposal maintains a coherent streetscape as a result of the proposed front setback, front yard landscaping and overall design which will assist in reducing the bulk and scale of each dwelling. The dwellings' appearance will be modern in terms of design and use of materials and will provide a positive contribution to the existing streetscape.

The site is located in relatively close proximity to a number of desirable attributes where higher densities are sought. Future occupants would be within walking distance of Westfield Marion and the Regional Centre Zone which provides variety of services and an Adelaide Metro bus interchange linking Marion to the CBD, Flinders University/Hospital complex and Glenelg. Additionally, the site is within walking distance of Sandery Avenue Reserve which provides recreation facilities.

## Frontage

Dwellings 1 and 3 accommodate a frontage width of 6.61 metres, whilst Dwelling 2 accommodates a frontage width of 6.59 metres, all of which fall short of the 7 metres required for row dwellings within the Regeneration Policy Area 16. The non-compliance in frontage widths are not considered to adversely jeopardise the functionality of the site as appropriate setbacks from boundaries and adequate area and dimensions of private open space are achieved. Furthermore, it is considered that the dwelling widths will not negatively impact on the streetscape, particularly as the respective single width garage constitutes less than 50% of the allotment. As such, the discrepancy in frontage widths is not considered to negatively affect the streetscape or compromise the functionality of the dwelling.

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## DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control:

Assessment:

Site Coverage									
<p><i>Dwellings should be designed to have a site coverage and floor area ratio within the following parameters:</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><b>Site area</b></th> <th style="text-align: left;"><b>Maximum Site Coverage</b></th> <th style="text-align: left;"><b>Maximum Floor Area Ratio</b></th> </tr> </thead> <tbody> <tr> <td>250 - 325 m<sup>2</sup></td> <td>130 m<sup>2</sup></td> <td>0.6</td> </tr> </tbody> </table> <p><i>Regeneration Policy Area 16: PDC 4</i></p>			<b>Site area</b>	<b>Maximum Site Coverage</b>	<b>Maximum Floor Area Ratio</b>	250 - 325 m <sup>2</sup>	130 m <sup>2</sup>	0.6	<p><b>Site coverage:</b> <b>Complies</b></p> <p>Dwelling 1: 106.7m<sup>2</sup> Dwelling 2: 115.7m<sup>2</sup> Dwelling 3: 106.7m<sup>2</sup></p> <p><b>Floor area ratio:</b> <b>Does Not Comply</b></p> <p>Dwelling 1: 0.61 Dwelling 2: 0.65 Dwelling 3: 0.61</p> <p>Despite the excess in floor area ratio for each dwelling, the additional floor area is not considered significant or unreasonable, and does not contribute to the dwellings being excessively bulky when viewed from the adjacent allotments. In my opinion, the proposed floor area ratio does not result in a bulk and scale that would unreasonably impact on existing neighbouring properties or on future occupants of the site of development.</p>
<b>Site area</b>	<b>Maximum Site Coverage</b>	<b>Maximum Floor Area Ratio</b>							
250 - 325 m <sup>2</sup>	130 m <sup>2</sup>	0.6							
<p><i>Site coverage should not exceed the amount specified by the relevant policy area unless it is demonstrated that doing so:</i></p> <ul style="list-style-type: none"> <li><i>(a) would not be contrary to the relevant setback and private open space provisions</i></li> <li><i>(b) would not adversely affect the amenity of adjoining properties</i></li> <li><i>(c) would not conflict with other relevant criteria of this Development Plan.</i></li> </ul> <p><i>Residential Zone: PDC 9</i></p>			<p><b>Complies</b></p>						
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <li><i>(a) pedestrian and vehicle access and vehicle parking</i></li> <li><i>(b) domestic storage</i></li> <li><i>(c) outdoor clothes drying</i></li> <li><i>(d) rainwater tanks</i></li> <li><i>(e) private open space and landscaping</i></li> <li><i>(f) convenient storage of household waste and recycling receptacles.</i></li> </ul> <p><i>General Section: Residential Development: PDC 14</i></p>			<p><b>Complies</b></p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>						
<p><i>Except within the Suburban Activity Node Zone, a minimum of 20 per cent of the area of the development site should be pervious, remain undeveloped and be free from driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 15</i></p>			<p><b>Complies</b></p>						

## Private Open Space

*Dwellings should include POS that conforms to the requirements identified in the following table:*

Site area of dwelling	Minimum area of POS	Provisions
175 square metres or greater	20 per cent of site area	Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater and they have a minimum dimension of 2 metres. One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10. The remainder of the space should have a minimum dimension of 2.5 metres.

*Residential Zone: PDC 7*

*Private open space should be provided for exclusive use by residents of each dwelling, and should be sited and designed:*

- (a) to be accessed directly from the internal living rooms of the dwelling*
- (b) to be generally at ground level (other than for dwellings without ground level internal living rooms)*
- (c) to be located to the side or rear of a dwelling and screened for privacy*
- (d) to take advantage of, but not adversely affect, natural features of the site*
- (e) to minimise overlooking from adjacent buildings*
- (f) to achieve separation from bedroom windows on adjacent sites*
- (g) to have a northerly aspect to provide for comfortable year round use*
- (h) to not be significantly shaded during winter by the associated dwelling or adjacent development*
- (i) to be partly shaded in summer*
- (j) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality*
- (k) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.*

*General Section: Residential Development: PDC 16*

*Private open space should not include:*

- (a) any area covered by a dwelling, carport, garage or outbuildings*
- (b) driveways, effluent drainage areas, rubbish bin storage areas, site for rainwater tanks and other utility areas*
- (c) common areas such as parking areas and communal open spaces*
- (d) any area at ground level at the front of the dwelling (forward of the building line)*
- (e) any area at ground level with a dimension less than 2.5 metres*

*General Section: Residential Development: PDC 17*

*A minimum of 50 per cent of the private open space provided should be open to the sky and free from verandas.*

*General Section: Residential Development: PDC 22*

### Complies

Dwelling 1: 79.9m<sup>2</sup> / 31.8%  
Dwelling 2: 89m<sup>2</sup> / 35.4%  
Dwelling 3: 79.9m<sup>2</sup> / 31.8%

### Complies

- a) All POS areas are directly accessible from the internal living rooms of the dwelling.
- b) All POS is located at ground level
- c) All POS is located to the rear of the respective dwelling and is capable of being screened for privacy.
- d) The subject land does not maintain natural features which warrant preservation.
- e) The POS areas should not be directly overlooked by adjacent buildings.
- f) POS areas are not located next to bedrooms of dwellings on adjacent sites. dwelling or adjacent development.
- i) POS areas are capable of being shaded during summer.
- j) Traffic, industry or other business activities should not affect the subject land.
- k) The POS areas are considered to have sufficient shape and area to be functional.

### Partially Complies

h) As the POS areas are south facing, an area of the space will experience some level of shading throughout the day. Given the extent of separation afforded between the rear boundary and rear ground and upper facade, the extent of shadowing is not considered to be unreasonable.

### Does Not Comply

g) Due to the existing north-south orientation of the allotments, the proposed POS areas do not achieve a northerly aspect. The location of POS forward of the dwelling, in order to achieve a northern orientation, would likely result in an unattractive and unacceptable streetscape outcome.

