

**DEVELOPMENT ASSESSMENT PANEL
AGENDA FOR MEETING TO BE HELD ON
WEDNESDAY 19 JULY 2017**

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DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.1
Originating Officer:	Joanne Reid Development Officer - Planning
Applicant:	Andrash Pty Ltd
Development Description:	To vary Development Application 100/1870/2012 comprising changes to the daily hours of operation from 5am - 11pm to 5am-12.30am (condition 2), the rebranding of existing pylon and fascia signage (condition 1) and the inclusion of new painted fence signage.
Site Location:	540-542 Cross Road South Plympton
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 3/Consent
Lodgement Date:	16/03/2016
Development Plan:	Consolidated – 3 December 2015
Application No:	100/461/2016
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

CATEGORISATION & DELEGATION

The subject application is a Category 3 form of development by virtue of Section 39 (7) (c) of the Development Act, 1993 where the application sought to be varied was previously notified as a Category 3 development, the variation application must also be dealt with as an application for Category 3 development if any representations were made on the previous development that is related to any aspect of the development that is now under consideration.

The issue of noise, traffic and light intensity was raised in a representation for the original application, and this was deemed to be a relevant consideration in the current proposal to which Category 3 notification was warranted.

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 original application was granted Development Approval on 27 December 2013. The application was processed as a Non-complying Development which was triggered by the gross leasable area of the shop exceeding 150 square metres in area (being 232.5m²) as well as the land in which it is situated maintaining a frontage to Cross Road, an arterial road under the care and control of DPTI. The proposal received 6 representations – 3 generally in favour and 3 against the proposal. Concerns mainly related to interface issues adjacent a residential area such as noise, traffic, lightspill and security. A copy of the original report can be provided by contacting the author of the report.

The subject land has had a long history of being used as a petrol filling station complex dating back some 30 years. The original buildings were damaged by a fire in mid-2011 and subsequently, the subject site was cleared and the petrol refuelling facility with associated shop, car parking and landscaping was developed on the land (following Development Approval).

It is also of relevance to the Panel to advise that the variation in the signage proposed is retrospective, with the Pylon sign and the painted fence signage already existing.

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

Information/Amendments Requested	Amendments Made
Provide acoustic and lux report	<p>It was the request of the applicant for Council to make a determination with the information provided from the Planning Consultant.</p> <p>It was also determined that a lux report was not necessary as lighting levels were bound by existing conditions of approval.</p>
"Bin" signage not necessary – consider removing	<p>Agrees that the sign probably isn't necessary but considers that at the same time it isn't offensive and if it was on the building it wouldn't be development. Most of the time, staff cars are parked in front of the bin enclosure. Plans were not amended.</p>

SUBJECT LAND & LOCALITY

The subject land comprises two separate allotments and is located on the north-western corner of Cross Road and Winfred Avenue, South Plympton. The land is square in shape with a 34 metre frontage to Cross Road and a 35.6 metre frontage to Winifred Terrace and provides a total site area of 1,380 square metres.

The site maintains a motor refuelling station and comprises a canopy with three fuel dispensers underneath, a shop, a bin storage area and 10 car parks. There are three access points - two separated access points on Cross Road, an 'entry only' on the access further to the west and an 'exit only' on the more easterly access, and an entry/exit access located from Winifred Avenue.

The site's approved operating hours are from 5am to 11pm for 7 days a week, with deliveries restricted from 7am to 7pm on these days.

Signage consists of a freestanding pylon sign on the south eastern corner of the site and (unapproved) painted signage on the western fence and the bin storage area.

The subject land is surrounded by a mix of housing types including single storey detached and semi-detached dwellings, two storey row dwellings at 544 Cross Road directly to the west of the site and single storey units at 536 Cross Road on the adjacent land to the east.

The wider locality is predominately characterised by residential development along both sides of Cross Road and Winifred Avenue with some commercial and retail development noted along Cross Road. An existing Neighbourhood Centre Zone exists 250 metres to the east of the subject land on the northern side of Cross Road and contains a number of small shops including a chicken shop and small supermarket.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application seeks to vary Condition 2 of the original application to alter the operating hours of the premises to trade for a further hour and half to close at 12.30am the following day.

The proposed development also comprises a (retrospective) variation to the existing authorised advertising signage, namely illuminated signage on the forecourt canopy, the pylon sign located on the south eastern corner of Cross Road and Winifred Avenue, as well as non-illuminated signage on the verandah to the control building. The proposal also introduces stencil lettering on the black fencing panels on the western boundary and on the bin enclosure.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	51 properties were notified during the Category 3 public notification process.
Representations:	4 representations were received by Council. L Taglienti – Against the application K Glowaki – Against the application B Williams – In favour of the application K Taylor – In favour of the application
Persons wishing to be heard:	No persons have indicated a desire to be heard.
Summary of representations:	<p>L Taglienti</p> <ul style="list-style-type: none">• The residents do not need the extra light, or noise of cars that a 5am-12.30am opening hours would bring.• There is already enough disturbance with light emissions and car noise. <p>K Glowacki</p> <ul style="list-style-type: none">• There is traffic overload all day.• Do not accept proposed operating hours; 5am until 11pm is more than sufficient time and even this is inconsiderate. <p>B Williams</p> <ul style="list-style-type: none">• Increased opening hours gives more flexibility to the Cross Road residents and increased commercial viability.

	<ul style="list-style-type: none"> We don't want 5 more fires to be lit because of lack of full use of the site. <p style="text-align: right;"><i>Refer Attachment IV</i></p>
Applicant's response:	<ul style="list-style-type: none"> The closest external wall of the dwellings of the representors against the proposal are some 47m and 27m away from the subject site. Of the 50 property owner/occupants to be notified, only 4 responses were received and two of these responses comprise objections. This is perhaps a sign of the good relationship the operators of the site have with most nearby residents, and the fact that they have existed on site for the last 2 years without significant complaint. The unit on the corner of Winifred Avenue and Cross Road is at a signalised intersection between a secondary arterial road and a highly trafficked collector road. The constant and repetitive breaking and acceleration of vehicles would be a cause of acoustic as well as other impact. It is expected that this would far outweigh the comparatively limited vehicle movements to and from the subject site, and the lightspill from street lights and traffic lights directly adjacent the property. The expected traffic volumes that would enter the site in the hour and a half past current closing times would be relatively low. There is some 30m from the forecourt to the west facing windows of the dwelling and a 1.8m high colorbond fence which would significantly reduce any perceived noise impact from the site. The forecourt canopy signage, pylon sign and lighting generally within the forecourt remain lit out of hours to reduce the potential for antisocial activity to occur on the site when not in use. The increase in trading hours will improve passive surveillance and reduce the likelihood of antisocial behaviour on the site. <p style="text-align: right;"><i>Refer Attachment V</i></p>

GOVERNMENT AGENCY REFERRAL

Department of Planning, Transport & Infrastructure (DPTI):	<ul style="list-style-type: none"> It is recommended that a 'no entry' sign be located adjacent to the entrance facing internal traffic in order to prohibit vehicles utilising this access for exit movements. Likewise a 'no entry' sign should be located adjacent to the exit to prohibit this access being used as an entry. The 'as built' location of the pylon sign provides the greatest separation from the signals and is therefore supported. The other fascia signs do not impact on any of the signals in the locality. DPTI is highly supportive of the white on black LED panels, these will need to be appropriately controlled in order to minimise discomfort to motorists.
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	<ul style="list-style-type: none"> • DPTI recommends that the red 'Synergy' panel be modified so that the dominant colour is white. • The sign does not impact on any signals viewable to westbound traffic. • The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a 4.5m x 4.5m corner cut-off at the junction of Winifred Avenue and Cross Road. Should the corner cut-off be required for future road purposes the applicant shall remove the sign at no cost to the department. • DPTI does not object to the proposed changes to signage, however the red 'Synergy' sign needs to be modified to minimise impact on the adjacent signal lanterns. <p style="text-align: right;"><i>Refer Attachment VI</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 Policy Area 13 are listed in the following table and discussed in further detail below:

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:

Residential Zone	
<p>Objectives</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>	
PDC 1	<p>The following forms of development are envisaged in the zone:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ outbuilding in association with a dwelling ▪ domestic structure ▪ dwelling including a residential flat building ▪ dwelling addition ▪ small scale non-residential uses that serve the local community, for example: <ul style="list-style-type: none"> - child care facilities - consulting rooms - health and welfare services - offices - open space - primary and secondary schools - recreation areas - shops, offices or consulting rooms ▪ supported accommodation.
PDC 2	Development listed as non-complying is generally inappropriate.
PDC 4	<p>Non-residential development such as shops, schools and consulting rooms should be of a nature and scale that:</p> <p>(a) serves the needs of the local community</p> <p>(b) is consistent with the character of the locality</p> <p>(c) does not detrimentally impact on the amenity of nearby residents.</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.

Assessment

The Desired Character Statement is silent on non-residential uses within the Policy Area and it is apparent that the proposed development is not an expressly envisaged use.

The subject land has enjoyed existing use rights as a petrol filling station for some 30 years. Principle 4 of the Residential Zone provisions contemplates non-residential activities within residential zones, providing it “*serves the needs of the local community, is consistent with the character of the locality and does not detrimentally impact on the amenity of nearby residents*”.

It could be said that the proposed use appropriately serves the needs of the local community, offering a place to refuel vehicles in a nearby location. The additional operating hours will provide greater flexibility in this regard. That being said, the hours proposed move further within the realms of when the majority of nearby residents will be sleeping and one must contemplate whether the character and amenity of the locality will be severely impacted in this regard.

In my opinion, given the unique circumstances of the site, there is some merit in considering the proposed change in operating hours and signage further, with its appropriateness being determined by how the proposed use will impact on neighbouring residential properties with respect to noise, light overspill, traffic, pollution and other operational matters.

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 (PDC):

Assessment:

Interface Between Land Uses	
<p><i>Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</i></p> <ul style="list-style-type: none"> <i>(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants</i> <i>(b) noise</i> <i>(c) vibration</i> <i>(d) electrical interference</i> <i>(e) light spill</i> <i>(f) glare</i> <i>(g) hours of operation</i> <i>(h) traffic impacts.</i> <p><i>General Section: Interface Between Land Uses: PDC 1</i></p>	<p>Complies</p> <p>Consideration of the Principles relating to the interface between land uses are discussed below. I have determined that the proposed additional hours are acceptable when the possible impacts are further analysed.</p>
<p><i>Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 2</i></p>	
<p><i>Sensitive uses likely to conflict with the continuation of lawfully existing developments and land uses desired for the zone should be designed to minimise negative impacts.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 5</i></p>	
<p><i>Non-residential development on land abutting a residential zone should be designed to minimise noise impacts to achieve adequate levels of compatibility between existing and proposed uses.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 6</i></p>	
<p>Noise Generating Activities</p> <p><i>Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant Environment Protection (Noise) Policy criteria when assessed at the nearest existing noise sensitive premises.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 7</i></p>	
<p><i>Development with the potential to emit significant noise (e.g. industry) should incorporate noise attenuation measures that prevent noise from causing unreasonable interference with the amenity of noise sensitive premises.</i></p> <p><i>General Section: Interface Between Land Uses: PDC 8</i></p>	

A number of conditions were attached to the approval for original Development Application 100/2012/1870 relating the land use in order to minimise the impacts relating to noise, traffic and light overspill upon the neighbouring residences.

The proposed application seeks to vary Condition 2 of the original approval to operate a further one and half hours beyond the existing 11pm daily curfew to 12.30am. It is noted that this may have impacts that result in interference upon the neighbouring residential development.

The possible interface issues and their impacts on the nearby residential properties are discussed below.

Noise

In terms of determining the appropriateness of the use, it was considered that the current use would be less intrusive and provide less amenity impacts than the previous use, given that it did not include any motor repair functions and that the previous use had existing use rights that could be reinstated with limited conditions to minimise its impact on the surrounding environment.

Assessment of the original application suggested that the operating hours of 5am to 11pm were considered appropriate for a non-residential use within a Residential Zone.

In determining whether a 12.30am closing time would result in additional noise impacts, an acoustic report was sought from the applicant, however it was requested that proposal be considered using the Planning Report Statements provided by the applicant. Should the Panel consider that this information is necessary to make a determination on the proposal, it is suggested that the application be deferred in order for the applicant to obtain this information.

Noise associated with the activity in the forecourt would comprise cars pulling into the service station and leaving, people's voices, activities involving refuelling, car doors opening and closing, and the tyre air re-fill compressor.

The applicant's Planning Consultant suggests that the likelihood of significant numbers of patrons visiting the service station complex between the proposed additional hours of operation are relatively low. Nevertheless, those most likely to be affected are the properties immediately west of the forecourt (at 544 Cross Road) and potentially the eastern most dwellings (at 536 Cross Road).

The consultant considers that high level glazing on the most western dwelling and the existing 2.1m high colorbond fence would reduce the potential for direct noise impact upon these adjacent properties. With regards to the eastern dwellings, there is at least 30 metres from the forecourt to the west facing windows of the dwelling and a 1.8m high colorbond fence on their western boundary which would significantly reduce any perceived noise impact from the operations on the site.

Furthermore, the Consultant contends that with the site being located on the intersection of a secondary arterial road and a connector road, the baseline environment includes a significant amount of vehicle noise associated with the general passing of vehicle traffic as well as acceleration and deceleration at the intersection.

In his opinion, "it could be said that the site and locality in this case, which includes residential property adjacent, is most influenced by both Cross Road and its junctions with both Chitral Tce and Winifred Avenue represent the most dominant land use within the locality. Its impact upon the perceived residential amenity of adjacent dwellings will continue to significantly exceed those associated with the relatively benign activities undertaken on the subject site through any given day or night."

I do agree that the location of the subject site does in part, have some bearing on the amenity outcome of the existing properties given that a vehicle entering the subject site is likely to be driving within the vicinity of the site as opposed to it being frequented as a purposeful destination site. However, without an acoustic report, it is difficult to determine if the noise within the site is any greater than the noise of the surrounding traffic for this specific site.

The applicant has, however, put forward some measures which will assist in minimising noise impacts upon the western adjacent properties, namely a condition to block or close the far western lane of the forecourt together with the end two carparking spaces with bunting or similar after 10pm (*reflecting the EPA Environmental Noise Policy hours in relation to baseline noise environment*).

On this basis, I consider that the additional opening hours are reasonable and will not significantly impact upon the amenity of the adjacent dwellings with respect to noise when taking into consideration the recommended inclusion of a condition to close vehicle access on the western side combined with the current separation of the eastern and northern dwellings to the site and its activities by the existing road network and the shop building.