### Complies

## Building Setbacks from Road Boundaries

*Minimum setback from primary road frontage where an established streetscape exists:  
5 metres within **Regeneration Policy Area 16***

*Residential Zone: PDC 6*

### Complies

Dwelling 1: 7.1m  
Dwelling 2: 7.1m  
Dwelling 3: 7.1m

*Dwellings should be setback from boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.*

*General Section: Residential Development: PDC 37*

### Complies

Habitable rooms are adequately separated from pedestrian and vehicle movement.

## Side Setbacks

*Minimum setback from side boundaries:*

*Where the wall height is not greater than 3 metres:  
0.9 metres*

*Where the wall height is between 3 metres and 6 metres:  
(a) 3 metres if adjacent southern boundary  
(b) 2 metres in all other circumstances.*

### Complies

Ground Floor  
Dwelling 1: 900mm  
Dwelling 3: 900mm

Upper Level:  
Dwelling 1: 2m  
Dwelling 3: 2m

*Buildings should be sited with respect to side and rear property boundaries to:*  
(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight  
(b) minimise the impact of bulk and scale of development on adjoining properties  
(c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.

*General Section: Design and Appearance: PDC 2*

### Complies

The separation from the rear boundary is considered sufficient to minimise the visual impact of bulk and scale on adjacent properties. The setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight.

The setbacks are considered to be compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.

## Rear Setbacks

*Minimum setback from rear boundary:  
(a) 6 metres for single storey parts of the dwelling (where no wall height exceeds 3 metres), but may be reduced to 3 metres for no more than 50 per cent of the width of the rear boundary  
(b) 6 metres for all other parts of the dwelling with a wall height greater than 3 metres*

*Residential Zone: PDC 6*

### Complies

Ground Floor  
Dwelling 1: 12m  
Dwelling 2: 13.6m  
Dwelling 3: 12m

Upper Level  
Dwelling 1: 15m  
Dwelling 2: 18.5m  
Dwelling 3: 15m

*Buildings should be sited with respect to side and rear property boundaries to:*  
(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight  
(b) minimise the impact of bulk and scale of development on adjoining properties  
(c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.

*General Section: Design and Appearance: PDC 2*

### Complies

The separation from the rear boundary is considered sufficient to minimise the visual impact of bulk and scale on adjacent properties. The setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight.

The setbacks are considered to be

	compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.
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**Building Height**

<p><i>Maximum building height (from natural ground level): 3 storeys of not more than 12 metres</i></p> <p><i>Residential Zone: PDC 7</i></p>	<p><b>Complies</b> The proposed dwellings incorporate a maximum building height of 6.7m metres, which is less than the maximum permitted in the Policy Area.</p>
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**Garages, Carports, Verandas and Outbuildings**

<p><i>Garages, carports, verandahs and outbuildings, whether freestanding or not, should not dominate the streetscape and (except where otherwise specified) be designed within the following parameters:</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	
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<b>Parameter</b>	<b>Value</b>	
<i>Minimum setback from a primary road frontage</i>	<i>Garages and carports; 5.5 metres and at least 0.5 metres behind the main face of the dwelling, or in line with the main face of the dwelling if the dwelling incorporates minor elements such as projecting windows, verandas, porticos, etc which provide articulation to the building as it presents to the street. Outbuildings should not protrude forward of any part of the associated dwelling.</i>	<p><b>Complies</b> Dwelling 1: 7.7m Dwelling 2: 7.7m Dwelling 3: 7.7m</p>

<i>Maximum frontage width of garage or carport with an opening facing the street</i>	<i>6 metres or 50 per cent of the width of the front façade of the dwelling to which the garage or carport is associated (whichever is the lesser)</i>	<p><b>Complies</b> Dwelling 1: 2.5m / 44% Dwelling 2: 2.6m / 39.4% Dwelling 3: 2.5m / 44%</p>
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<p><i>Carports and garages should be setback from road and building frontages so as to:</i> <i>(a) not adversely impact on the safety of road users</i> <i>(b) provide safe entry and exit.</i></p> <p><i>General Section: Residential Development: PDC 13</i></p>	<p><b>Complies</b></p>
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**Vehicle Parking**

<p><i>Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.</i></p> <p><i>General Section: Transportation &amp; Access: PDC 34</i></p>	<p><b>Complies</b> Each dwelling is provided with 2 parking spaces, 1 of which is covered.</p>
<p><i>Row 2 per dwelling containing up to 3 bedrooms one of which is to be covered.</i></p>	
<p><i>Table Mar/2 - Off-street Vehicle Parking Requirements.</i></p>	

<p><i>On-site visitor parking spaces should be sited and designed to:</i> <i>(a) not dominate internal site layout</i> <i>(b) be clearly defined as visitor spaces not specifically associated</i></p>	<p><b>Complies</b></p>
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<p><i>with any particular dwelling (c) be accessible to visitors at all times.</i></p> <p><i>General Section: Transportation &amp; Access: PDC 42</i></p>	
<p><i>On-site vehicle parking should be provided having regard to: (a) the number, nature and size of proposed dwellings (b) proximity to centre facilities, public and community transport within walking distance of the dwellings (c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons (d) availability of on-street car parking (e) any loss of on-street parking arising from the development (e.g. an increase in number of driveway crossovers).</i></p> <p><i>General Section: Transportation &amp; Access: PDC 43</i></p>	<p><b>Partially Complies</b></p> <p>a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 34.</p> <p>b) Centre facilities and public transport are located within walking distance of the dwellings.</p> <p>c) The likely occupants are anticipated to have standard mobility and transport requirements.</p> <p>d) e) 1 on-street car parking spaces shall remain available adjacent the subject land. The provision of 1 on-street park does not meet Council's Development Plan requirements.</p>
<p><i>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</i></p> <p><i>General Section: Land Division: PDC 22</i></p>	<p><b>Does Not Comply</b></p> <p>1 on-street car parking space is provided for the proposed allotments, where 2 spaces should be required.</p> <p>Nevertheless sufficient on-site parking has been provided in accordance with PDC 7 and I am satisfied that as transportation and Access Principle 43 has been achieved, the number of on-street spaces is considered acceptable.</p>
<b>Access</b>	
<p><i>The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of: (a) 3 metres wide for a single driveway (b) 5 metres wide for a double driveway.</i></p> <p><i>General Section: Residential Development: PDC 39</i></p>	<p><b>Complies</b></p> <p>Each dwelling is provided within a driveway width of 3 metres.</p>
<p><i>Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).</i></p> <p><i>General Section: Residential Development: PDC 40</i></p>	<p><b>Complies</b></p> <p>The proposed driveway and crossover of Dwelling 3 is setback a minimum 1.5 metres from the existing stobie pole. An existing no parking sign will be relocated to facilitate safe and convenient access for Dwelling 1.</p>
<p><i>The number of vehicle access points onto a public road should be minimised and each access point should be a minimum of 6 metres apart to maximise opportunities for on street parking.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p><b>Partially Complies</b></p> <p>The vehicle access points of Dwellings 1 and 2 are separated by a minimum distance of 6 metres.</p> <p>Less than 6 metres (5.1 metres) separates the driveways of Dwellings 2 and 3, this is somewhat unavoidable given the redevelopment of the site to accommodate three dwellings and the overall frontage width of 19.81 metres.</p>



## Design & Appearance

*Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:*

- (a) building height, mass and proportion*
- (b) external materials, patterns, colours and decorative elements*
- (c) roof form and pitch*
- (d) façade articulation and detailing*
- (e) verandas, eaves, parapets and window screens.*

*General Section: Design & Appearance: PDC 1*

*The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.*

*General Section: Design & Appearance: PDC 3*

**Complies**

*Entries to dwellings or foyer areas should be clearly visible from the street, or from access ways that they face, to enable visitors to easily identify individual dwellings and entrance foyers.*

*General Section: Residential Development: PDC 8*

*Dwellings should be designed and oriented to address the street by presenting a front entrance door, porch/portico/veranda and habitable room windows toward the primary street frontage.*

*General Section: Residential Development: PDC 9*

**Complies**

The proposed dwellings reflect the Desired Character of the Policy Area, as they incorporate an attractive presentation to the streetscape. The dwelling façades incorporate the following elements to enhance their design and appearance:

- Mixture of brick and render to the front façade (it should be noted the brickwork and rendered portions of portico differ between each dwelling to avoid repetition and provide additional visual interest and presentation).
- Stepping of upper and lower storeys to minimise building height, mass and proportion.
- Eave overhang and pitched roof form at 22.5° degree slope.
- Fenestration.

The dwellings incorporate a 22.5 degree Colorbond roof in Monument Grey and a mixture of brick and render to the front façade. The garage of each dwelling features a panel lift doors in with a different colour to provide visual interest and avoid repetition. These materials should not result in glare to neighbouring properties, drivers or cyclists.

Appropriate articulation is provided through differing side setbacks to the upper and lower level of the dwelling. The level of articulation afforded through these differing setbacks, and the use of different colours and materials is considered to appropriately aid in reducing the potential visual bulk and scale impacts associated with the dwelling's two storey nature.

On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.

## Relationship to the Street and Public Realm

*Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.*

*General Section: Design & Appearance: PDC 13*

**Complies**

The dwellings are designed so that their main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

*Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.*

*General Section: Design & Appearance: PDC 14*

*Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.*

*General Section: Design & Appearance: PDC 15*

*Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.*

*General Section: Design & Appearance: PDC 16*

The elevations of the dwellings feature a mixture of render and brickwork, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.

## Overshadowing

*The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:*

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

*General Section: Design & Appearance: PDC 9*

*Except where otherwise specified in a zone, policy area or precinct, development should ensure that:*

- (a) north-facing windows to living rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level private open space of existing buildings receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:*
  - (i) half of the existing ground level private open space*
  - (ii) 35 square metres of the existing ground level private open space*
- (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the area overshadowed.*

*General Section: Design & Appearance: PDC 10*

### Complies

a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June

b) It is acknowledged that some shadow will be cast into the eastern and western adjoining properties areas of POS and side facing windows in the afternoon and morning hours respectfully. The extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 9 and 10.

## Visual Privacy

*Buildings with upper level windows, balconies, terraces and decks should minimise direct overlooking of habitable rooms and private open spaces of dwellings through one or more of the following measures:*

- (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- (b) building setbacks from boundaries (including boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

*General Section: Design & Appearance: PDC 11*

### Complies

The dwellings incorporate fixed obscure glazing to 1.7 metres above floor level for windows on the side and rear elevations. Upper storey windows on the front elevation remain unobscured to provide surveillance to the street, and therefore should not result in direct overlooking of habitable areas of adjacent properties.

The dwellings have therefore been designed to minimise direct overlooking of habitable rooms and private open spaces, whilst still providing outlook and passive surveillance to the public realm.

## Energy Efficiency

*Development should provide for efficient solar access to buildings and open space all year around.*

*General Section: Energy Efficiency: PDC 1*

*Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by:*

- (a) taking into account overshadowing from neighbouring buildings*
- (b) designing roof orientation and pitches to maximise exposure to direct sunlight.*

*General Section: Energy Efficiency: PDC 3*

*Buildings should be sited and designed:*

- (a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings*
- (b) so that open spaces associated with the main activity areas face north for exposure to winter sun.*

*General Section: Energy Efficiency: PDC 2*

### **Partially Complies**

Due to the existing north-south orientation of the allotments, the proposed POS areas and main living areas of the dwelling do not achieve a northerly aspect.

This notwithstanding, 450mm wide eaves have been provided to all façades of the proposed dwellings to provide some aspect of shade to the windows, particularly during the summer months.

The dwellings incorporate a hipped roof form set at a 22.5 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.

## Flooding

*Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.*

*General Section: Hazards: PDC 4*

*Development should not be undertaken in areas liable to inundation by tidal, drainage or flood waters unless the development can achieve all of the following:*

- (a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event*
- (b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.*

*General Section: Hazards: PDC 5*

### **Complies**

Council's flood survey has identified that the subject land may be subject to inundation in a 1 in 100 ARI flood event. Council's Development Engineer has confirmed that that the proposed finished floor level of 100.35, finished paving level of 100.15 and setbacks from boundaries should prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.

## Landscaping, Fences and Walls

*Development should incorporate open space and landscaping in order to:*

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

*General Section: Landscaping, Fences & Walls: PDC 1*

*Landscaping should:*

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*
- (c) result in the appropriate clearance from powerlines and other infrastructure being maintained.*

*General Section: Landscaping, Fences & Walls: PDC 2*

### **Complies**

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

## REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to traffic congestion, provision of both on and off-street parking and the proposed bulk of the built form have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

The representors have also raised concerns over the potential fire hazard as a result of the construction of three dwellings. While these concerns are noted, the potential fire separation and fire rating are elements dealt with under the Building Code of Australia and therefore are outside the scope of this assessment.

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## ANALYSIS/CONCLUSION

Assessment of the proposal has demonstrated that the nature of the proposed development complements the Desired Character and Objectives of the Regeneration Policy Area 16, as it achieves an increase in dwelling densities in close proximity to public transport routes and open space, as well as providing further diversity in dwelling types.

Assessment of the proposal against the applicable Development Plan criteria has demonstrated the development generally achieves the design outcomes envisaged for residential development. It is acknowledged however that the proposal maintains shortfalls in relation to frontage width, floor area ratio, lack of north facing POS, and a shortfall in 1 on-street parking space. Further assessment of these shortfalls, and the consideration of potential impacts, has demonstrated that they do not jeopardise the function and layout of the proposed development, nor do they result in unreasonable impacts on the amenity of adjacent land, the streetscape, or the locality.

Each dwelling is provided with two on-site car parking spaces, whilst an additional on-street parking space has been provided along Kingston Avenue. Whilst only one on-street space has been provided for the proposed allotments, where two spaces are required, I am satisfied an appropriate amount of parking throughout the site has been achieved and the number of on-street spaces is considered acceptable to meet the likely needs of future occupants.

The proposal also maintains several other quantitative shortfalls; however, these shortcomings do not result in poor layout or design of the dwellings, nor do they adversely impact the amenity of adjacent properties, the streetscape or the locality. As such, when the identified discrepancies are considered against the overall merit of the proposal, I am of the view that the general layout and design of the dwellings are anticipated within the Zone and Policy Area.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent subject to conditions.

## RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/55/2017 for a two storey building comprising three (3) dwellings and associated landscaping at 26 Kingston Avenue, Seacombe Gardens be GRANTED subject to the following conditions:

## CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/55/2017, being drawings
  - 'Sheet 4 of 5' received 24/04/2017, 'Sheet 1 of 5' received 21/04/2017, Sheets '2 of 5', '3 of 5' and '5 of 5' received 18/04/2017
  - 'Site Works Plan', received 21/04/2017, prepared by RCI Consulting Engineers except when varied by the following conditions of consent.

2. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

*Note: A copy of the information guide can be viewed at the City of Marion webpage [www.marion.sa.gov.au/page.aspx?u=181](http://www.marion.sa.gov.au/page.aspx?u=181)*

3. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
4. All devices/treatments proposed as part of the Development Application to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises.
5. Landscaping as identified on the approved plan shall be planted prior to the occupation of the premises and be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
6. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
7. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

## NOTES

- 1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.**
- 2. 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, to the reasonable satisfaction of the Council. (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).**
- 3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.**
- 4. Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).**
- 5. 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.**
- 6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.**

## Attachments

- Attachment I: Certificate of Title*  
*Attachment II: Aerial Photograph & Site Locality Plan*  
*Attachment III: Proposal Plan and supporting documentation*  
*Attachment IV: Statement of Representations*  
*Attachment V: Applicant's Response to Representations*

## DEVELOPMENT ASSESSMENT PANEL

Wednesday 21 June 2017

<b>Agenda Ref No:</b>	<b>DAP210617 – 2.4</b>
<b>Originating Officer:</b>	<b>Kristen Sheffield Development Officer - Planning</b>
<b>Applicant:</b>	<b>Mr Kevin Dix</b>
<b>Development Description:</b>	<b>Demolition of the existing dwelling and ancillary structures as well as the construction of four single-storey row dwellings, one of which incorporates a wall on the northern boundary</b>
<b>Site Location:</b>	<b>11 Neath Avenue, Dover Gardens</b>
<b>Zone:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Northern Policy Area 13</b>
<b>Application Type:</b>	<b>Category 1 / Consent</b>
<b>Lodgement Date:</b>	<b>05/05/2017</b>
<b>Development Plan:</b>	<b>Consolidated – 28 April 2016</b>
<b>Application No:</b>	<b>100/2017/772</b>
<b>Recommendation:</b>	<b>That Development Plan Consent be GRANTED subject to conditions</b>

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### CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: 2(a)(i)&(ii)) of the Development Regulations 2008, which assigns the construction of single storey dwellings as Category 1 development. The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed new dwellings supporting allotment areas less than the minimum of 250 square metres required for row dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

### SUBJECT LAND & LOCALITY

The subject site is located at 11 Neath Avenue, Dover Gardens. The land comprises a corner allotment, with a western primary street frontage to Neath Avenue of 32.07 metres, a southern secondary street frontage to McKay Street of 19.84 metres, and a total site area of 971 square metres.

The subject land currently accommodates a single-storey detached dwelling in average condition with access to a freestanding garage at the rear of the allotment gained from Neath Avenue. The contour of the land is relatively flat, and while several trees are located on the site, these are not classified as regulated pursuant to the current legislation.

The locality consists of predominantly single storey detached dwellings at low densities, which are representative of the original dwelling stock. A number of redeveloped/ sub-divided properties are also evident in the locality, which typically take the form of detached, semi-detached, row and group dwellings.

The site is adjacent the Holdfast Bay Council area, which commences on the western side of Neath Avenue. The subject land is located some 70 metres from McKay Street reserve, which includes a children’s playground, and a Neighbourhood Centre Zone is 250 metres walking distance to the South. Bus services are located on Neath Avenue, providing public transport between Seacliff (and its associated Railway Station) the Regional Centre Zone, which are sited some 1.5 kilometres to the west and 1.7 kilometres to the north-east, respectively.

*Refer Attachments I & II*

**PROPOSED DEVELOPMENT**

The application proposes to construct four, single-storey row dwellings; all incorporating a primary frontage to Neath Avenue. Each dwelling comprises three bedrooms (main with ensuite and WIR), a bathroom, laundry, and open-plan kitchen, dining and living areas, as well as a single garage under the main roof of each dwelling.

Materials and finishes include face brickwork and render, with a Colorbond hipped roof design to each dwelling, set at a 25 degree pitch. A selection of landscaping is also proposed throughout the site.

*Refer Attachment III*

**INTERNAL DEPARTMENT COMMENTS**

<b>Engineering:</b>	Council’s Development Engineer has reviewed the application and confirmed that access/egress to/from the garage of Res 1 is satisfactory.
<b>Open Space:</b>	Council’s Arborist has advised that the two existing street trees on Neath Avenue may be removed subject to payment of \$450 + GST in order for Council to undertake removal and replacement of the trees.

**ZONE & POLICY AREA ASSESSMENT**

The relevant objectives, desired character and principles of development control of the Residential Zone and Northern Policy Area 13 are listed in the following table and discussed in further detail below:

Residential Zone
<p><b>Objectives</b></p> <p>1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.</p> <p>2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.</p>



## Northern Policy Area 13

### Objectives

- 1 A policy area primarily comprising low scale, low to medium density housing.
- 2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.
- 3 Development that minimises the impact of garaging of vehicles on the character of the locality.
- 4 Development densities that support the viability of community services and infrastructure.
- 5 Development that reflects good residential design principles.
- 6 Development that contributes to the desired character of the policy area.

### Desired Character

This policy area encompasses established residential areas in the central and northern parts of the City of Marion (north of Seacombe Road).

The character of streetscapes varies throughout the policy area depending on the era of the original housing, but the prevailing character is derived from single-storey detached dwellings, with a range of other dwelling types scattered throughout.

The desired character is an attractive residential environment containing low to medium density dwellings of a variety of architectural styles at a higher density and generally a lesser setback from the primary road frontage compared to that typical of the original dwelling stock in the area. The overall character of the built form will gradually improve, while the range of dwelling types will increase to meet a variety of accommodation needs.

Development should seek to promote cohesive streetscapes whilst allowing for a variety in housing forms and styles, such as buildings of up to two storeys, provided that the impact of the additional height and bulk does not adversely impact upon the amenity of adjacent land and the locality.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Development should not result in the removal of mature street trees in a road reserve that contribute positively to the landscape character of the locality.

PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ dwelling including a residential flat building</li> <li>▪ supported accommodation.</li> </ul>	<b>Complies</b>
PDC 2	<p>Development should not be undertaken unless it is consistent with the desired character for the policy area.</p>	<b>Complies</b>
PDC 3	<p>Minimum Site Area: 250m<sup>2</sup></p>	<p><b>Does Not Comply</b>                      Res 1: 249.4m<sup>2</sup>                      Res 2: 235.2m<sup>2</sup>                      Res 3: 236.8m<sup>2</sup>                      Res 4: 249.6m<sup>2</sup></p>
	<p>Minimum Frontage: 7m</p>	<p><b>Does Not Comply</b>                      Res 1: 6.41m</p> <p><b>Complies</b>                      Res 2: 8.68m                      Res 3: 9.42m                      Res 4: 7.57m</p>

	<i>Minimum Depth:20m</i>	<p><b>Complies</b> Res 1: 29.81m Res 2: 27.5m Res 3: 26.1m</p> <p><b>Partially Complies</b> Res 4: 19.84m-24.6m</p>
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## Assessment

### **Objectives & Desired Character**

The application proposes to replace an existing single storey detached dwelling in average condition, with four single-storey row dwellings, which is a form of development anticipated by PDC 1. The proposal complements the Desired Character of the Policy Area which seeks for redevelopment of properties at greater densities than that of the original housing stock.