Traffic

The applicant has indicated that the likelihood of significant numbers of patrons visiting the service station complex in the hours between 11pm and 12.30am is considered relatively low, albeit this has not been verified by any scientific reasoning but through observations that since opening, it has been routinely observed during the daytime that it is rare that the existing car parking area becomes full.

Notwithstanding this, the implications in relation to traffic is predominantly noise generated by the vehicles and patrons attending the premises during this time and I have considered that the likely impacts are not unreasonable.

Light overspill

As far as the original application is concerned, there were no controls placed on the existing lighting and whether it should remain switched on or off beyond the hours of operation. At present, the applicant has indicated that the pylon sign is switched off after hours but the lighting in the forecourt remains switched on, as do the two 'Mobil' signs on the canopy. The lights under the canopy are directed straight down.

In saying this, there are conditions on the original approval which expect all external lighting on the site and lighting associated with signs to be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not cause nuisance or loss of amenity to any person beyond the site, or be a distraction to motorists.

To this end, the extended hours of operation will not further exacerbate light overspill as there is no requirement to turn the lights off at any time. However, should Council have concerns regarding the light being emitted from the property, Council can use its powers pursuant to Section 84 of the Development Act, 1993 to undertake investigations to determine if the Conditions on the approval are being adhered to.

Transportation and Access

Development should be provided with safe and convenient access which:
(a) avoids unreasonable interference with the flow of traffic on adjoining roads

(b) provides appropriate separation distances from existing roads or level crossings

(c) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision

(d) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.

General Section: Transportation and Access: PDC 23

Complies

Despite DPTI raising traffic matters, the site has received approval for the layout proposed and access is not a matter for assessment within this variation application.

Notwithstanding this, the applicant has seen the concerns raised by DPTI in regards to the existing access arrangements and are agreeable to the installation of 'no entry' signage at the access points along Cross Road.

Advertisements

The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:

(a) consistent with the predominant character of the urban or rural landscape

(b) in harmony with any buildings or sites of historic significance or heritage value in the area

(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.

General Section: Advertisements: PDC 1

Complies

The proposed signage is a rebranding of existing signage and the location, height and width of the sign remains as approved in the original application.

The proposed signage is therefore considered to sit appropriately within the context of its setting.

The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:

(a) clutter

(b) disorder

(c) untidiness of buildings and their surrounds

(d) driver distraction.

General Section: Advertisements: PDC 2

Partially Complies

The proposed pylon signage replaces existing signage in that location and is therefore acceptable in this regard.

The additional stencil signage on the fenceline could be considered to be surplus signage, however, I do not consider it to be disorderly or untidy and it is not located in a position that would be considered to cause 'clutter' on the site. Accordingly I am of the opinion that the proposed stencil signage is reasonable.

The content of advertisements should be limited to information relating to the legitimate use of the associated land.

General Section: Advertisements: PDC 4

Complies

The proposed signage is considered to adequately reflect the use of the land as a motor refuelling station.

Advertisements and/or advertising hoardings should:

(a) be completely contained within the boundaries of the subject allotment

(b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees

(c) not obscure views to vistas or objects of high amenity value.

General Section: Advertisements: PDC 5

Complies

All signage is contained within the subject land, does not cause damage to existing trees nor does it obscure vistas or objects of high amenity value.

Advertisements and/or advertising hoardings should not be erected on:

(a) a public footpath or veranda post

(b) a road, median strip or traffic island

(c) a vehicle adapted and exhibited primarily as an advertisement

(d) residential land.

General Section: Advertisements: PDC 6

<p><i>Advertisements and/or advertising hoardings attached to buildings should not be sited on the roof or higher than the walls of a building, unless the advertisement or advertising hoarding is appropriately designed to form an integrated and complementary extension of the existing building.</i></p> <p><i>General Section: Advertisements: PDC 7</i></p>	<p>Complies</p> <p>The proposed signage does not extend beyond the height of the canopy or the shop building.</p>
<p><i>Signs should not be silhouetted against the sky or project beyond the architectural outline of the building.</i></p> <p><i>General Section: Advertisements: PDC 9</i></p>	
<p><i>Advertisements should be designed to conceal their supporting advertising hoarding from view.</i></p> <p><i>General Section: Advertisements: PDC 10</i></p>	<p>Complies</p> <p>The supporting advertising hoardings related to the proposed signage are adequately concealed from view.</p>
<p><i>Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.</i></p> <p><i>General Section: Advertisements: PDC 11</i></p>	<p>Complies</p> <p>The proposed signage is considered to be consistent with other motor refuelling stations and the print and symbols are, in my view, clear, concise and easy to read.</p>
<p><i>Advertisements which perform a secondary role in identifying the business, goods or services should only be readable in the immediate vicinity of the site.</i></p> <p><i>General Section: Advertisements: PDC 13</i></p>	<p>Partially Complies</p> <p>It is considered that the stencilled lettering on the western and northern fence line is relatively large and likely to be viewed from beyond the site when facing the site from the east.</p> <p>Furthermore, it does seem unnecessary to place signage on the bin enclosure and when this concern was raised to the applicant, I was advised that vehicles are often parked in that location and would rarely be visible.</p> <p>Having said this, the signs are not projected outward to directly face the road, the western fence sign does not directly face on-coming traffic and will predominantly be seen from within the vicinity of the site.</p>
<p>Safety</p> <p><i>Advertisements and/or advertising hoardings should not create a hazard by:</i></p> <ul style="list-style-type: none"> <i>(a) being so highly illuminated as to cause discomfort to an approaching driver, or to create difficulty in the driver's perception of the road or persons or objects on the road</i> <i>(b) being liable to interpretation by drivers as an official traffic sign, or convey to drivers information that might be confused with instructions given by traffic signals or other control devices, or impair the conspicuous nature of traffic signs or signals</i> <i>(c) distracting drivers from the primary driving task at a location especially where the demands on driver concentration are high</i> <i>(d) obscuring a driver's view of other road or rail vehicles at/or approaching level crossings, or of pedestrians or of features of the road that are potentially hazardous (eg junctions, bends, changes in width, traffic control devices).</i> <p><i>General Section: Advertisements: PDC 15</i></p>	<p>Partially Complies</p> <p>DPTI considers that the 'as built' location of the sign is acceptable and provides the greatest separation from the signals.</p> <p>They are also supportive of the white on black LED panels.</p> <p>DPTI has raised concerns regarding the red 'synergy' panel and has recommended that the panel be modified so that the dominant colour is white.</p> <p>Whilst Council would normally have high regard for DPTI's comments in this situation, the originally approved signage contained a similar red panel in a similar position on the sign. The luminosity is not considered to be</p>

	greater than that which previously existed and I am of the view that the sign is easily distinguishable adjacent the existing traffic light such that it would not cause undue distraction to oncoming motorists.
<p><i>Any internally illuminated advertising signs and/or advertising hoardings which utilise LED, LCD or other similar technologies should be located a minimum of 80 metres from traffic signals, level crossings and other important traffic control devices.</i></p> <p><i>General Section: Advertisements: PDC 17</i></p>	<p>Does Not Comply See comments above relating to PDC 15.</p>
<p>Freestanding Advertisements</p> <p><i>Freestanding advertisements and/or advertising hoardings should be:</i> <i>(a) limited to only one primary advertisement per site or complex</i> <i>(b) of a scale and size in keeping with the desired character of the locality and compatible with the development on the site.</i></p> <p><i>General Section: Advertisements: PDC 18</i></p>	<p>Complies Only one free standing sign is located on the site and is of a size and scale consistent with other motor refuelling stations.</p>
<p>Advertising along Arterial Roads</p> <p><i>Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.</i></p> <p><i>General Section: Advertisements: PDC 24</i></p>	<p>Complies The speed limit of Cross Roads in the vicinity of the site is 60 km/h</p>

REPRESENTOR'S CONCERNS

The concerns raised by the representors in relation to noise, lighting and traffic have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

ANALYSIS/CONCLUSION

The subject site has existing authorisation to operate as a motor refuelling station with associated shop and signage and seeks to extend its approved hours of operation to close at 12.30am the following day instead of 11.30pm.

Whilst this has the potential to impact on the amenity of the existing residential locality, I have formed an opinion that given the existing ambience of the site's location adjacent to two relatively busy roads, the applicant's willingness to adhere to a recommended condition to restrict vehicular movements on the western side of the site beyond 10pm and the separation of dwellings from activities on the site on the eastern, northern and southern sides, that the additional one and a half hours of trading will not have detrimental impacts on the amenity of the surrounding properties.

It is also considered that the replacement signage within the pylon sign and on the canopies is similar to the previously approved signage and is consistent with signage associated with similar uses on other sites. Furthermore, I consider that it will not result in a significant distraction to motorists using the adjacent road network.

Whilst the signage on the fenceline is deemed to be somewhat superfluous, it is also not considered to be located in an overly prominent location. Whilst the lettering is large, it is not offensive, it relates to the activities on the site and is internally facing on the land, some

distance away from adjacent properties and the roadway and is therefore considered to be acceptable.

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: 100/461/2016 to vary Development Application 100/1870/2012 comprising changes to the daily hours of operation from 5am - 11pm to 5am-12.30am (condition 2), the rebranding of existing pylon and fascia signage (condition 1) and the inclusion of new painted fence signage at 540-542 Cross Road South Plympton be GRANTED subject to the following conditions:

CONDITIONS

1. The development shall proceed in accordance with the amended site and elevation plans prepared by Angelyn Building Designers stamped and dated 19 May 2016 submitted with and forming part of variation application 100/2016/461; and plans prepared by Angelyn Building Designers stamped and received 3 June 2013, the Traffic Report prepared by Frank Siow and Associates stamped dated received 3 June 2013, the Statement of Effect prepared by Andrew Cronin stamped dated received 7 May 2013 and the site works and stormwater drainage plan prepared by Structural Systems – Consulting Engineers stamped dated received 20 June 2013 all submitted with and forming part of Development Application No. 100/2012/1870, except where varied by the following conditions of consent and variation application 100/2016/461.
2. The access lane adjacent the western side of the canopy and the two car parking spaces closest to the western boundary shall be made inaccessible to patrons between the hours of 10pm to close of business, 7 days a week.
3. The hours of operation of the premises shall be restricted to the following times:
 - 5.00am –12.30pm, 7 days a week;
2. All deliveries to and from the site (including waste collection and fuel truck deliveries) shall be restricted to the following times:
 - 7:00am - 7:00pm 7 days a week;
3. The largest vehicle permitted on site shall be a 11 metre rigid truck.
4. Bicycle facilities shall be provided in accordance with Australian Standard AS 1742.9-2000 “Manual of uniform traffic control devices Part 9: Bicycle facilities” and available prior to the use of the building. Amended plans, detailing the above, shall be provided to Council for consideration and approval, prior to Development Approval being issued.
5. Car parks 9 and 10 shall be available for the exclusive use of staff at all times and shall be sign-posted to indicate such.
6. All signs associated with the site shall not contain any element that flashes, scrolls, moves or changes.

- 7. A stormwater drainage and management plan reasonably satisfactory to the Council shall be prepared by a suitably qualified engineer or building designer. Such plan must demonstrate that the rate of stormwater run-off from the site complies with Natural Resources Principle 29(a), and must include detention tanks of sufficient capacity to comply with the said Principle.**
- 8. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of the Council.**
- 9. A trap shall be installed as part of the site's stormwater system to prevent grease, oil, sediment, litter and other substances capable of contaminating stormwater from entering the Council's stormwater drainage system. The trap shall be regularly cleaned and maintained in good working order to the reasonable satisfaction of the Council.**
- 10. Prior to discharge to the street watertable, via the galvanised steel section, the two sumps shall be specified as a 'wet sump'. Amended plans, detailing the above, shall be provided to Council for consideration and approval, prior to Development Approval being issued.**
- 11. 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.**
- 12. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.**
- 13. All existing vegetation nominated to be retained and all new vegetation to be planted shall 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.**
- 14. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).**
- 15. Landscaping shall be maintained so as to not obstruct the views of drivers or pedestrians entering or exiting the site, to the reasonable satisfaction of Council.**
- 16. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.**
- 17. All industrial and commercial vehicles visiting the site shall enter and exit the land in a forward direction.**
- 18. Wheel stopping devices shall be placed within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council.**
- 19. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.**

20. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, sealed and drained in accordance with recognised engineering practices prior to the occupation of the premises or the use of the development herein approved.
21. The driveways, parking areas and vehicle manoeuvring areas must be maintained in a good condition at all times.
22. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
23. All car parking spaces shall be line marked or delineated in a distinctive fashion prior to occupation of the premises, with the marking maintained in a clear and visible condition at all times.
24. Directional signs indicating the location of car parking spaces must be provided on the subject land and maintained in a clear and legible condition at all times.
25. All goods and materials placed in the area designated for the outside display of goods and materials shall be kept in a tidy manner and condition at all times.
26. At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.
27. All external lighting of the site, including car parking areas and buildings, shall be located, directed, shielded and of an intensity not exceeding lighting in adjacent public streets, so as not to cause nuisance or loss of amenity to any person beyond the site to the reasonable satisfaction of the Council.
28. The advertisement and supporting structure shall be prepared and erected in a professional and workmanlike manner and maintained in good repair at all times, to the reasonable satisfaction of the Council.
29. Lighting associated with the signs shall be of an intensity that will not cause an unreasonable light overspill nuisance to adjacent occupiers, or be an undue distraction to motorists, to the reasonable satisfaction of the Council.
30. The proposed free-standing pylon sign shall be constructed wholly on the subject site and no part shall extend beyond the property boundaries.

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. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time. This includes noise generated from plant and equipment (including those servicing the building such as air-conditioning), as well as noise generated from activities such as loading and unloading of goods and/or waste. The Environment Protection Authority has restrictions relating to the control of noise in the urban environment. Further information is available by phoning the Environment Protection Authority on 8204 2000.
5. Portable fire extinguishers (PFEs) should be installed to provide protection to all areas within the building (other than bedrooms and non occupied/concealed spaces) in accordance with sections 1, 2, 3 and 4 of Australian Standard 2444-2001 and Clause E1.6 of the Building Code of Australia 2004 Volume One. All PFEs should be located in a conspicuous and readily accessible position and, where practical, be along normal paths of travel and near exits. PFEs should be selected, sized, and of a type suitable to the hazard present in the area to be protected and, in particular:
 - for class F fire risks, in areas involving cooking oils and fats in kitchens
 - for class B fire risks, in areas where flammable liquids in excess of 50 litres are stored or used
 - for class A fire risks, in areas where fire hose reels are not installed
 - for class E fire risks, in areas where a nurse's station or the like is provided.
6. Council requires at least one business days notice of the following stages of building work:-
 - prior to the placement of any concrete for footings or other structural purposes (Note - Where an engineer carries out an inspection, Council will also require a copy of the inspection certificate); and
 - at the completion of wall and roof frames prior to the fixing of any internal linings.
7. On completion of building work, Certificates of Installation of Essential Safety Provisions in accordance with Form 2 of Schedule 16 of the Development Regulations 2008, must be submitted to the Council.