The subject land is located within close proximity of a public open space reserve and Neighbourhood Centre Zone, with Public Transport opportunities also available within the wider locality. As such, the immediate and wider localities contain features identified in Objective 2 of the Residential Zone as warranting increased residential densities.

### **Site Areas**

A minimum site area of 250 square metres is prescribed for row dwellings in the Northern Policy Area 13, which equates to a shortfall of 0.6 square metres (0.24%) for Res 1, 14.8 square metres (5.9%) for Res 2, 13.2 square metres (5.3%) for Res 3 and 0.4 square metres (0.16%) for Res 4. This results in a 2.9% discrepancy for the total site area. In my view, the shortfall in site areas is relatively minor, and is not fundamental to the merits of the application, in that it does not represent a substantial disparity against the provisions which, in itself, would warrant refusal of the application. This is reinforced by the ability of the application to maintain a high level of compliance with other applicable design criteria, with a majority of identified shortfalls deemed to be minor departures from Development Plan requirements (as discussed further in the Table Discussion of this report).

### **Frontage width**

The frontage width of Res 1, at 6.41 metres, does not meet the prescribed minimum of 7 metres. It is noted that this measurement is reflective specifically of the front boundary of the proposed allotment, with the width of this allotment increasing to exceed the minimum requirement at the main face of the dwelling. Accordingly, the shortfall in frontage width should not be readily apparent within the streetscape.

### **Assessment summary**

On balance, the proposed development is considered to adequately comply with the Objectives, Principles and Desired Character of the Northern Policy Area 13. Fundamentally, the ability of the dwellings to accord with a majority of Development Plan criteria demonstrates that the shortfall in site areas and minor shortfall in frontage width do not jeopardise the underlying merit of the proposal.

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# DEVELOPMENT ASSESSMENT

The relevant principles of development control from the Marion Council Development Plan are listed and assessed in the following table:

Principles of Development Control:

Assessment:

Site Coverage			
<p><i>Dwellings should be designed to have a maximum site coverage of 40 per cent of the allotment area and a maximum floor area ratio of 0.6.</i></p> <p><i>Northern Policy Area 13: PDC 4</i></p>		<p><b>Site coverage:</b></p> <p><b>Does Not Comply</b>                      Res 1: 56% (139.6m<sup>2</sup>)                      Res 2: 56.1% (132m<sup>2</sup>)                      Res 3: 56.4% (133.6m<sup>2</sup>)                      Res 4: 50.7% (126.6m<sup>2</sup>)</p>	
<p><i>Site coverage should not exceed the amount specified by the relevant policy area unless it is demonstrated that doing so:</i></p> <p><i>(a) would not be contrary to the relevant setback and private open space provisions</i></p> <p><i>(b) would not adversely affect the amenity of adjoining properties</i></p> <p><i>(c) would not conflict with other relevant criteria of this Development Plan.</i></p> <p><i>Residential Zone: PDC 9</i></p>		<p><b>Complies</b></p>	
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <p><i>(a) pedestrian and vehicle access and vehicle parking</i></p> <p><i>(b) domestic storage</i></p> <p><i>(c) outdoor clothes drying</i></p> <p><i>(d) rainwater tanks</i></p> <p><i>(e) private open space and landscaping</i></p> <p><i>(f) convenient storage of household waste and recycling receptacles.</i></p> <p><i>General Section: Residential Development: PDC 14</i></p>		<p><b>Complies</b></p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.</p>	
<p><i>Except within the Suburban Activity Node Zone, a minimum of 20 per cent of the area of the development site should be pervious, remain undeveloped and be free from driveways, car parking areas, paved areas and other like surfaces.</i></p> <p><i>General Section: Residential Development: PDC 15</i></p>		<p><b>Does Not Comply</b>                      173sqm (17.8%)</p>	
Private Open Space			
<p><i>Dwellings should include POS that conforms to the requirements identified in the following table:</i></p>		<p><b>Complies</b>                      Res 2: 20.9% (49.2m<sup>2</sup>)                      Res 4: 20.3% (50.7m<sup>2</sup>)</p> <p>Res 2 comprises POS with a minimum dimension of 5x5 metres.</p> <p>All dwellings feature POS directly accessible from a living room.</p> <p><b>Does Not Comply</b>                      Res 1: 19.6% (49m<sup>2</sup>)                      Res 3: 19.4% (46m<sup>2</sup>)</p> <p>The POS of Res 1, 3 and 4 does not strictly comprise minimum dimensions of 5x5 metres.</p>	
Site area of dwelling	Minimum area of POS		Provisions
175 square metres or greater	20 per cent of site area		<p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater and they have a minimum dimension of 2 metres.</p> <p>One part of the space should be directly accessible from a living room and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p> <p>The remainder of the space should have a minimum dimension of 2.5 metres.</p>
<p><i>Residential Zone: PDC 7</i></p>			

<p><i>Private open space should be provided for exclusive use by residents of each dwelling, and should be sited and designed:</i></p> <ul style="list-style-type: none"> <li><i>(a) to be accessed directly from the internal living rooms of the dwelling</i></li> <li><i>(b) to be generally at ground level (other than for dwellings without ground level internal living rooms)</i></li> <li><i>(c) to be located to the side or rear of a dwelling and screened for privacy</i></li> <li><i>(d) to take advantage of, but not adversely affect, natural features of the site</i></li> <li><i>(e) to minimise overlooking from adjacent buildings</i></li> <li><i>(f) to achieve separation from bedroom windows on adjacent sites</i></li> <li><i>(g) to have a northerly aspect to provide for comfortable year round use</i></li> <li><i>(h) to not be significantly shaded during winter by the associated dwelling or adjacent development</i></li> <li><i>(i) to be partly shaded in summer</i></li> <li><i>(j) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</i></li> <li><i>(k) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.</i></li> </ul> <p><i>General Section: Residential Development: PDC 16</i></p> <p><i>Private open space should not include:</i></p> <ul style="list-style-type: none"> <li><i>(a) any area covered by a dwelling, carport, garage or outbuildings</i></li> <li><i>(b) driveways, effluent drainage areas, rubbish bin storage areas, site for rainwater tanks and other utility areas</i></li> <li><i>(c) common areas such as parking areas and communal open spaces</i></li> <li><i>(d) any area at ground level at the front of the dwelling (forward of the building line)</i></li> <li><i>(e) any area at ground level with a dimension less than 2.5 metres</i></li> </ul> <p><i>General Section: Residential Development: PDC 17</i></p>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>a) All POS areas are directly accessible from the internal living rooms of the dwelling.</li> <li>b) All POS is located at ground level</li> <li>c) All POS is located to the side/rear of the dwellings and capable of being screened for privacy.</li> <li>d) The subject land does not maintain natural features which warrant preservation.</li> <li>e) The POS areas should not be directly overlooked by adjacent buildings.</li> <li>f) POS areas are not located next to bedrooms of dwellings on adjacent sites.</li> <li>h) The POS areas should not be significantly shaded during winter by the associated dwelling or adjacent development.</li> <li>i) POS areas are capable of being shaded during summer.</li> <li>j) Traffic, industry or other business activities should not affect the subject land.</li> <li>k) The POS areas are considered to have sufficient shape and area to be functional.</li> </ul> <p><b>Does Not Comply</b></p> <ul style="list-style-type: none"> <li>g) Whilst the proposed POS areas maintain an easterly aspect, they should nonetheless receive some access to northern sunlight to provide for comfortable year round use</li> </ul>
<p><i>A minimum of 50 per cent of the private open space provided should be open to the sky and free from verandas.</i></p> <p><i>General Section: Residential Development: PDC 22</i></p>	<p><b>Complies</b></p>
<p><b>Building Setbacks from Road Boundaries</b></p>	
<p><i>Except in areas where a new character is desired, the setback of buildings from public roads should:</i></p> <ul style="list-style-type: none"> <li><i>(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality</i></li> <li><i>(b) contribute positively to the function, appearance and/or desired character of the locality.</i></li> </ul> <p><i>General Section: Design and Appearance: PDC 21</i></p>	<p><b>Complies</b></p> <p>The Desired Character of the Northern Policy Area 13 anticipates that new development will incorporate lesser front setbacks than the original dwelling stock. The proposed front setback of 5 metres is considered to contribute positively to the function, appearance and desired character of the locality.</p>