Attachments

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & 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>External Agency Referral Comments</i>

DEVELOPMENT ASSESSMENT PANEL
Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.2
Originating Officer:	Nicholas Timotheou Development Officer - Planning
Applicant:	Fairmont Homes Pty Ltd
Development Description:	Two single storey dwellings and associated garages
Site Location:	1 Joseph Street, Marion
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	09/08/2016
Development Plan:	Consolidated – 28 April 2016
Application No:	100/1448/2016
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

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 has a wall abutting a side or rear property boundary exceeding a height of 3 metres (above natural ground level) 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.

The subject application is also required to be determined by the Development Assessment Panel by virtue of the proposed new dwellings supporting an allotment area less than the minimum of 375 square metres required for detached dwellings within the Northern Policy Area 13.

BACKGROUND

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

Amendments Requested	Amendments Made
The front setback of Res. 1 should be increased, to assist in achieving a cohesive streetscape.	Front setback of Dwelling 1 increased from 1.5m and 3m to 4m at the closest point.
Site coverage of each dwelling should be reduced to more closely align with Council's Development Plan provision of 40%.	Site coverage reduced from 51.7% to 47.4% for Dwelling 1 and from 53.7% to 47.2% for Dwelling 2
In order for adequate on-site parking to be available for Dwelling 2, the associated garage should be setback a minimum 5.5 metres at the closest point.	The front setback of the garage associated with Dwelling 2 has increased from 5m at the closest point to 8.1m.
The private open space for Dwelling 1 should be increased to a minimum 20% of the allotment site area.	Private open space has increased from 18.9% to 20% (D1) and from 20.1% to 21.5% (D2)
The proposed access points must be set back a minimum 2.0 metres from the centre of the Council street trees.	Layout and design of each dwelling has been amended in order to maintain clearance from the Council street trees.
The front entry point of Dwelling 1 should present to the primary street in order to enhance passive surveillance.	The design and layout of Dwelling 1 has been amended in order for the front entry point to present to the primary street.

SUBJECT LAND & LOCALITY

The subject land comprises 1 Joseph Street, Marion. The allotment is irregular in shape, achieving a frontage width of 25.9 metres, average depth of 31.3 metres and a total site area of 613 square metres. The site currently accommodates a detached dwelling in good condition. The dwelling is setback approximately 3m at the closest point which steps to 4.5m and 14m. Vehicular access is currently available from Joseph Street, adjacent the western boundary of the allotment. The contour of the land is relatively flat and there are no regulated trees on the subject land.

The pattern of development in the locality is typically defined by single storey detached dwellings at low to medium densities. Although there has been limited recent development within the locality, there is a presence of recently constructed semi-detached and row dwellings.

It is also acknowledged that the subject land is situated within walking distance of the George Street Reserve and a short distance to the Local Centre Zone on the corner of Finnis Street and George Street.

Lastly, it is of value to note Resthaven Marion Aged Care is situated south of the subject land, along Finnis Street and Township Road. Resthaven Marion offers residential aged care, retirement living, and respite accommodation for older people. The site currently accommodates a number of residential flat buildings up to three storeys in height.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The subject application proposes the construction of two dwellings with associated garages.

Each dwelling incorporates a single width garage, open plan kitchen/living/dining, three bedrooms and associated wet areas/ensuite. Dwelling 1 proposes a new access point along Joseph Street, whereas Dwelling 2 seeks to utilise the existing crossover that will maintain adequate clearance from the Council street tree.

Each dwelling incorporates exposed brick to the main façade with rendered portico piers which covers the front entry point. The garages feature panel lift doors and the roofing incorporates Colorbond materials.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	11 properties were notified during the Category 2 public notification process.
Representations:	2 representations were received by Council, one of which was in favour and one which was neutral regarding the outcome of the application.
Persons wishing to be heard:	n/a
Summary of representations:	Concerns regarding on-street parking. <i>Refer Attachment IV</i>
Applicant's response:	Adequate on-site parking has been provided in accordance with the Development Plan criteria which is considered to alleviate on-street parking concerns. <i>Refer Attachment V</i>

INTERNAL DEPARTMENT COMMENTS

Coordinator Arboriculture	The street trees have been identified as Ornamental Pears which are in good overall condition, have extended life expectancies and are suitable species in the locality. The trees do not accord with the City of Marion Tree Management Framework criteria to justify their removal and as such, a minimum 2.0 metre setback is required to any new access point and stormwater pipes.
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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>Objectives</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		
<p>Objectives</p> <p>1 A policy area primarily comprising low scale, low to medium density housing.</p> <p>2 Development near industrial or commercial areas located and designed to minimise potential adverse impacts from non-residential activities.</p> <p>3 Development that minimises the impact of garaging of vehicles on the character of the locality.</p> <p>4 Development densities that support the viability of community services and infrastructure.</p> <p>5 Development that reflects good residential design principles.</p> <p>6 Development that contributes to the desired character of the policy area.</p>		
<p>Desired Character</p> <p>This policy area encompasses established residential areas in the central and northern parts of the City of Marion (north of Seacombe Road).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>		
PDC 1	<p>The following forms of development are envisaged in the policy area:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ dwelling including a residential flat building ▪ supported accommodation. 	Complies
PDC 2	<p>Development should not be undertaken unless it is consistent with the desired character for the policy area.</p>	Complies

PDC 3	Minimum Site Area: 375sqm	Does Not Comply D1: 304.4sqm D2: 308.2sqm
	Minimum Frontage: 12m	Complies D1: 14.4m Does Not Comply D2: 11.5m
	Minimum Depth: 20m	Complies

Assessment

The application proposes two dwellings on an allotment which currently accommodates a single storey detached dwelling, increasing the density of the land by one. Whilst the dwellings are sited on undersized allotments, it has been demonstrated that the density of the site is appropriate (discussed throughout this report). It is also acknowledged that the density of the site will be in keeping with other recent development in the locality (row dwellings situated at 46 Finnis Street), which is encouraged by Desired Character Statement, Objectives 1 and 3 and Principles of Development Control of the Northern Policy Area 13.

In addition to the above, it is acknowledged that the Residential Zone and Northern Policy Area 13 encourages an increase in densities within close proximity to public open space and centre zones. The subject site is located within walking distance to the George Street Reserve in close proximity to the Local Centre Zone situated on the corner of Finnis Street and George Street, which features a variety of shops.

The proposed site areas of 304.4 square metres (Dwelling 1) and 308.2 square metres (Dwelling 2) fall short of the minimum 375 square metres for detached dwellings in the Northern Policy Area 13. Despite the site area failing to meet the minimum sought, it is acknowledged that this non-compliance with Council's Development Plan shall not come at the expense of the dwellings' ability to function appropriately. It has been demonstrated that dwelling can function on the undersized allotment in terms of (but not limited to) site coverage, setbacks to boundaries, POS, access arrangements and design and appearance.

Despite the slight shortfall in frontage width for Dwelling 2, it is acknowledged that there will be no design limitations when viewed from the street. It is also noted that the dwellings could be joined by a party wall and thereby satisfy the definition of semi-detached dwellings, which require a minimum 9 metre frontage width. However, it is also acknowledged that providing a level of separation assists in reducing the bulk of the dwellings, benefiting the streetscape elevation. Whilst an increased frontage width would allow for greater landscaping opportunities, the proposal maintains a streetscape elevation that is considered to complement others in the locality.

It is also befitting to acknowledge that clause 2B of Schedule 4 (Complying Development) permits the construction of detached dwellings (single or two storey) "as of right" on allotments which achieve a minimum frontage width of 9.0 metres.

The dwelling maintains a coherent streetscape as a result of an appropriate street setback and dwelling design, which will be modern in terms of providing a mixture of colours and materials, achieving positive contribution to the streetscape. The proposal is considered to complement the relevant Objectives, Desired Character statement and Principles of Development Control of the Northern Policy Area 13.

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>Site coverage:</p> <p>Does Not Comply D1: 144.25sqm (47.4%) D2: 145.46sqm (47.2%)</p>
<p>The Marion Council Development Plan stipulates that site coverage should not exceed 40% of the site area; Dwelling 1 surpasses this limit at 47.4% while Dwelling 2 exceeds the criteria at 47.2%. The following considerations are noted with regard to the discrepancy in site coverage:</p> <ul style="list-style-type: none"> (a) The proposal generally achieves sufficient areas of private open space (POS) and setbacks from boundaries (discussed further below). Accordingly, the excess in built form should not result in a distinct impact on the function of the proposed dwellings nor the amenity of adjacent land. (b) 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, landscaping and convenient storage of household waste and recycling receptacles. (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. As such, 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). <p>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.</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> <ul style="list-style-type: none"> <i>(a) would not be contrary to the relevant setback and private open space provisions</i> <i>(b) would not adversely affect the amenity of adjoining properties</i> <i>(c) would not conflict with other relevant criteria of this Development Plan.</i> <p><i>Residential Zone: PDC 9</i></p>	<p>Complies</p> <p>The proposal maintains appropriate setbacks to boundaries and allows for adequate POS. As such, the excess in site coverage is unlikely to adversely affect the amenity of adjoining properties. These points will be discussed further throughout this report.</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <i>(a) pedestrian and vehicle access and vehicle parking</i> <i>(b) domestic storage</i> <i>(c) outdoor clothes drying</i> <i>(d) rainwater tanks</i> <i>(e) private open space and landscaping</i> <i>(f) convenient storage of household waste and recycling receptacles.</i> <p><i>General Section: Residential Development: PDC 14</i></p>	<p>Complies</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>Complies</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: 60.9sqm (20%)
Dwelling 2: (66.4sqm (21.5%))

Each dwelling is provided with a minimum 5 x 5 metre area of POS, directly accessible from an internal living room.

Complies

- a) All POS areas are directly accessible from the internal living rooms of the dwellings.
- b) All POS is located at ground level
- c) All POS is located to the rear of the dwellings and 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.
- h) The POS areas should not be significantly shaded during winter by the associated 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.

Does Not Comply

- g) The proposed POS areas maintain a southerly aspect as a result of the existing orientation of the land; however, the rear yards should nonetheless receive some morning/afternoon light throughout the day. This is further discussed in the "Overshadowing" section of this report.

Complies

Building Setbacks from Road Boundaries

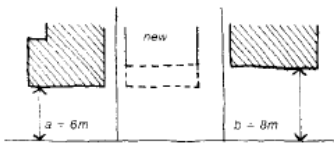
Except in areas where a new character is desired, the setback of buildings from public roads should:
 (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
 (b) contribute positively to the function, appearance and/or desired character of the locality.

General Section: Design and Appearance: PDC 21

Complies

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 4.0 metres (at the closest point) is considered to contribute positively to the function, appearance and desired character of the locality through the provision of appropriate transition to existing dwellings on adjoining land.

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 $b - a \leq 2$, 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

Partially Complies

Dwelling 1: 4m which steps to 5 – 5.3m
 Dwelling 2: 4m which steps to 5 – 5.3m

(Dwellings on adjoining land set back approximately 4.5m (at the closest point) and 8 metres, which equals an average setback of 6.2 metres)

PDC 21 outlines that setbacks of buildings from the public road do not need to be similar/compatible with buildings on adjoining land when located in an area “where a new character is desired”. The Northern Policy Area 13 anticipates redevelopment of the existing dwelling stock at higher densities with reduced front setbacks. Notwithstanding the above, it is my opinion that the proposed design, combined with the stepping of the main façade and garage shall provide appropriate transition to existing buildings on adjoining land. It is also acknowledged that that the allotment is angled towards the street and as such, it is considered that the overall design complements other dwellings within Joseph Street through the proposal’s ability to achieve appropriate separation from the street.

It is also appropriate to have regard to the existing dwelling on the subject land, which achieves an approximate front setback of 3m at the closest point. Further, the dwelling at 3 Joseph street presents a carport to the primary street, setback approximately 3m at the closest point. As such, it is my opinion that the proposed front setbacks shall provide appropriate transition to buildings on adjoining land and will not result in adverse impacts upon the streetscape.

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*

Residential Zone: PDC 6

Complies

D1: 0.9m
 D2: 0.9m at the closest point

<p><i>Maximum length and height when wall is located on side boundary:</i> <i>(a) where the wall does not adjoin communal open space or a public reserve – 8 metres in length and 3 metres in height</i> <i>(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.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Partially Complies D1: n/a (wall along internal boundary) D2: 7.99m in length and 3.1m in height (from natural ground level)</p> <p>The slight excess in wall height (0.1m) along the boundary is not considered to result in unreasonable visual/overshadowing impacts upon the adjacent property.</p>
<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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>Complies</p> <p>The separation from the side boundaries 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 (as discussed further in the section of this report). 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.</p>
<h2>Rear Setbacks</h2>	
<p><i>Minimum setback from rear boundary:</i> <i>(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</i> <i>(b) 8 metres for all other parts of the dwelling with a wall height greater than 3 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Partially Complies D1: 5.1m – 5.8m (50.3%) and 6.8m D2: 8m</p>
<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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>Complies</p> <p>Although the rear setback does not 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. The setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight (as discussed further in the Overshadowing section of this report). As such, the shortfall in setback should not result in 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.</p>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i> 2 storeys of not more than 9 metres</p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies</p> <p>The proposed dwellings incorporate a maximum building height of 5 metres, which is less than the maximum permitted in the Policy Area.</p>

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

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
Maximum floor area	60 square metres
Maximum building height	5 metres
Maximum height of finished floor level	0.3 metres
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.
Minimum setback from side or rear boundaries (when not located on the boundary)	0.6 metres for an open structure, or 0.9 metres for a solid or enclosed wall
Maximum length on the boundary	8 metres or 45 per cent of the length on that boundary (whichever is the lesser)
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

Complies

Complies

Complies

D1: 7.4 – 9.4
D2: 8.1 – 10.4

Complies

Garage of Dwelling 1 shall be situated along the internal boundary

Complies

Dwelling 2: 7.9m

Complies

D1: 3.5m (24.3%)
D2: 3m (26%)

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

Each dwelling provides two off-street parking spaces (one of which shall be covered).