Except where specified in a particular zone, policy area or precinct the main face of a building should be set back from the primary road frontage in accordance with the following table:

Setback difference between buildings on adjoining allotments with the same primary street frontage	Setback of new building
Up to 2 metres	The same setback as one of the adjoining buildings, as illustrated below:
<p>When <math>b \geq 2</math>, setback of new dwelling = a or b</p>	
Greater than 2 metres	At least the average setback of the adjoining buildings

General Section: Design and Appearance: PDC 22

**Complies**

- Res 1: 5 metres
- Res 2: 5 metres
- Res 3: 5 metres
- Res 4: 5 metres

(Dwellings on adjoining land set back approximately 5 metres)

Minimum setback from secondary road frontage: 2 metres

Residential Zone: PDC 6

**Complies**

- Res 4: 2m

Dwellings should be setback from boundaries to provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement.

General Section: Residential Development: PDC 37

**Complies**

Habitable rooms are adequately separated from pedestrian and vehicle movement.

**Side Setbacks**

Maximum length and height when wall is located on side boundary:  
 (a) where the wall does not adjoin communal open space or a public reserve – 8 metres in length and 3 metres in height  
 (b) where wall adjoins communal open space or a public reserve – 50 per cent of the length of the boundary and 4 metres in height.

Residential Zone: PDC 6

**Complies**

- Res 1: Length: 6.3m, Height 2.9m (from natural ground level)

Buildings should be sited with respect to side and rear property boundaries to:  
 (a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight  
 (b) minimise the impact of bulk and scale of development on adjoining properties  
 (c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.

General Section: Design and Appearance: PDC 2

**Complies**

The separation from the side boundaries is considered sufficient to minimise the visual impact of bulk and scale on adjacent properties and appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight (as discussed further in the Overshadowing and Visual Privacy sections of this report). As such, the proposed setbacks should not unreasonable impacts to adjacent properties. The setbacks are considered to be compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.

**Rear Setbacks**

Minimum setback from rear boundary:  
 (a) 6 metres for single storey parts of the dwelling (where no wall height exceeds 3 metres), but may be reduced to 3 metres for no more than 50 per cent of the width of the rear boundary  
 (b) 8 metres for all other parts of the dwelling with a wall height greater than 3 metres

Residential Zone: PDC 6

**Partially Complies**

- Res 1: 3.7m increasing to 5m
- Res 2: 4.9m increasing to 6.3m
- Res 3: 4.3m increasing to 5.6m
- Res 4: 2.6m increasing to 4.8m

<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i></p> <p><i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i></p> <p><i>(b) minimise the impact of bulk and scale of development on adjoining properties</i></p> <p><i>(c) maintain the character of the locality in regards to the patterns of space between buildings (to the side and rear) and the opportunity for landscaping.</i></p> <p><i>General Section: Design and Appearance: PDC 2</i></p>	<p><b>Complies</b></p> <p>Although the rear setbacks do not strictly comply with quantitative criteria, the separation from the rear boundary is considered sufficient to minimise the visual impact of bulk and scale on adjacent properties and to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight (as discussed further in the Overshadowing and Visual Privacy sections of this report). As such, the minor shortfalls in rear setback should not result in unreasonable impacts to adjacent properties. The setbacks are nonetheless considered to be compatible with other developments in the locality, and therefore should maintain the character of the locality in relation to patterns of space.</p>
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## Building Height

<p><i>Maximum building height (from natural ground level):</i></p> <p><i>2 storeys of not more than 9 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p><b>Complies</b></p> <p>The proposed single-storey dwellings incorporate a maximum building height of 4.8 metres, which is less than the maximum permitted in the Policy Area.</p>
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## Garages, Carports, Verandas and Outbuildings

<p><i>Garages, carports, verandas and outbuildings should have a roof form and pitch, building materials and detailing that complements the associated dwelling.</i></p> <p><i>General Section: Residential Development: PDC 10</i></p>	<p><b>Complies</b></p> <p>Each proposed garage is incorporated under the main roof of the associated dwelling.</p>	
<p><i>Garages, carports, verandahs and outbuildings, whether freestanding or not, should not dominate the streetscape and (except where otherwise specified) be designed within the following parameters:</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>		
<p><b>Parameter</b></p>	<p><b>Value</b></p>	
<p><i>Maximum floor area</i></p>	<p><i>60 square metres</i></p>	<p><b>Complies</b></p>
<p><i>Maximum wall or post height</i></p>	<p><i>3 metres</i></p>	<p><b>Complies</b></p>
<p><i>Maximum building height</i></p>	<p><i>5 metres</i></p>	<p><b>Complies</b></p>
<p><i>Minimum setback from a primary road frontage</i></p>	<p><i>Garages and carports; 5.5 metres and at least 0.5 metres behind the main face of the dwelling, or in line with the main face of the dwelling if the dwelling incorporates minor elements such as projecting windows, verandas, porticos, etc which provide articulation to the building as it presents to the street. Outbuildings should not protrude forward of any part of the associated dwelling.</i></p>	<p><b>Complies</b></p> <p>Res 1: 5.5m (0.5m behind main face)  Res 2: 5.5m (0.5m behind main face)  Res 3: 5.5m (0.5m behind main face)  Res 4: 5.5m (0.5m behind main face)</p>
<p><i>Maximum length on the boundary</i></p>	<p><i>8 metres or 45 per cent of the length on that boundary (whichever is the lesser)</i></p>	<p><b>Complies</b></p> <p>Res 1: 6.3m</p>

<p>Maximum frontage width of garage or carport with an opening facing the street</p>	<p>6 metres or 50 per cent of the width of the front façade of the dwelling to which the garage or carport is associated (whichever is the lesser)</p>	<p><b>Complies</b></p>
<p>Carpports and garages should be setback from road and building frontages so as to:  (a) not adversely impact on the safety of road users  (b) provide safe entry and exit.</p> <p>General Section: Residential Development: PDC 13</p>		<p><b>Complies</b></p>
<p><b>Vehicle Parking</b></p>		
<p>Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table Mar/2 - Off-street Vehicle Parking Requirements.</p> <p>General Section: Transportation &amp; Access: PDC 34</p>		<p><b>Complies</b>  Each dwelling features three bedrooms and two on-site car parking spaces (one of which is covered).</p>
<p>Detached Semi-detached Row</p>	<p>2 per dwelling containing up to 3 bedrooms one of which is to be covered.  3 per dwelling containing 4 or more bedrooms one of which is to be covered.</p>	
<p>Table Mar/2 - Off-street Vehicle Parking Requirements</p>		
<p>On-site vehicle parking should be provided having regard to:  (a) the number, nature and size of proposed dwellings  (b) proximity to centre facilities, public and community transport within walking distance of the dwellings  (c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons  (d) availability of on-street car parking  (e) any loss of on-street parking arising from the development (e.g. an increase in number of driveway crossovers).</p> <p>General Section: Transportation &amp; Access: PDC 43</p>		<p><b>Complies</b>  a) Sufficient car parking is provided for the number, nature and size of the proposed dwellings, as demonstrated by compliance with PDC 34.  b) Centre facilities and local public transport routes are located within walking distance of the dwellings, while major public transport opportunities are located within the wider locality.  c) The likely occupants are anticipated to have standard mobility and transport requirements.  d) e) 5 on-street car parking spaces shall remain available adjacent the subject land.</p>
<p>A minimum of one on-street car parking space should be provided for every 2 allotments unless separately defined shared visitor parking spaces exist on-site and at the same ratio (e.g. for group dwellings or residential flat buildings).</p> <p>General Section: Land Division: PDC 22</p>		<p><b>Complies</b>  5 on-street car parking spaces are provided for the proposed allotments, which exceeds the prescribed minimum by PDC 22.</p>
<p><b>Access</b></p>		
<p>The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of:  (a) 3 metres wide for a single driveway  (b) 5 metres wide for a double driveway.</p> <p>General Section: Residential Development: PDC 39</p>		<p><b>Complies</b></p>
<p>Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).</p> <p>General Section: Residential Development: PDC 40</p>		<p><b>Complies</b>  Council's Arborist has advised that the two existing street trees on Neath Avenue may be removed subject to payment of \$450 + GST in order for Council to undertake removal and replacement of the trees.</p> <p>There is no other street infrastructure sited forward of the subject land on Neath Avenue.</p>

<p><i>The number of vehicle access points onto a public road should be minimised and each access point should be a minimum of 6 metres apart to maximise opportunities for on street parking.</i></p> <p><i>General Section: Transportation and Access: PDC 28</i></p>	<p><b>Complies</b> Vehicle access points are separated by a minimum distance of 6 metres.</p>
<b>Design &amp; Appearance</b>	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <p><i>(a) building height, mass and proportion</i> <i>(b) external materials, patterns, colours and decorative elements</i> <i>(c) roof form and pitch</i> <i>(d) façade articulation and detailing</i> <i>(e) verandas, eaves, parapets and window screens.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 1</i></p> <p><i>The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 3</i></p>	<p><b>Complies</b> The proposed dwellings reflect the desired character of the locality, as they incorporate an attractive presentation to the streetscape. The dwelling façades incorporate the following elements to enhance their design and appearance:</p> <ul style="list-style-type: none"> <li>• Mixture of brick and render on the front façade</li> <li>• Protruding portico</li> <li>• Eave overhang and pitched roof form at 25 degree slope</li> <li>• Fenestration</li> </ul> <p>The proposed materials should not result in glare to neighbouring properties, drivers or cyclists.</p> <p>On balance, the design and appearance of the dwellings is considered to appropriately satisfy relevant Development Plan criteria.</p>
<p><i>Entries to dwellings or foyer areas should be clearly visible from the street, or from access ways that they face, to enable visitors to easily identify individual dwellings and entrance foyers.</i></p> <p><i>General Section: Residential Development: PDC 8</i></p> <p><i>Dwellings should be designed and oriented to address the street by presenting a front entrance door, porch/portico/veranda and habitable room windows toward the primary street frontage.</i></p> <p><i>General Section: Residential Development: PDC 9</i></p>	<p><b>Complies</b></p>
<b>Relationship to the Street and Public Realm</b>	
<p><i>Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 13</i></p> <p><i>Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 14</i></p> <p><i>Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 15</i></p> <p><i>Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</i></p> <p><i>General Section: Design &amp; Appearance: PDC 16</i></p>	<p><b>Complies</b> The dwellings are designed so that their main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.</p> <p>The elevations of the dwellings feature a mixture of face brickwork, render, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.</p>



## Overshadowing

*The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:*

- (a) windows of habitable rooms*
- (b) upper-level private balconies that provide the primary open space area for a dwelling*
- (c) solar collectors (such as solar hot water systems and photovoltaic cells).*

*General Section: Design & Appearance: PDC 9*

*Except where otherwise specified in a zone, policy area or precinct, development should ensure that:*

- (a) north-facing windows to living rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June*
- (b) ground level private open space of existing buildings receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June to at least the smaller of the following:*
  - (i) half of the existing ground level private open space*
  - (ii) 35 square metres of the existing ground level private open space*
- (c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the area overshadowed.*

*General Section: Design & Appearance: PDC 10*

### **Complies**

An assessment of the projected extent of overshadowing on 21 June (winter solstice) illustrates that:

- a) North-facing windows to habitable rooms of existing dwellings on adjacent allotments shall receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 3 pm on the 21 June
- b) Given that south forms the secondary street boundary, a majority of winter shadow will be cast within the front yard of the proposed dwellings during the morning hours, while shadows will be cast into the private open spaces of the proposed dwellings and a limited portion of the POS the eastern adjoining property during afternoon hours. The extent of shadow cast onto habitable windows and private open spaces of adjacent properties complies with PDC 9 and 10.

## Energy Efficiency

*Development should provide for efficient solar access to buildings and open space all year around.*

*General Section: Energy Efficiency: PDC 1*

*Buildings should be sited and designed:*

- (a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings*
- (b) so that open spaces associated with the main activity areas face north for exposure to winter sun.*

*General Section: Energy Efficiency: PDC 2*

### **Complies**

The main activity areas of the dwellings are oriented east, which should nonetheless receive some northern winter sunlight.

As identified in the Overshadowing section of this table, the proposed dwellings are designed and sited to ensure adequate winter sunlight remains available to the main activity areas of adjacent buildings.

*Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by:*

- (a) taking into account overshadowing from neighbouring buildings*
- (b) designing roof orientation and pitches to maximise exposure to direct sunlight.*

*General Section: Energy Efficiency: PDC 3*

### **Complies**

The dwellings each incorporate a hipped roof form set at a 25 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.