Detached Semi-detached Row	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.
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Table Mar/2 - Off-street Vehicle Parking Requirements.

<p><i>On-site vehicle parking should be provided having regard to:</i></p> <ul style="list-style-type: none"> <i>(a) the number, nature and size of proposed dwellings</i> <i>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</i> <i>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</i> <i>(d) availability of on-street car parking</i> <i>(e) any loss of on-street parking arising from the development (e.g. an increase in number of driveway crossovers).</i> <p><i>General Section: Transportation & Access: PDC 43</i></p>	<p>Complies</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 a short distance from the dwellings</p> <p>c) The likely occupants are anticipated to have standard mobility and transport requirements.</p> <p>d) e) 2 on-street car parking spaces shall remain available adjacent the subject land.</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>Complies</p> <p>2 on-street car parking spaces are provided for the proposed allotments, which satisfies PDC 22.</p>
<p>Access</p>	
<p><i>The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of:</i></p> <ul style="list-style-type: none"> <i>(a) 3 metres wide for a single driveway</i> <i>(b) 5 metres wide for a double driveway.</i> <p><i>General Section: Residential Development: PDC 39</i></p>	<p>Complies</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>Complies</p> <p>Vehicle access points are separated by a minimum distance of 6 metres.</p>
<p>Design & Appearance</p>	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <ul style="list-style-type: none"> <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><i>General Section: Design & 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 & Appearance: PDC 3</i></p>	<p>Complies</p> <p>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"> • Mixture of brick and render on the front façade • Protruding portico • Eave overhang and pitched roof form at 25 degree slope • Fenestration <p>The dwellings incorporate a 25 degree Colorbond roof, with exposed brick to the main facades. The garage of each dwelling features Colorbond Panel lift door. These 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>

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 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

Dwellings and accommodation at ground floor level should contribute to the character of the locality and create active, safe streets by incorporating one or more of the following:

- (a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for occupants*
- (b) individual entries for ground floor accommodation*
- (c) opportunities to overlook adjacent public space.*

General Section: Residential Development: PDC 6

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

The elevations of the dwellings feature a mixture of render and exposed brick, 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) Some shadow will be cast into the western adjoining property in morning hours, and to the eastern adjoining property in afternoon hours.

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. Likewise, shadow cast into the eastern adjoining property only begins in afternoon hours. Consequently, 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 face south as a result of the existing orientation of the allotment. Nonetheless, the areas of private open space are of an appropriate dimension to receive some morning and afternoon 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 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

Although a landscaping plan has not been provided, it is acknowledged that there is ample front yard area, which allows for persons purchasing or choosing to reside in the dwelling to landscape to their satisfaction.

REPRESENTOR'S CONCERNS

The concerns raised by the representor in relation to on-street car parking have been addressed in the body of the report, and I have concluded that the proposal is satisfactory in relation to these matters.

ANALYSIS/CONCLUSION

It is my view that the proposed development satisfies the relevant Objectives, Desired Character and Principles of Development Control of the Northern Policy Area 13, being an area which encourages the redevelopment of the existing housing stock at low to low-medium densities.

It is acknowledged that the proposal fails to achieve some of the quantitative provisions of Council's Development Plan; however, where shortfalls have been identified, it has been demonstrated that they have merit. The assessment discussion in the above table has considered the identified shortfalls with the proposal and in each case, the impact of these discrepancies has not been found to result in unreasonable impacts to the dwelling's ability to function appropriately or to the amenity of adjoining land. When these shortfalls are considered on balance with the overall compliance with Council's Development Plan, the merit of the application is considered to outweigh any discrepancies. Further, assessment against the qualitative provisions of Council's Development Plan has demonstrated that the general layout and design of the dwelling is compatible with that sought by the Residential 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: 100/1448/2016 for two single storey dwellings and associated garages at 1 Joseph Street, Marion 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. 100/1448/2016, 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

- 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.
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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & 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>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.3
Originating Officer:	Justin Clisby Development Officer - Planning
Applicant:	Scope Development Solutions
Development Description:	Variation to DA: 1787/2016 to construct a garage incorporating a wall on the western boundary in lieu of a carport on the western boundary
Site Location:	87 Lascelles Avenue, Warradale
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	20/03/2017
Development Plan:	Consolidated – 28/04/2016
Application No:	100/468/2017
Recommendation:	That Development Plan Consent be GRANTED, subject to conditions

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 has a wall abutting a side or rear property boundary exceeding a height of 3 metres (above natural ground level) 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. In addition, the subject application seeks to vary Development Application 100/1787/2016 which was previously determined by Council's Development Assessment Panel. Applications that propose to vary an application previously determined by the Development Assessment Panel are referred to the Development Assessment Panel for determination.

BACKGROUND

The proposal was previously granted Development Plan Consent by Council's Development Assessment Panel on 21/12/2016 under Development Application 100/1787/2016. A copy of this report can be found on Council's website at the following web address;
<https://www.marion.sa.gov.au/contentFile.aspx?filename=DAP 211216 - Agenda.pdf>

The subject application seeks to vary the previously approved application by replacing the carport of Residence 1 on the western boundary with an enclosed garage incorporating a wall on the western boundary.

SUBJECT LAND & LOCALITY

The subject land is located at 87 Lascelles Avenue, Warradale. The site is a regular shaped allotment with a 19.2 metre frontage, a depth of 45.72 metres and a total site area of 877.82m². The site is relatively flat and a single storey dwelling with associated verandas and outbuildings exists on the site. There are no existing significant trees on the site.

A large Celtis Australis street tree with a trunk circumference of approximately 1.9 metres exists within the Council verge.

The locality consists primarily of single storey detached dwellings varying in styles from bungalows and post war housing on large allotments to more recently constructed detached and group dwellings on smaller allotments. While the majority of dwellings have street frontage, there are some buildings in the immediate locality which have shared driveway access leading to a battle axe allotment.

The subject land is within close proximity of a Regional Centre Zone comprising shopping, community services and facilities, employment and good public transport links being within 500 metres of a bus interchange and approximated 650 metres from Warradale Railway Station.

Refer Attachment II

PROPOSED DEVELOPMENT

The subject application seeks to vary the previously approved application by replacing the carport of Residence 1 on the western boundary with an enclosed garage incorporating a wall on the western boundary.

As such, the following assessment relates only to the replacement of the previously approved carport on the western boundary (incorporating an open structure) with an enclosed garage structure incorporating a wall on the western boundary of the allotment.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	13 properties were notified during the Category 2 public notification process
Representations:	1 valid representation was received by Council
Persons wishing to be heard:	85A Lascelles Avenue, Warradale
Summary of representations:	<p>85A Lascelles Avenue, Warradale</p> <ul style="list-style-type: none">• A desire for the fence on the side boundary between 85A Lascelles and 87 Lascelles to remain intact due to concerns about the potential ongoing maintenance of the wall on the boundary once construction is complete• Concerns about the potential impact the wall on the boundary will have on the existing flower bed, side gate and side path adjacent the eastern boundary of 85A Lascelles Avenue. <p><i>Refer Attachment IV</i></p>
Applicant's response:	See attached <i>Refer Attachment V</i>

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:

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>		Complies
<p><i>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:</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>		Complies
Parameter	Value	
Maximum wall or post height	3 metres	Does Not Comply Residence 1 carport: 3.08m
Maximum length on the boundary	8 metres or 45 per cent of the length on that boundary (whichever is the lesser)	Complies The carport to Residence 1 is 6.45 metres in length
Overshadowing		
<p><i>The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</i></p> <p><i>(a) windows of habitable rooms</i></p> <p><i>(b) upper-level private balconies that provide the primary open space area for a dwelling</i></p> <p><i>(c) solar collectors (such as solar hot water systems and photovoltaic cells).</i></p> <p><i>General Section: Design & Appearance: PDC 9</i></p> <p><i>Except where otherwise specified in a zone, policy area or precinct, development should ensure that:</i></p> <p><i>(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</i></p> <p><i>(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></p> <p><i>(i) half of the existing ground level private open space</i></p> <p><i>(ii) 35 square metres of the existing ground level private open space</i></p> <p><i>(c) where overshadowing already exceeds the requirements contained in part (b), development should not increase the area overshadowed.</i></p> <p><i>General Section: Design & Appearance: PDC 10</i></p>		<p>Complies</p> <p>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.</p> <p>b) Given that north forms the street boundary to Residence 1, a majority of winter shadow will be cast within the rear yard of that Residence.</p> <p>Consequently, the extent of shadow cast onto the windows of habitable rooms and private open space of adjacent properties by the proposed wall on the western boundary complies with PDC 9 and 10.</p>

TABLE DISCUSSION

The proposal is deemed to satisfy the majority of the applicable principles of development control contained within the Marion Council Development Plan. However, the following non-compliance is noted and discussed in further detail below:

- With a height of 3.08 metres measured from ground level, the height of garage wall on the western boundary exceeds 3.0 metres in height.

Whilst it is noted that the structure located on the boundary exceeds the maximum 3.0 metre wall height permitted within the Marion Council Development Plan, Schedule 1A of the Development Regulations (2008) permits a maximum wall height of 3 metres “as of right” without the need for Development Plan Consent which states;

3 – Outbuildings (1)

(1) The construction or alteration of, or addition to, an outbuilding...in which human activity is secondary, and which —

(c) in the case of a garage—is set back at least 5.5 metres from the primary street; and

(d) complies with the following requirements as to dimensions:

(i) a total floor area not exceeding 40 square metres;

(ii) a wall height not exceeding 3 metres (measured as a height above the natural surface of the ground and not including a gable end);

(iii) a roof height where no part of the roof is more than 5 metres above the natural surface of the ground;

(iv) if situated on a boundary of the allotment—a length not exceeding 8 metres;...

In addition, the excess in wall height when assessed against the Development Plan is unlikely to be visually obtrusive and will not, in my opinion have an unreasonable visual impact on the adjoining property.

ANALYSIS/CONCLUSION

The Development Plan anticipates garage walls on boundaries to a maximum height of 3.0 metres measured from natural ground level. In addition, garages walls can be constructed on a side boundary to a height of 3.0 metres from natural ground level without requiring Development Plan Consent under Schedule 1A of the Development Regulations, 2008. The proposed wall is 3.08 metres in height on the western boundary of the allotment and as such it marginally exceed the maximum numerical standard of 3.0 metres from natural ground level. In my opinion, a wall of this height is unlikely to impact on the neighbouring land to such an extent as to lessen the occupant's enjoyment of their land or adversely impact on their amenity.

As such it is my view that the proposed development is not seriously at variance to the Development Plan. Further, the proposed development sufficiently accords with the relevant provisions of the 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: 100/2016/468 (DAC Reference:100/C218/16) for a two storey detached dwelling and a residential flat building comprising two dwellings to the rear with associated car parking and landscaping at 87 Lascelles Avenue, Warradale be GRANTED subject to the following conditions:

CONDITIONS

- 1. The development shall proceed in accordance with the amended plans and details prepared by Alexander Brown Architects stamped and dated 19 April 2017 and 'Site Works and Drainage Plan' prepared by PG Structures stamped and dated 4 June 2017 submitted with and forming part of Development Application No. 100/2017/468; and plans and details prepared by Alexander Brown Architects stamped and dated 14 December 2016 submitted with and forming part of Development Application No. 100/2016/1787 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. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details prior to the occupation of the premises to the reasonable satisfaction of Council.
- 4. Stormwater from all structures 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 Sheet "Stormwater Detention" to the reasonable satisfaction of the Council (copies of relevant documents are attached).
- 5. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of native trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council.
- 6. All existing vegetation nominated to be retained and all new vegetation to be planted shall 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.
- 7. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers to facilitate the movement of persons with a disability).
- 8. 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.

9. 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.
10. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.
11. All 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.

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. The proposed crossover/access must be constructed a minimum of one (1) metre clear of all infrastructure, at its closest point, including but not limited to, stobie poles, SEP's, pram ramps etc.
4. 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 & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment IV:</i>	<i>Representations received</i>
<i>Attachment V:</i>	<i>Applicants response to representations received</i>
<i>Attachment VI:</i>	<i>Clarification letter issued to representor</i>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No: DAP190717 – 2.4

Originating Officer: Kristen Sheffield
Development Officer - Planning

Applicant: Rossdale Homes Pty Ltd

Development Description: Two-storey detached dwelling and a single-storey residential flat building comprising two dwellings

Site Location: 3 Winton Avenue, Warradale

Zone: Residential Zone

Policy Area: Medium Density Policy Area 12

Application Type: Category 2 / Consent

Lodgement Date: 27/07/2016

Development Plan: Consolidated – 28 April 2016

Application No: 100/1354/2016

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

CATEGORISATION & DELEGATION

The subject application is a Category 2 form of development by virtue of Schedule 9, Part 2, 18(b) of the Development Regulations 2008, which assigns development comprising two or more dwellings on the same site where at least one of those dwellings is two storeys high as Category 2 development.

The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed new dwelling supporting an allotment area less than the minimum of 300 square metres required for detached dwellings within the Medium Density Policy Area 12. Council has delegated decisions with respect to undersize allotments 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
POS should comprise a minimum 20% of the site area for each dwelling proposed.	POS of each House 2 and 3 increased from 17.1% to 19.3%

Rear setback should increase to reflect Council's Policies of 6 metres with an incursion of 3 metres for up to 50% of the allotment width.	Layout of House 2 and 3 altered to provide a 5 metre rear setback (increased from 0.9 metres).
Two-storey wall on common driveway boundary not considered appropriate, an increased side setback should be provided between House 1 and the common driveway servicing House 2 and 3.	Upper level setback to common driveway increased from 0 metres to 1.32 metres.
Landscaping should be provided forward of Bed 1 of House 2 and 3.	Landscaping provided.
Driveway crossovers should be minimised and comprise a maximum width of 5 metres.	Driveway crossover proposed to House 1 reduced in width to a maximum of 5 metres.
0.5 metre landscaping strips should be provided on either side of the common driveway.	Landscaping strips provided.
Side and rear facing upper level windows should be fixed and obscured to 1.7 metres above the upper floor level.	Side and rear facing upper level windows fixed and obscured to 1.7 metres above the upper floor level.

SUBJECT LAND & LOCALITY

The subject site is located at 3 Winton Avenue, Warradale. The allotment is rectangular with a width of 17.069 metres, depth of 49.989 metres, and total site area of 853.3 square metres.

The subject land currently accommodates a single-storey detached dwelling in average condition with vehicular access adjacent the southern side boundary. 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 is primarily residential in nature, comprising a mixture of dwelling types including original detached dwellings on large allotments as well as detached, semi-detached and row dwellings on smaller redeveloped allotments.

The site is adjacent the Holdfast Bay Council area, which commences on the western side of Winton Avenue, and includes a small public open space reserve 40 metres from the subject land. In the wider locality, the Brighton Oval Sport complex (also within the Holdfast Bay Council Area) is sited 650 west of the subject land, while the Warradale reserve, which includes tennis courts, picnic tables and a children's playground, is located some 750 metres to the south-east. A Local Centre Zone is sited within close proximity to the north of the subject land, and the Marion Regional Centre Zone is located 900 metres walking distance to the east. The Warradale Railway station is sited some 250 metres to the north-east.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The application proposes the construction of a two-storey detached dwelling (Dwelling 1) facing Winton Avenue, and a single storey residential flat-building comprising two dwellings (Dwellings 2 and 3) to the rear.

Dwelling 1 is two-storey in nature and incorporates three bedrooms (main with ensuite, WIR and balcony presenting to the street) and a bathroom on the upper level whilst the ground level incorporates a double garage, laundry/pantry, WC and open plan kitchen/living/meals area with direct access to the main area of private open space.

Dwellings 2 and 3 (residential flat dwellings) are single-storey in nature and incorporate three bedrooms (main with ensuite and WIR), laundry, bathroom and open plan kitchen/living/meals areas with direct access to the associated area of private open space. Both dwellings are provided with single width garages and an associated visitor space. Vehicular access is achieved through an internal common driveway running the length of the southern boundary.

Low to high level landscaping has been provided throughout the subject site, and along both sides of the common driveway.

Refer Attachment III

PUBLIC NOTIFICATION

Properties notified:	10 properties were notified during the Category 2 public notification process.
Representations:	1 representation in favour of the application, subject to certain amendments or provisions being met, was received by Council
Summary of representations:	Fencing concerns. <i>Refer Attachment IV</i>

INTERNAL DEPARTMENT COMMENTS

Engineering:	Vehicular manoeuvrability within the site is deemed satisfactory and meets relevant Australian Standards.
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ZONE & POLICY AREA ASSESSMENT

The relevant objectives, desired character and principles of development control of the Residential Zone and Medium Density Policy Area 12 are listed in the following table and discussed in further detail below:

Residential Zone

Objectives

- 1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.
- 2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.

Medium Density Policy Area 12

Objectives

- 1 A residential policy area comprising a range of medium-density dwellings designed to integrate with areas of open space, neighbouring centres or public transport nodes.
- 2 Development that minimises the potential impact of garaging of vehicles on the character of the area.
- 3 Development that supports the viability of community services and infrastructure and reflects good residential design principles.
- 4 Development that contributes to the desired character of the policy area.

Desired Character

This policy area encompasses areas especially suitable for a wide range of low and medium-density housing, such as detached, semi-detached, row and group dwellings, residential flat buildings, supported accommodation and student and other special purpose housing. Medium density development is especially suited to areas in proximity to centres and public transport, and to areas where such development already occurs (as in the area redeveloped by the former South Australian Housing Trust in Mitchell Park).

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. 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, subject to the impact of the additional height and bulk not adversely impacting upon the amenity of existing neighbouring development. Buildings with two storeys plus attic are appropriate where located centrally within a large site.

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.

Amalgamation of properties is desirable where it will facilitate appropriately designed medium-density development. Through the gradual redevelopment of properties (particularly those containing lower valued improvements), a wider range of dwelling types will be provided to meet a variety of accommodation needs. 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	The following forms of development are envisaged in the policy area: ▪ affordable housing ▪ dwelling including a residential flat building ▪ supported accommodation.	Complies
PDC 2	Development should not be undertaken unless it is consistent with the desired character for the policy area.	Complies
PDC 3	Medium density development should be in the form of 2 storey buildings with an ability to provide a 3rd storey addition within the roof space.	Partially Complies
PDC 5	In the case of more than one dwelling on one site, access to parking and garaging areas from public streets should be via a minimum number of common driveways.	Complies
PDC 6	Minimum Site Area: Detached dwellings (House 1): 300m ² Residential flat dwellings (House 2 & 3): 250m ²	Does Not Comply House 1: 244m ² House 2 & 3: 221.8m ² Partially Complies Average site areas of House 2 and 3: 304.65m ² (including common driveway)
	Minimum Frontage: Detached dwellings (House 1): 10m Residential flat dwellings (House 2 & 3): 4m (hammerhead handle width)	Complies House 1: 13.069m House 2 & 3: 4m
	Minimum Depth: Detached dwellings (House 1): 20m Residential flat dwellings (House 2 & 3): 45m	Does Not Comply House 1: 18.997 Complies House 2 & 3: 49.989m

Assessment

Objectives & Desired Character

The application proposes to replace an existing single storey detached dwelling in average condition, with three dwellings, in the form of a two-storey detached dwelling, and a single-storey residential flat building comprising two dwellings to the rear of the site. Detached dwellings and residential flat buildings are both forms of development anticipated by PDC 1.

Given that the subject land is located in close proximity to public transport routes and within reasonable walking distance of public open space and centre facilities, the wider locality contains features identified in Objective 2 of the Residential Zone and Objective 1 of the Medium Density Policy Area 12 as warranting increased residential densities.

It is envisaged that medium density development that achieves gross densities of between 23 and 45 dwellings per hectare (development with site areas of between 149.3 and 250 square metres) should be in the form of 2 or 3 storey buildings. The proposed development achieves this intent in part, with a two-storey detached dwelling proposed. The remaining single-storey dwellings are nonetheless considered appropriate given the 'hammerhead' nature of the development.

The application is consistent with the Desired Character of the Medium Density Policy Area 12 in that it will provide both single and two-storey medium density dwellings, and redevelop the site at a higher density compared to that typical of the original housing stock in the area.

This being said, the Desired Character also encourages a wide range of dwelling types to meet a variety of accommodation needs. All proposed dwellings feature three bedrooms and therefore do not provide a distinct variety in dwelling size. However, it could be interpreted that the mixture of two-storey and single storey dwellings on the subject land achieves the desired variety of dwelling types. Whilst the proposed similarity in dwelling size is not ideal, the Development Plan does not specifically seek a mixture of dwelling sizes in relation to bedrooms, and therefore this aspect of the proposal is not of sufficient weight to warrant refusal.

On balance, the proposal is considered to adequately comply with the Objectives and Desired Character of the Medium Density Policy Area 12.

Site Areas

The site area of each proposed allotment fails to meet the minimum prescribed for detached and residential flat buildings within the Medium Density Policy Area 12.

Detached dwellings require a minimum 300 square metres whereas House 1 comprises an allotment area of 244 square metres, which equates to a shortfall of 56 square metres (18.7%). Although the undersized nature of the allotment is substantial, the allotment presents a frontage width reflective of that required for detached dwellings within this policy area. As such, in my opinion, the undersized nature of the allotment will not be apparent from the street as the predominant pattern of wider frontages for detached dwellings will be maintained.

House 2 and 3 each maintain an average site area of 221.8 square metres each, where an average of 250 square metres is prescribed for residential flat dwellings within the Medium Density Policy Area 12. This equates to a shortfall of 28.2 square metres per dwelling, or 11.3% less than the minimum sought. While the individual site area of each dwelling falls somewhat short of the prescribed minimum, it is noted that these figures exclude the common driveway and manoeuvring areas. This method of calculating site area has been employed in accordance with Principle 8 (General Section: Land Division), which stipulates that:

Allotments in the form of a battleaxe configuration should... have an area, that meet the minimum allotment sizes for the proposed form of dwelling, (excluding the area of the 'handle' of such an allotment).

It is noted that if the driveway and manoeuvring areas were to be included within site area calculations, the combined allotment and driveway area of House 2 and 3 would equate to 609.3 square metres, or 304.65 square metres per allotment, well above the minimum 250 square metres sought.

Given the individual shortfalls in site area, it is important to consider whether the proposed residential densities are fundamentally contradictory to that anticipated within the Policy Area. In this regard it is noted that the whole site area of the land (853.3 square metres) is more than that required for one detached dwelling and two group dwellings ($300 + 250 + 250 = 800$ square metres). In addition, it is noted that the site area could support three group dwellings on average, and it is only by the configuration of the site that House 1 requires 300 square metres. Therefore, it may be suggested that while the site configuration results in shortfalls in site area, the proposed density is not necessarily inconsistent with that envisaged for the Policy Area

In my opinion, the above considerations may suggest that the shortfalls in site areas may not be fatal to the merit of the subject application. However, it is also important to consider whether the shortfalls in site areas have resulted in subsequent design shortfalls. The design and form of the dwellings is assessed in the following section 'Development Assessment'.

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"> <thead> <tr> <th>Site area</th><th>Maximum Site Coverage</th><th>Maximum Floor Area Ratio</th></tr> </thead> <tbody> <tr> <td>250 - 325 m²</td><td>130 m²</td><td>0.6</td></tr> <tr> <td>< 250 m²</td><td>100 m²</td><td>0.7</td></tr> </tbody> </table> <p>100m² and 0.7 apply</p> <p><i>Medium Density Policy Area 12: PDC 7</i></p>			Site area	Maximum Site Coverage	Maximum Floor Area Ratio	250 - 325 m ²	130 m ²	0.6	< 250 m ²	100 m ²	0.7
Site area	Maximum Site Coverage	Maximum Floor Area Ratio									
250 - 325 m ²	130 m ²	0.6									
< 250 m ²	100 m ²	0.7									
<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>(a) <i>would not be contrary to the relevant setback and private open space provisions</i></p> <p>(b) <i>would not adversely affect the amenity of adjoining properties</i></p> <p>(c) <i>would not conflict with other relevant criteria of this Development Plan.</i></p> <p><i>Residential Zone: PDC 9</i></p>											
<p>Site coverage:</p> <p>Does Not Comply House 1: 133.5m² House 2 & 3: 125.8m²</p> <p>Floor area ratio:</p> <p>Complies House 1: 0.65 (159.2 m²)</p>											
<p>Complies</p> <p>The proposal generally maintains appropriate setbacks to boundaries and allows for adequate POS. As such, the excess in site coverage is unlikely to adversely affect the amenity of adjoining properties. These points will be discussed further throughout this report.</p>											

<p>Site coverage should ensure sufficient space is provided for:</p> <p>(a) pedestrian and vehicle access and vehicle parking</p> <p>(b) domestic storage</p> <p>(c) outdoor clothes drying</p> <p>(d) rainwater tanks</p> <p>(e) private open space and landscaping</p> <p>(f) convenient storage of household waste and recycling receptacles.</p> <p>General Section: Residential Development: PDC 14</p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS and waste storage.</p>						
<p>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.</p> <p>General Section: Residential Development: PDC 15</p>	<p>Does Not Comply</p> <p>15.8% (134.9m²)</p>						
<p>Private Open Space</p>							
<p>Dwellings should include POS that conforms to the requirements identified in the following table:</p> <table><tr><th>Site area of dwelling</th><th>Minimum area of POS</th><th>Provisions</th></tr><tr><td>175 square metres or greater</td><td>20 per cent of site area</td><td>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.</td></tr></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.	<p>Partially Complies</p> <p>House 1: 21.4% (52.1m²) 5 x 5 metre POS dimension not achieved. (4.079m x 12.5m achieved)</p> <p>House 2 and 3: 19.3% (42.7m²) 5 x 5 metre POS dimension achieved.</p>
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.					
<p>Residential Zone: PDC 7</p>							
<p>Private open space should be provided for exclusive use by residents of each dwelling, and should be sited and designed:</p> <p>(a) to be accessed directly from the internal living rooms of the dwelling</p> <p>(b) to be generally at ground level (other than for dwellings without ground level internal living rooms)</p> <p>(c) to be located to the side or rear of a dwelling and screened for privacy</p> <p>(d) to take advantage of, but not adversely affect, natural features of the site</p> <p>(e) to minimise overlooking from adjacent buildings</p> <p>(f) to achieve separation from bedroom windows on adjacent sites</p> <p>(g) to have a northerly aspect to provide for comfortable year round use</p> <p>(h) to not be significantly shaded during winter by the associated dwelling or adjacent development</p> <p>(i) to be partly shaded in summer</p> <p>(j) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality</p> <p>(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.</p> <p>General Section: Residential Development: PDC 16</p>	<p>Complies</p> <p>a) All POS areas are directly accessible from the internal living rooms of the dwelling.</p> <p>b) All POS is located at ground level</p> <p>c) All POS is located to the side/rear of the dwellings and capable of being screened for privacy.</p> <p>d) The subject land does not maintain natural features which warrant preservation.</p> <p>e) The POS areas should not be directly overlooked by adjacent buildings.</p> <p>f) POS areas are not located next to bedrooms of dwellings on adjacent sites.</p> <p>g) The proposed POS area of House 1 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><i>Private open space should not include:</i></p> <p>(a) any area covered by a dwelling, carport, garage or outbuildings</p> <p>(b) driveways, effluent drainage areas, rubbish bin storage areas, site for rainwater tanks and other utility areas</p> <p>(c) common areas such as parking areas and communal open spaces</p> <p>(d) any area at ground level at the front of the dwelling (forward of the building line)</p> <p>(e) any area at ground level with a dimension less than 2.5 metres</p> <p>General Section: Residential Development: PDC 17</p>	<p>Partially Complies</p> <p>g) The proposed POS areas of House 2 and 3 face east, which should nonetheless receive adequate levels of northern sunlight.</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>General Section: Residential Development: PDC 22</p>	<p>Complies</p>
<p>Building Setbacks from Road Boundaries</p>	
<p><i>Minimum setback from primary road frontage where an established streetscape exists:</i></p> <p>5 metres within Medium Density Policy Area 12</p> <p>8 metres from arterial roads shown on Overlay Map – Transport</p> <p>Residential Zone: PDC 6</p>	<p>Complies</p> <p>House 1: 5.087m</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>General Section: Residential Development: PDC 37</p>	<p>Complies</p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>
<p>Side Setbacks</p>	
<p><i>Minimum setback from side boundaries:</i></p> <p><i>Where the wall height is not greater than 3 metres:</i></p> <p>0.9 metres</p> <p><i>Where the wall height is between 3 metres and 6 metres:</i></p> <p>(a) 3 metres if adjacent southern boundary</p> <p>(b) 2 metres in all other circumstances.</p> <p>Residential Zone: PDC 6</p>	<p><u>Wall height not greater than 3 metres</u></p> <p>Complies</p> <p>House 1</p> <p>Northern side setback: 4.079m</p> <p>Southern side setback: 0m to internal (common driveway) boundary, 4m to southern side boundary</p> <p>House 2</p> <p>Northern side setback: 0.999m</p> <p>House 3</p> <p>Southern side setback: 0.999m</p> <p><u>Wall height between 3 metres and 6 metres</u></p> <p>Complies</p> <p>House 1</p> <p>Northern side setback: 4.079m</p> <p>Southern side setback: 1.32m to internal (common driveway) boundary, 5.32m to southern side boundary</p>