## Landscaping, Fences and Walls

*Development should incorporate open space and landscaping in order to:*

- (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)*
- (b) enhance the appearance of road frontages*
- (c) screen service yards, loading areas and outdoor storage areas*
- (d) minimise maintenance and watering requirements*
- (e) enhance and define outdoor spaces, including car parking areas*
- (f) provide shade and shelter*
- (g) assist in climate control within buildings*
- (h) maintain privacy*
- (i) maximise stormwater re-use*
- (j) complement existing native vegetation*
- (k) contribute to the viability of ecosystems and species*
- (l) promote water and biodiversity conservation.*

*General Section: Landscaping, Fences & Walls: PDC 1*

*Landscaping should:*

- (a) include the planting of locally indigenous species where appropriate*
- (b) be oriented towards the street frontage*
- (c) result in the appropriate clearance from powerlines and other infrastructure being maintained.*

*General Section: Landscaping, Fences & Walls: PDC 2*

*Landscaped areas along road frontages should have a width of not less than 2 metres and be protected from damage by vehicles and pedestrians.*

*General Section: Landscaping, Fences & Walls: PDC 3*

### **Complies**

The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.

*Fences and walls, including retaining walls, should:*

- (a) not result in damage to neighbouring trees*
- (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality*
- (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance*
- (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street*
- (e) assist in highlighting building entrances*
- (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites*
- (g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land*
- (h) be constructed of non-flammable materials.*

*General Section: Landscaping, Fences & Walls: PDC 5*

### **Complies**

The application proposes retaining walls varying in height to a maximum 0.7 metres. If a standard 1.8 metre high fence is constructed atop these walls, this will result in a maximum structure height of 2.5 metres. This fencing/retaining height is considered necessary to achieve a level development site and maintain privacy and security, without unreasonably affecting the visual amenity or access to sunlight of adjoining land.

## TABLE DISCUSSION

The proposal satisfies a majority of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliances are noted and discussed in further detail below:

- Site coverage
- Private open space

### **Site coverage**

The Northern Policy Area 13 prescribes maximum site coverage of 40% of the site area, whereas the proposal comprises site coverage of 56%, 56.1%, 56.4% and 50.7% for Res1, 2, 3 and 4 respectively. The following considerations are noted with regard to the discrepancy in site coverage;

- a) The proposal is considered to comply with PDC 14 (General Section: Residential Development) given that adequate space is provided for pedestrian and vehicle access, vehicle parking, domestic storage, outdoor clothes drying, rainwater tanks, private open space and convenient storage of household waste and recycling receptacles.
- b) The proposal generally achieves sufficient areas of private open space (as discussed below) and setbacks from boundaries. Accordingly, the excess in built form should not impact on the function of the proposed dwellings nor the amenity of adjacent land.
- c) It is appropriate to have regard to the maximum amount of site coverage permitted to Complying development pursuant to Schedule 4 of the Development Regulations 2008. The subject land is located within the Determined Area for the purposes of Schedule 4, which permits maximum site coverage of 60% for new detached and semi-detached dwellings. Whilst not applicable for this form of development, it is considered that the proposal results in less site coverage than that which could feasibly be constructed on the subject land "as of right" (i.e. without an assessment against Development Plan criteria).

The above considerations demonstrate that the excess in site coverage should not adversely impact upon the amenity of adjoining land, or impair the design and function of the proposed dwellings.

### **Private open space**

Each dwelling should comprise a minimum 20% private open space (POS) and incorporate an area of POS with a minimum dimension of 5 x 5 metres. The POS of Res 1 and 3 equates to 19.6% and 19.4% respectively, with the minimum dimensions not strictly provided for Res 1, 3 or 4. The shortfalls in POS area and dimension are considered relatively minor, representing a 0.88 and 1.36 square metre shortfall for each dwelling, with the dimensions provided only marginally smaller than the 5x5 area sought. I am of the opinion that the proposed POS nonetheless comprises sufficient area and shape to be functional for likely occupant needs.

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## ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the proposed development accords with a number of applicable Development Plan criteria, and that the provisions not strictly adhered to result in only minor impacts upon the amenity of the proposed dwellings or upon that of adjoining properties. Redevelopment of the subject land to facilitate higher densities than that of the original housing stock nonetheless complements the Desired Character of the Northern Policy Area 13.

Assessment of the proposal against the applicable quantitative and qualitative Development Plan criteria has demonstrated that the proposal generally achieves the design outcomes envisaged for residential development. While the proposal maintains a number of quantitative shortfalls and/or excesses, including site area, frontage width, site coverage, private open space and POS dimensions, assessment of these shortfalls and consideration of potential impacts has demonstrated that they do not jeopardise the function and layout of the proposed development, nor do they result in unreasonable impacts to the amenity of adjacent land, the streetscape, or the locality.

When these shortfalls are considered on balance with the proposal's compliance with the Development Plan, the overall merit of the proposal is considered to outweigh any discrepancies. To this end, it is my view that the non-compliances are not of such severity to warrant refusal of the application.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993. Further, the proposed development sufficiently accords with the relevant provisions of the Marion Council Development Plan, and warrants Development Plan Consent subject to conditions.

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## RECOMMENDATION

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

- (a) The Panel note this report and concur with the findings and reasons for the recommendation;
- (b) The Panel concur that the proposed development is not seriously at variance to the Marion Council Development Plan, in accordance with Section 35 (2) of the Development Act 1993; and
- (c) That Development Plan Consent for Development Application No: 100/2017/772 for Demolition of the existing dwelling and ancillary structures as well as the construction of four single-storey row dwellings, one of which incorporates a wall on the northern boundary, at 11 Neath Avenue, Dover Gardens, be GRANTED subject to the following conditions:

## CONDITIONS

1. The development shall proceed in accordance with the plans and details submitted with and forming part of Development Application No. 100/2017/772, except when varied by the following conditions of consent.
2. All mortar joints on any face brickwork on the property boundary are to be finished in a professional manner, similar to other external brickwork on the subject dwelling.
3. Stormwater from the structure approved herein shall be collected and directed into a detention tank (or tanks) which are sized and installed in accordance with the specifications contained in Council's information guide titled "Stormwater Detention", to the reasonable satisfaction of the Council.

*Note: A copy of the information guide can be viewed at the City of Marion webpage [www.marion.sa.gov.au/page.aspx?u=181](http://www.marion.sa.gov.au/page.aspx?u=181)*

4. Landscaping as identified on the approved plan shall be planted prior to the occupation of the premises and be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.
5. The stormwater collection and disposal system shall be connected to the street watertable (inclusive of any system that connects to the street watertable via detention or rainwater tanks) immediately following roof completion and gutter and downpipe installation.
6. All car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
7. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

## NOTES

- 1. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of the Council.**
- 2. 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, to the reasonable satisfaction of the Council. (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).**
- 3. All hard waste must be stored on-site in such a manner so as to prevent any materials entering the stormwater system either by wind or water action.**
- 4. Vehicle crossovers should be setback a minimum 2 metres from existing street trees, and 1 metre from street infrastructure and utilities (including stormwater side entry pits, stobie poles, street signs, cable pits, pram ramps etc.).**
- 5. 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.**
- 6. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.**

## Attachments

- Attachment I: Certificate of Title*  
*Attachment II: Aerial Photograph & Site Locality Plan*  
*Attachment III: Proposal Plan and supporting documentation*