<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i></p> <ul style="list-style-type: none"> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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><i>General Section: Design and Appearance: PDC 2</i></p>	<p>Complies</p> <p>Despite both the lower and upper level of House 1 achieving limited separation from the internal boundary (located adjacent the common driveway servicing Lots 2 and 3), it is also acknowledged that the two storey wall will be setback 5.32m from the existing southern side boundary. As such, any overshadowing/visual impacts are considered to be contained within the subject land and adjacent an area used for vehicle movements.</p>
<h2>Rear Setbacks</h2>	
<p><i>Minimum setback from rear boundary:</i></p> <ul style="list-style-type: none"> <i>(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</i> <i>(b) 6 metres for all other parts of the dwelling with a wall height greater than 3 metres</i> <p><i>Residential Zone: PDC 6</i></p>	<p><u>Wall height not greater than 3 metres</u></p> <p>Partially Complies House 2 and 3: 5.001m</p>
<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i></p> <ul style="list-style-type: none"> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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><i>General Section: Design and Appearance: PDC 2</i></p>	<p>Complies</p> <p>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 (as discussed further in the Overshadowing and Visual Privacy sections of this report). As such, 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.</p>
<h2>Building Height</h2>	
<p><i>Maximum building height (from natural ground level):</i></p> <ul style="list-style-type: none"> <i>(i) 2 storeys of not more than 9 metres</i> <i>(ii) 2 storeys with an ability to provide a 3 storey addition within the roof space of not more than 10 metres</i> <p><i>Residential Zone: PDC 7</i></p>	<p>Complies</p> <p>House 1 incorporates a maximum building height of 7.6 metres, which is less than the maximum permitted in the Policy Area.</p> <p>House 2 and 3 incorporate a maximum building height of 4.5 metres.</p>
<p><i>Buildings on battle-axe allotments or the like should be single storey to reduce the visual impact of taller built form towards the rear of properties, and to maintain the privacy of adjoining residential properties.</i></p> <p><i>General Section: Residential Development: PDC 2</i></p>	<p>Complies</p>
<h2>Garages, Carports, Verandas and Outbuildings</h2>	
<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>Complies</p> <p>Each proposed garage is incorporated under the main roof of the associated dwelling.</p>

<p>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:</p> <p>General Section: Residential Development: PDC 12</p>		Complies
Parameter	Value	
Maximum floor area	60 square metres	
Maximum wall or post height	3 metres	
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.	
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 House 1: Garage set back 5.679 metres, 0.592 metres behind the main face of the dwelling
<p>Carports and garages should be setback from road and building frontages so as to:</p> <p>(a) not adversely impact on the safety of road users</p> <p>(b) provide safe entry and exit.</p> <p>General Section: Residential Development: PDC 13</p>		Complies
Vehicle Parking		
<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 & Access: PDC 34</p>		Complies
Detached Semi-detached Row	2 per dwelling containing up to 3 bedrooms one of which is to be covered.	<p>House 1: Four spaces provided, two covered spaces within the garage and two visitor spaces within the driveway.</p> <p>House 2 and 3: Each dwelling provides one garage space and one open visitor space, which equals a total of 4 on-site parking spaces. However, no independently accessible visitor parks are available.</p> <p>Note: 1.5 resident spaces x 2 dwellings = 3 Plus 0.6 visitor spaces required for 2 dwellings = 3.6 on-site spaces required</p>
*Applies for House 1		
Group Residential flat building	1.5 per dwelling one of which is to be covered plus 1 visitor space per 3 dwellings.	
*Applies for House 2 and 3		
Table Mar/2 - Off-street Vehicle Parking Requirements.		
<p>On-site vehicle parking should be provided having regard to:</p> <p>(a) the number, nature and size of proposed dwellings</p> <p>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</p> <p>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</p> <p>(d) availability of on-street car parking</p> <p>(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 & Access: PDC 43</p>		<p>Complies</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>Does Not Comply</p> <p>d) e) The proposed development results in a loss of on street car parking, as only one on-street car parking space shall remain available adjacent the subject land, where two spaces are currently available.</p>														
<p>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</p> <p>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</p> <p>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</p> <p>(c) reinforce or contribute to attractive streetscapes.</p> <p>General Section: Transportation & Access: PDC 44</p>	<p>Complies</p> <p>(a) (b) Council's Development Engineer has advised that the development provides adequate space for vehicles to manoeuvre between the street and parking area in an efficient, convenient and safe manner.</p> <p>(c) The proposed vehicle parking areas are located to the rear of the site and therefore should maintain an attractive streetscape.</p>														
<p>The provision of ground level vehicle parking areas, including garages and carports (other than where located along a rear lane access way), should:</p> <p>(a) not face the primary street frontage</p> <p>(b) be located to the rear of buildings with access from a shared internal laneway</p> <p>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</p> <p>General Section: Transportation & Access: PDC 45</p>	<p>Complies</p> <p>The parking areas of House 2 and 3 are located to the rear of House 1 with access from a shared internal laneway, and therefore do not face the primary street frontage.</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>Does not Comply</p> <p>One on-street car parking space is provided for the proposed allotments, which does not satisfy PDC 22.</p>														
Access															
<p>The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of:</p> <p>(a) 3 metres wide for a single driveway</p> <p>(b) 5 metres wide for a double driveway.</p> <p>General Section: Residential Development: PDC 39</p>	<p>Complies</p> <p>House 1: 5m</p> <p>Dwellings 2 and 3: Existing crossover utilized for the proposed common driveway.</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>Complies</p> <p>The proposed crossover does not interfere with street infrastructure or street trees.</p>														
<p>Driveways serving hammerhead sites, or more than one dwelling, should satisfy the following:</p>	<p>Complies</p> <p>3-metre-wide common driveway + 0.5 metre landscaping strips on either side.</p>														
<table><tr><td rowspan="3">Dwellings served</td><td colspan="2">Trafficable width (metres)</td><td rowspan="3">Width beyond first 6 metres</td><td rowspan="3">Minimum landscape strips on both sides of driveway (metres)</td></tr><tr><td colspan="2">Intersection with public road and first 6 metres</td></tr><tr><td>Arterial roads</td><td>Other roads</td></tr><tr><td>1 – 3</td><td>6</td><td>3</td><td>3</td><td>0.5</td></tr></table> <p>General Section: Residential Development: PDC 41</p>	Dwellings served	Trafficable width (metres)		Width beyond first 6 metres	Minimum landscape strips on both sides of driveway (metres)	Intersection with public road and first 6 metres		Arterial roads	Other roads	1 – 3	6	3	3	0.5	
Dwellings served		Trafficable width (metres)				Width beyond first 6 metres	Minimum landscape strips on both sides of driveway (metres)								
		Intersection with public road and first 6 metres													
	Arterial roads	Other roads													
1 – 3	6	3	3	0.5											

<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>Does Not Comply</p> <p>Vehicle access points are not separated by a minimum distance of 6 metres. However, this does not impact upon the availability of on-street car parking, with only one on-street car parking space available, regardless of whether the vehicle access points are separated or not.</p>
<p>Design & Appearance</p>	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <ul style="list-style-type: none"> <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><i>General Section: Design & 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 & Appearance: PDC 3</i></p>	<p>Complies</p> <p>The proposed dwellings reflect the desired character of the locality, and incorporate a relatively contemporary designs.</p> <p>House 1 incorporates a mixture of face brickwork to the portico and lower level and texture coated render panel to the upper level. Stepping is provided between the lower and upper levels of the southern side of the dwelling. While it is acknowledged that stepping between the lower and upper levels of the northern elevation of this dwelling is limited, a reasonable level of articulation is nonetheless provided due to a mixture of face brickwork, render and a verandah element to this elevation, avoiding extensive areas of uninterrupted walling exposed to public view.</p> <p>Dwellings 2 and 3 also incorporate white render to the front façade and face brickwork to the remaining façades.</p> <p>All dwellings incorporate Colorbond roof sheeting in 'Ironstone' at a 25-degree pitch and garage doors also in 'Ironstone'.</p> <p>The proposed materials should not result in unreasonable 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>Balconies should:</i></p> <ul style="list-style-type: none"> <i>(a) be integrated with the overall form and detail of the building</i> <i>(b) include balustrade detailing that enables line of sight to the street</i> <i>(c) be recessed where wind would otherwise make the space unusable.</i> <p><i>General Section: Design & Appearance: PDC 5</i></p>	<p>Complies</p> <p>The proposed balcony to House 1 is integrated into the front façade design, with clear glass balustrade that enables line of sight to the street.</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>Complies</p>

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.

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

Complies

House 1 is designed so that the main facade faces the primary street frontage, presenting an entrance door, portico and habitable windows to the street.

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.

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) A majority of winter shadow will be cast within the common driveway servicing House 2 and 3. While some shadow will be cast into the southern adjoining property, the generous southern side upper level setback of 5.32 metres is sufficient to ensure 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 balcony on the front façade is oriented to obtain views of the streetscape.

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.

Noise

External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:

- (a) active communal recreation areas, parking areas and vehicle access ways*
- (b) service equipment areas and fixed noise sources on the same or adjacent sites.*

General Section: Residential Development: PDC 30

Complies

House 2 and 3 feature bedroom windows sited adjacent the common driveway. These windows are separated from the common driveway by a distance of 1 metre and incorporate landscaping between the driveway and bedroom window. This combination of separation and landscaping is considered to provide sufficient "separating or shielding" to minimise external noise and light intrusion as envisaged by PDC 29.

Window shutter devices, external screening or alternative additional preventative measures could be constructed/installed by future occupants, if desired.

Site Facilities and Storage

Site facilities for group dwellings, multiple dwellings and residential flat buildings should include:

- (a) mail box facilities sited close to the major pedestrian entrance to the site*
- (b) bicycle parking for residents and visitors (for developments containing more than 6 dwellings)*
- (c) household waste and recyclable material storage areas located away from dwellings and screened from public view.*

General Section: Residential Development: PDC 31

Partially Complies

a) Mail box facilities have not been specified within the proposal. It is included as a recommended condition of consent that common letterboxes be provided towards the front boundary.

b) Not applicable, as the development does not contain more than 6 dwellings.

c) Although common waste storage areas are not provided, this is not considered necessary given that each dwelling maintains side gate access to its rear garden. As such, bins could be efficiently stored in the private utility areas of each dwelling.

Energy Efficiency	
<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>2 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>Complies</p> <p>House 1 is oriented so that the POS and 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 main activity areas of House 2 and 3 are oriented east, which should nonetheless receive some northern winter sunlight.</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>Complies</p> <p>The dwellings incorporate a hipped roof form set at a 25 degree pitch, with north-facing sections upon which solar collectors could be sited efficiently.</p>
Flooding	
<p><i>Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.</i></p> <p><i>General Section: Hazards: PDC 4</i></p> <p><i>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:</i> <i>(a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event</i> <i>(b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.</i></p> <p><i>General Section: Hazards: PDC 5</i></p>	<p>Complies</p> <p>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 levels of 100.5, and setbacks from boundaries should prevent the entry of floodwaters in a 1-in-100 year average return interval flood event.</p>
Landscaping, Fences and Walls	
<p><i>Development should incorporate open space and landscaping in order to:</i> <i>(a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)</i> <i>(b) enhance the appearance of road frontages</i> <i>(c) screen service yards, loading areas and outdoor storage areas</i> <i>(d) minimise maintenance and watering requirements</i> <i>(e) enhance and define outdoor spaces, including car parking areas</i> <i>(f) provide shade and shelter</i> <i>(g) assist in climate control within buildings</i> <i>(h) maintain privacy</i> <i>(i) maximise stormwater re-use</i> <i>(j) complement existing native vegetation</i> <i>(k) contribute to the viability of ecosystems and species</i> <i>(l) promote water and biodiversity conservation.</i></p> <p><i>General Section: Landscaping, Fences & Walls: PDC 1</i></p>	<p>Complies</p> <p>Landscaping is proposed throughout the development site. The proposed planting species and distribution should appropriately complement the built form and enhance the appearance of the road frontage and parking areas.</p>

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
- Percentage of pervious land area
- Private open space
- On-street car parking

Site coverage

The Medium Density Policy Area 12 prescribes maximum site coverage of 100 square metres per dwelling, whereas House 1 comprises site coverage of 133.5 square metres, and House 2 and 3 each comprise coverage of 125.8 square metres. The following considerations are noted with regard to the discrepancy in site coverage;

- (a) The Medium Density Policy Area 12 generally envisages maximum site coverage of 40%. In this regard, the overall site coverage equates to 45.1% of the total site area (including the common driveway), closely aligning with Council's policies.
- (b) 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.
- (c) The proposal generally achieves sufficient areas of private open space (POS) and setbacks from boundaries (discussed further below). Accordingly, the excess in built form should not result in a distinct impact on the function of the proposed dwellings nor the amenity of adjacent land.
- (d) 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 4-2B, which permits maximum site coverage of 60% for new detached and semi-detached dwellings. As such, 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.

Percentage of pervious land area

The Development Plan seeks for at least 20% of the land area to remain pervious in order to reduce levels of stormwater runoff from the land, reduce urban heat loading and improve micro-climatic conditions around sites and buildings as well as allow for effective deep planting. The proposed development fails to satisfy this requirement, with only 135 square metres (15.8%) remaining pervious and undeveloped. Whilst this excess is undesirable, it is acknowledged that paving a surface is not development, and may occur on any site to levels exceeding that sought by the Development Plan, without any approval required. Nonetheless the non-compliance in pervious surfaces is noted and considered accordingly with the overall merit of the proposal.

Private open space

Private open space should comprise at least 20% of the site area, incorporating a minimum dimension of 5 metres by 5 metres. While House 1 does not strictly provide an area of POS

meeting the minimum dimension requirement, the dimension provided (4.079 metres by 12.5 metres) is nonetheless considered sufficient.

Further, the proposed POS of House 2 and 3 equates to 19.3%, representing a shortfall of 1.66 square metres per dwelling. This shortfall is considered to be of minor consequence given that the POS of these dwellings nonetheless comprises sufficient area and shape to be functional for likely occupant needs.

On-street car parking

The proposed increase in density requires the provision of two (2) (rounded up from 1.5) on-street parking spaces adjacent the subject land (i.e. one on-street space per two allotments). However, only one on-street car park is maintained by the proposal. Given that the proposed development exceeds the total on-site parking requirements (albeit not including independently accessible on site visitor parks), and that the dwellings are located an acceptable walking distance to public transport and centre facilities, the shortfall in on-street car parking is deemed acceptable.

REPRESENTOR'S CONCERNS

The representor raised concerns over the replacement 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.

ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the nature of the proposed development complements the Desired Character and Objectives of the Medium Density Policy Area 12, as it achieves an increase in dwelling densities in close proximity to public transport routes and centre facilities.

Assessment of the proposal against qualitative and quantitative Development Plan criteria has demonstrated that the proposal generally achieves the design outcomes envisaged for residential development. However, it is acknowledged that the proposal maintains a number of numeric shortfalls including site coverage, percentage of pervious areas, private open space and on-street car parking. Further 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 on unreasonable impacts to the amenity of adjacent land, the streetscape, or the locality.

The most significant numeric shortfall maintained by the proposal involves site areas. However, despite the more substantial individual deficiencies in site area, the average site areas over the subject land (284.4 square metres per dwelling) nonetheless exceed the 250 square metres prescribed for group or residential flat dwellings within this Policy Area. Additionally, the proposed site areas are classified as medium density, which accords with the density envisaged to occur within the Medium Density Policy Area 12. Consequently, the proposed site areas and associated density are considered appropriate.

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: 100/1354/2016 for a two-storey detached dwelling and a single-storey residential flat building comprising two dwellings at 3 Winton Avenue, Warradale, 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. 100/1354/2016, except when varied by the following conditions of consent.
- 2. Common mail box facilities shall be provided at the front property boundary of the subject land. An amended site plan illustrating the mail facilities shall be submitted to Council for consideration and approval prior to Development Approval being issued.
- 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

- 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 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.
- 6. 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.
- 7. 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.
- 8. 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

<i>Attachment I:</i>	<i>Certificate of Title</i>
<i>Attachment II:</i>	<i>Aerial Photograph & Site Locality Plan</i>
<i>Attachment III:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment IV:</i>	<i>Statement of Representations</i>

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.5
Originating Officer:	Rob Tokley Acting Manager – Development and Regulatory Services
Applicant:	City of Marion
Development Description:	To remove a Regulated Tree (Lemon Scented Gum), situated within the Travers Street Reserve
Site Location:	37-41 Travers Street, Sturt
Zone:	Residential
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	11/10/2016
Development Plan:	Consolidated – 28 April 2016
Application No:	100/867/2017
Recommendation:	That Development Plan Consent and Development Approval be GRANTED

CATEGORISATION & DELEGATION

Pursuant to Schedule 9 of the Development Regulations 2008, development that comprises a tree-damaging activity in relation to a regulated tree on land owned or occupied by a council where the council is the relevant authority in relation to the development, is a Category 2 form of development

BACKGROUND

As some Panel Members may recall, Council and Housing SA have recently agreed to a 'land swap', whereby improved public road access was provided to the public reserve, whilst land suitable for residential development was provided to Housing SA.

The land in which the subject tree is situated is a result of the 'land swap' between the two organisations described above. It is intended the land in which the tree is situated is to be divided to create two allotments. Retention of the tree prevents one of the proposed Lots (Lot 502) to be developed in accordance with Council's Development Plan (please refer Attachment II for land division plan).

Most Members are also likely to recall that an application (DA 100/1876/2016) to remove the tree was considered by the Panel at its meeting of 21 December 2016. At the meeting, the Panel concurred with staff's recommendation that, whilst finely balanced, the tree warranted retention as it had been "*identified as providing an important aesthetic benefit and 'reasonable' (albeit not*

“important”) environmental benefit”. It was acknowledged however, that although the tree’s contribution to the character or visual amenity of the local area was considerable, it was acknowledged the removal of the tree would not be so noticeable that *“it would result in a significant erosion of the character or visual amenity of the locality”*.

The subject application has been lodged to enable a new assessment of the merits of the tree’s retention, as Council has sought independent advice from a Landscape Architect, Mr Mark Jackson, who has undertaken an assessment regarding the tree’s satisfaction of the applicable Development Plan criteria.

This professional holds qualifications and expertise in the consideration of visual amenity with regards to the natural environment, and as such, his assessment holds greater weight than that of a town planner.

SUBJECT TREE & LOCALITY

The subject tree is a *Corymbia citriodora* (Lemon-scented Gum) and located at 37-41 (lot 482) Travers Street, Sturt.

The tree is located some 4.6 metres from the southern (Travers Street) boundary of the land.

The tree incorporates a trunk circumference of 2.16 metres, height of 12 metres and canopy spread of approximately 20 metres.

The tree is situated in a well-treed locality, as the surrounding reserve to the north and east incorporates a number of large, established trees, typically being of *Eucalypt* and *Corymbia* species.

The locality is otherwise predominated by low density dwellings, on medium-large allotments, typically taking the form of single storey detached and semi-detached dwellings. A group of two storey residential flat buildings are located to the east of the reserve, and a group of single storey residential flat buildings are sited to the west of the subject land.

Refer Attachment I

PROPOSED DEVELOPMENT

The application seeks to remove the Lemon-scented Gum tree and to replace the tree with two River Red Gums within the Travers Street reserve.

Refer Attachment II

PUBLIC NOTIFICATION

Properties notified:	23 properties were notified during the Category 2 public notification process.
Representations:	No representations were received by Council.
Persons wishing to be heard:	N/A
Summary of representations:	N/A
Applicant’s response:	N/A

DEVELOPMENT ASSESSMENT

The relevant provisions of the Marion Council Development Plan are listed and assessed in the following table:

Provisions:

Assessment:

Regulated Trees	
OBJECTIVES 1 The conservation of regulated trees that provide important aesthetic and/or environmental benefit.	Partially complies See comments below
2 Development in balance with preserving regulated trees that demonstrate one or more of the following attributes: (a) significantly contributes to the character or visual amenity of the locality (b) indigenous to the locality (c) a rare or endangered species (d) an important habitat for native fauna.	Partially complies See comments below
PRINCIPLES OF DEVELOPMENT CONTROL 1 Development should have minimum adverse effects on regulated trees.	Does Not Comply See comments below
2 A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply: (a) the tree is diseased and its life expectancy is short (b) the tree represents a material risk to public or private safety (c) the tree is causing damage to a building (d) development that is reasonable and expected would not otherwise be possible (e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.	Does Not Comply See comments below

TABLE DISCUSSION

It has been a long-established planning approach that when considering the merits of an application to remove a regulated/significant tree, the 'planning merits' of the tree must first be examined.

In this regard, the tree must adequately satisfy Objectives 1 and 2 (although, not necessarily all) to warrant proceeding to the second step of assessment, an arboricultural investigation, considering the health and stability of the tree and risk to persons and property the tree may pose - regarding Principles 1 and 2.

As the 'planning merits' assessment criteria of the Development Plan require the assessor to consider the tree's contribution to character, amenity and the environment, the ERD Court has recognised that Landscape Architects are the professionals best placed to consider these matters.

Council has engaged the services of Mr Mark Jackson of Designwell Landscape Architects to conduct an assessment regarding the tree's contribution to the character and visual amenity of the area.

For the benefit of this assessment, each applicable Objective and Principle relating to Regulated Trees is listed below with commentary taken from Mr Jackson's report, with staff commentary below.

Objective 1 - The conservation of regulated trees that provide important aesthetic and/or environmental benefit.

Objective 2 - Development in balance with preserving regulated trees that demonstrate one or more of the following attributes:

- (a) significantly contributes to the character or visual amenity of the locality**
- (b) indigenous to the locality**
- (c) a rare or endangered species**
- (d) an important habitat for native fauna.**

Mark Jackson:

Mr Jackson observes, "the tree is easily identifiable from other local trees due to its isolated location, maturity, spread (20m) and proximity to Travers Street (14m). Despite the lengthy offset the Tree is of visual significance to the immediate streetscape...The tree itself is impressive with a relatively even canopy spread of sinuous reaching branches and localised clumps of leafy foliage typical of *Corymbia citriodora*. As a single specimen it would stand out in virtually any open space..."

"The tree is of significantly *less* visual prominence when approaching from the East along Travers Street...From a distance of 30m the Tree is barely visible due to another Lemon Scented Gum and an unidentified street tree..."

"The Tree is relatively isolated, making it more prominent when approaching from the West along Carlow Street. It can be seen clearly in the foreground at a distance of 85m."

"Further West along Carlow Street the Tree can still be seen from a distance of over 200m...Other local trees become visually prominent from this distance, illustrating a consistent characteristic of mature trees throughout the neighbourhood."

"Facing South across the Reserve from Myer Road...the Tree is clearly visible from 85m to the fringe of a cluster of trees. It is less of a focus from this orientation due to the presence of other mature trees in the foreground."

"Further along Myer Road...the Tree is still visible from 190m...the mature trees elsewhere in the neighbourhood begin taking more prominence with greater distance from the Tree."

"Whilst the tree is of local visual prominence it is not totally unique of the Myer Road Reserve. There are other trees in the immediate area with similar visual qualities...Whilst the Tree is a point of interest along the southern extents of the Reserve, if it were removed, another other Lemon Scented Gum 30m...to the east would become more prominent and serve a similar purpose."

"It can be concluded that the removal of the Tree would not affect the overall character of the area or visual amenity of the locality. The adjacent reserve contains many other trees of a similar size and same species and the removal of the tree will not significantly impact on the character or function of the space....The retention of the other most immediate Lemon Scented Gum would also help maintain the character of Myer Road Reserve." (my underline)

Administration:

The tree is an attractive specimen, with a healthy canopy spread and good vigour. The tree is one of many large trees within the local area contributing to the green 'leafy' character (discussed further below), and being of reasonable size, and being visible for some distance in the locality (discussed further below), it is considered the tree provides an important aesthetic benefit.

The subject tree is a Lemon-scented Gum, indigenous to New South Wales and Queensland.

Whilst the tree is not endemic to the local area and therefore the environmental benefit derived from the tree is limited, the tree nonetheless provides a food source for native birds and insects, and a place for birds to perch during the day. At present, there are no hollows for nesting.

The tree provides notable shade, which benefits pedestrians, users of the reserve and residents of adjacent dwellings; reducing urban heat loading.

In my opinion, the wording of Objective 1, to conserve trees that provide an “important environmental benefit”, refers to trees that are indigenous or endemic to the local area, are rare or endangered, or are providing significant habitat to native fauna.

As such, it is my view that the tree provides an environmental benefit of reasonable note, however, I cannot conclude this benefit is “important” as sought by the Development Plan.

In conclusion, as the subject tree has been identified as providing an important aesthetic benefit, and reasonable environmental benefit, it is my view the subject application to remove the tree fails to satisfy, albeit marginally, Objective 1.

The tree is an attractive specimen with (currently) limited impediments to compromise its continued growth.

Objective 2 seeks for development to occur “in balance with preserving trees...”. This wording, “in balance” is important when having regard to the overall merit of the proposal. Principle 2(d) (discussed below) provides further context for consideration.

As the tree is situated adjacent a well-treed reserve, it contributes to the character and visual amenity of the locality, which can be described as ‘leafy’, despite the recent removal of some large trees on the adjacent Housing SA property to the west.

Whether a tree such as this, adjacent a well-treed reserve contributes “significantly” to the character and visual amenity of the locality is, in my view, finely balanced.

One approach would be to consider that being one of the larger trees in a locality described as ‘leafy’, the tree contributes significantly to that character due to its height, canopy spread and prominence within the local area. On the other hand, it could be argued in this instance that as the tree is not substantially larger than the surrounding trees, it does not “significantly” contribute to the character, as it is the collective grouping of a number of trees that create the ‘leafy’ character.

In this regard, I note the tree has a height of some 12 metres. This height is not considerable, when having regard to the fact that mature *Corymbia* trees can reach a height (in a typical metropolitan Adelaide setting) of some 20 – 30 metres.

Whilst the tree remains one of the larger specimens within the reserve, and can be seen for some distance to the east and west along Travers Street, and to the north along Duncan Street and Myer Road, it is by far not the largest tree in the locality.

In my opinion, I cannot conclude the tree “significantly” contributes to the character or visual amenity of the locality. I believe the tree’s contribution is considerable, however, I would not consider the removal of the tree would be so noticeable that it would result in a significant erosion of the character or visual amenity of the locality.

In this regard, whilst somewhat finely balanced, I do not consider the removal of the tree to offend Objective 2(a).

The tree is not indigenous to the locality or a rare or endangered species and as such, the proposal does not offend Objective 2(b) or 2(c).

As discussed above, tree provides a food source for native birds and insects, and a place for birds to perch during the day. At present, the tree is not a good habitat source, as there are no hollows for nesting. Lemon-scented Gum trees are less prone to the creation of hollows, compared to other 'gum' species, such as River Red Gums. Furthermore, hollows will typically only form once a tree has reached full maturity; around 100 years in age.

For these reasons, it is my view that whilst the tree provides habitat, the value of such is not "important", and therefore the proposal to remove the tree does not offend Objective 2(d).

In conclusion, it is acknowledged that Objective 2 seeks for the development to be achieved "in balance" with the preservation of trees that satisfy one or more of parts (a) – (d). It is my opinion that the tree does not adequately satisfy Objective 2(a) – 2(d) (inclusive), and as such, there is a reasonable argument to state therefore that removal of the tree is justified on this basis.

Principle 1 - Development should have minimum adverse effects on regulated trees.

The proposal fails to satisfy Principle 1, as it seeks to remove the tree. However, the Development Plan does not anticipate that all regulated trees be retained.

Recent (November 2011) changes to the regulated tree controls occasionally provides some peculiar scenarios.

The land the tree is situated on is owned by Council. Council has resolved to sell the land to recoup costs associated with the 'land swap' with Housing SA. To maximise return, Council seeks to divide the land to create two allotments. The two allotments, exceed the minimum criteria for complying detached or semi-detached dwellings pursuant to Schedule 4 of the Development Regulations 2008.

As Members may be aware, any tree (except a Eucalypt or Agonis species) that is located within 10 metres of an existing dwelling or in-ground swimming pool is exempt from the regulated tree controls, irrespective of the trunk circumference.

As such, in the event Council determined not to divide the land and sold the property, the future owner could gain consent (either complying or consent-on-merit) to construct a dwelling on the western portion of the land, albeit within 10 metres of the tree. In this scenario, removal of the tree (which is a Corymbia species (not a Eucalypt or Agonis)) would not require the consent of Council. The owner could then pursue to divide the land, in the same or similar format as Council currently is seeking. The end result being that refusal of the application does not necessarily prevent removal of the tree.

Whilst the removal of a regulated tree, based solely on this scenario, is neither appropriate nor available pursuant to the applicable Development Plan criteria, it is nonetheless of some relevance when having regard to the context/setting of the tree.

Principle 2 - A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:

- (a) the tree is diseased and its life expectancy is short**
- (b) the tree represents a material risk to public or private safety**
- (c) the tree is causing damage to a building**
- (d) development that is reasonable and expected would not otherwise be possible**
- (e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.**

The tree has previously been assessed by an independent arborist, as well as Council's Planning Officer – Arboriculture. These persons identified that the tree does not have a short life expectancy, does not represent a material risk to public or private safety, is not causing damage to a building, and only minor pruning works, in the general interests of the tree, are required.

For these reasons, the proposal does not satisfy Principle 2(a), 2(b), 2(c) and 2(e).

Principle 2(d) was introduced to Councils' Development Plans in November 2011. It differs from the significant tree controls, which read, "it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring".

In effect, Principle 2(d) places a lower value on regulated trees compared to significant trees (the difference between the two being a trunk circumference of 2.0 metres and 3.0 metres, respectively).

When one considers whether the retention of the tree would prevent "development that is reasonable and expected" on the land, one must have regard to the applicable planning controls for that Zone and Policy Area.

Currently, the tree is sited on an allotment of some 680 square metres. The land is situated in the Northern Policy Area of the Residential Zone. The Policy Area seeks for "low scale, low to medium density housing" (Objective 1) "of up to two stories" (Desired Character). All dwelling forms are anticipated in the Northern Policy Area.

It is evident there is substantial area to the west of the tree to site a dwelling, with ample area for appropriate setbacks to boundaries, private open space and (potentially) outbuildings in accordance with Council's design criteria and/or that applicable pursuant to Schedule 1A and/or 4 of the Development Regulations.

As such, a detached dwelling and other associated features/structures can be constructed on the land, in accordance with applicable criteria.

Whilst retention of the tree would prevent the opportunity to divide the land into two allotments, it does not prevent it from being developed for a purpose anticipated in the Zone and Policy Area, being a detached dwelling, with associated private open space, outbuildings and the like. In the event the Policy Area sought a much higher form of dwelling density, such as the Regeneration Policy Area, I acknowledge the merits with respect to Principle 2(d) to be more finely balanced.

In conclusion, I do not consider that retention of the tree, which prevents the 'maximum yield' of the site to be a relevant factor, having regard to the intent of the Northern Policy Area, the wording of Principle 2(d) and that a detached dwelling (which is an envisaged form of development in the Policy Area) can be constructed on the land.

ANALYSIS/CONCLUSION

It is of value to consider the intent of the (then) significant tree legislation (introduced in May 2000) was to prevent the indiscriminate removal of large trees – typically indigenous trees that have stood for a substantial period of time, or stately introduced trees on large estates that would be vulnerable to removal to accommodate new development.

The (now) regulated tree controls are intended to protect those tree that provide “important” and “significant” environmental, character and amenity contributions.

Council has engaged the services of a qualified Landscape Architect, Mr Mark Jackson, to consider the ‘planning merits’ assessment criteria of the Development Plan regarding the tree’s contribution to character, amenity and the environment. The ERD Court has recognised that Landscape Architects are the professionals best placed to consider these matters.

It could be diluted from Mr Jackson’s report that he considers the proposal to remove the tree to be somewhat ‘finely balanced’.

Mr Jackson acknowledges “the tree is easily identifiable from other local trees due to its isolated location, maturity, spread (20m) and proximity to Travers Street (14m)...[and] [t]he tree itself is impressive [and] [a]s a single specimen it would stand out in virtually any open space...”

Mr Jackson continues to state, however, that “[w]hilst the tree is of local visual prominence it is not totally unique of the Myer Road Reserve. There are other trees in the immediate area with similar visual qualities...Whilst the Tree is a point of interest along the southern extents of the Reserve, if it were removed, another other Lemon Scented Gum 30m...to the east would become more prominent and serve a similar purpose.”

Mr Jackson concludes that “removal of the Tree would not affect the overall character of the area or visual amenity of the locality. The adjacent reserve contains many other trees of a similar size and same species and the removal of the tree will not significantly impact on the character or function of the space....The retention of the other most immediate Lemon Scented Gum would also help maintain the character of Myer Road Reserve.”

It is acknowledged the ERD Court has held that a Landscape Architect is suitably qualified to have regard to the ‘planning merits’ of a tree’s retention/removal. The Landscape Architect engaged by Council has concluded that the removal of the tree will not affect the overall character of the area or visual amenity of the locality.

My previous assessment resolved that retention of the tree, when assessed against the Development Plan, is finely balanced, as the tree has been identified as providing an important aesthetic benefit and ‘reasonable’ (albeit not “important”) environmental benefit.

I am satisfied that Mr Jackson has undertaken the necessary considerations regarding the merits of the tree’s retention. As a result of Mr Jackson’s assessment, 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. As such, the proposal warrants the granting of Development Plan Consent and Development Approval, 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 and Development Approval for Development Application No: 100/867/2017 to remove a Regulated Tree (Lemon Scented Gum), situated within the Travers Street Reserve at 37-41 Travers Street, Sturt be GRANTED subject to the following conditions:

CONDITIONS

- (1) The tree development is to be undertaken in accordance with the plans and details submitted and forming part of Development Application 100/867/2017, except where varied by the following conditions of consent.
- (2) Two replacement trees, in accordance with the details contained in the subject application, shall be planted in the Travers Street reserve within six (6) months of the tree's removal.

Attachments

Attachment I: Aerial Photograph
Attachment II: Plan of division
Attachment III: Landscape architect's report

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.6
Originating Officer:	Alex Wright Acting Team Leader - Planning
Applicant:	Softwoods
Development Description:	Freestanding carport forward of the dwelling
Site Location:	31 Masters Avenue, Marion
Zone:	Residential
Policy Area:	Northern Policy Area 13
Application Type:	Category 1/ Consent
Lodgement Date:	07/07/2015
Development Plan:	Consolidated – 19 March 2015
Application No:	100/1192/2015
Recommendation:	That Development Plan Consent be REFUSED subject to conditions

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development by virtue of Schedule 9 Pat 1 2(d) of the Development Regulations 2008, which assigns the construction of a carport ancillary to a dwelling as Category 1 development. The application is being presented to the Development Assessment Panel by virtue of administration not being in a position to support the application in its current form.

SUBJECT LAND & LOCALITY

The subject site is located at 31 Masters Avenue, Marion. The land currently contains a single storey detached brick veneer dwelling, typical of the locality and was constructed in the early 1980's. A double width driveway leads to an under main roof garage located on the eastern side of the dwelling. The topography of the land is relatively flat and whilst the site is attractively landscaped, there are no regulated or significant trees.

The immediate locality is predominantly characterised by single storey detached dwellings on medium to large allotments. Dwellings primarily achieve consistent front setbacks in the order of 6.5 to 8 metres, but vary as a result of the curved nature of the road. A majority of dwellings within the immediate locality incorporate attractively landscaped front yards.

Whilst a majority of dwellings in the street incorporate under main roof garages or carports that are not further forward than the main face of the dwelling, it is acknowledged that several dwellings within the locality comprise garages and/or carports either somewhat or entirely

forward of the dwelling. For the Panel's reference, the following properties incorporate garages or carports closer to the primary street boundary than the main face of the associated dwelling:

29 Masters Avenue	Carport sited entirely forward of the associated dwelling.	Conversion of existing garage and construction of carport forward of the dwelling Approved in 1987
36 Masters Avenue	Garage sited 2.5 metres forward of main face of dwelling.	Existed prior to 1999 and no Development Approval shown in Council's records. Structure is likely to be part of original dwelling.
38 Masters Avenue	Single width freestanding carport sited 2.5 metres forward of the closest front wall.	Existed prior to 1999 and no Development Approval shown in Council's records.
39 Masters Avenue	Attached double width carport sited approximately 4.5 metres forward of the closest front wall.	Approved as per DA100/526/2004
48 Masters Avenue	Attached double width carport sited approximately 4.5 metres forward of the closest front wall.	Existed prior to 1999 and no Development Approval shown in Council's records.
1 Masters Court	Carport sited forward of built form – Masters Avenue frontage considered to be side boundary as dwelling faces Masters Court.	Existed prior to 1999 and no Development Approval shown in Council's records.
4 Masters Court	Carport sited entirely forward of the associated dwelling.	Existed prior to 1999 and no Development Approval shown in Council's records.

Table 1.0: Garaging and carport structures forward of dwellings within the immediate locality

Refer Attachment I & II

PROPOSED DEVELOPMENT

The application proposes the construction of a freestanding 5.7 metre wide by 6 metre long gable-ended double width carport entirely forward of the associated dwelling. The structure achieve a post height of 2.4 metres and a peak gable height of 3.58 metres. The structure will maintain setback to Masters Avenue of approximately 600mm to 700mm.

The carport structure is a standard steel framed construction comprising square columns and a corrugated metal Colorbond steel roof deck at a 22.5 degree pitch.

Refer Attachment III

DEVELOPMENT ASSESSMENT

The relevant provisions of the Marion Council Development Plan are listed in the following table and discussed in further detail below:

Principles of Development Control:

Assessment:

Garages, Carports and Outbuildings	
<p><i>Minimum setback from primary road frontage: 8 metres for a freestanding structure. 5.5 metres and at least 0.5 metres behind the main face of the dwelling where attached to the dwelling.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Does Not Comply Carport is setback between 600mm to 700mm.</p>
<p><i>Maximum floor area: 30 square metres where the site is less than 400 square metres. 40 square metres for a site between 400 and 600 square metres. 60 square metres for a site greater than 600 square metres.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies 34.2m²</p>
<p><i>Maximum building height (from natural ground level) 4.5 metres.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies Maximum height: 3.58m</p>
<p><i>Maximum wall height (from natural ground level): 2.4 metres if sited on the boundary. 3 metres in all other circumstances.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Complies Post Height: 2.4m</p>
<p><i>Minimum setback from side and rear boundaries: 600 millimetres for an open structure. 1 metre for a solid or enclosed wall.</i></p> <p><i>Residential Zone: PDC 8</i></p>	<p>Does Not Comply Side setback to eastern boundary ranging from 100mm to 700mm.</p>
<p><i>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.</i></p> <p><i>General Section: Residential Development: PDC 12</i></p>	<p>Complies The proposed carport is unlikely to adversely impact on the safety of road users and safe entry and exit is likely to be maintained.</p>
<p><i>Garages and carports facing the street (other than an access lane way) should be designed with a maximum width of 6 metres or 50 per cent of the allotment or building site frontage width, whichever is the lesser distance.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies 5.7m width proposed (less than 50%)</p>
<p><i>Garages, carports 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: PDC8</i></p>	<p>Does Not Comply The existing dwelling incorporates a mixture of tiled skillion and hipped roof forms, whilst the proposed carport incorporates corrugated sheeting and a gable facing the street.</p>

Site Coverage

Maximum site coverage: 40%

Northern Policy Area 13: PDC 4

Does Not Comply
385m² / 54.3%

Whilst the proposed site coverage is considerably higher than the 40% maximum, the excess in building footprint is nonetheless considered relatively minor in extent and consequence given the current amount of private open space at the rear of the dwelling is maintained. Furthermore, the structure is proposed to cover an existing sealed driveway.

Site coverage should ensure sufficient space is provided for:
(a) pedestrian and vehicle access and vehicle parking
(b) domestic storage
(c) outdoor clothes drying
(d) rainwater tanks
(e) private open space and landscaping
(f) convenient storage of household waste and recycling receptacles

General Section: Residential Development: PDC 13

Complies

A minimum of 20 per cent of the total site area should be pervious and remain undeveloped including driveways, car parking areas, paved areas and other like surfaces.

General Section: Residential Development: PDC 14

Complies

Private Open Space

Site Area 250 m² or greater:
Minimum area of POS: 20% of the 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.
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.

Complies
No impact on existing POS.

Car Parking

Minimum number of on site car parking spaces (one of which should be covered) :
2 per detached, semi-detached, or row dwelling containing up to 3 bedrooms.

Residential Zone: PDC 7

Complies
Three covered car parking spaces are provided. One within the existing garage and two beneath the proposed carport situated forward of the dwelling.

Access

The width of driveway crossovers 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
The existing crossover and driveway width is not proposed to be altered.

Design & Appearance

Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise:

(a) the visual impact of the building as viewed from adjacent properties

(b) overshadowing of adjacent properties and allow adequate sunlight access to neighbouring buildings.

General Section: Design & Appearance: PDC 2

Partially Complies

Although the proposed side setback does not strictly comply with quantitative criteria, the shortfall should not result in significant visual impacts upon or overshadowing of the adjoining property to the east. Furthermore, the existing vegetation will assist in reducing potential visual impacts.

TABLE DISCUSSION

The proposal satisfies a number 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

Maximum site coverage of 40% is prescribed for allotments within the Northern Policy Area 13. Whilst the proposed development significantly exceeds the 40% maximum, the excess in building footprint is nonetheless considered relatively minor in extent and consequence given the current amount of private open space at the rear of the dwelling is maintained.

Minimum setback from side boundaries

The proposed carport is setback approximately 100-700mm from the eastern side boundary. Given the relatively conservative post/structure height of 2.4 metres, the shortfall in side setback is considered acceptable.

Minimum setback for carports from primary street frontage

The Development Plan seeks freestanding carports to be sited at least 8 metres from the primary road frontage to ensure the residential portion of the dwelling is the most prominent and visible, and not dominated in appearance by car parking structures; which should be subservient and ancillary to the main building. In this instance, the proposed double carport is sited entirely forward of the main face of the associated dwelling.

In my view, the subject locality comprises a consistent and attractive streetscape, with the majority of dwellings incorporating similar setbacks in the order of 6.5 to 8 metres. There is little variance in the setback of the majority of dwellings located along Masters Avenue, with the exception of those located on or close to corner allotments and where the road begins to curve.

If constructed, the carport would be situated forward of the majority of dwellings that have a primary frontage to Masters Avenue.

As previously outlined, it is acknowledged that several dwellings within the locality comprise garages and/or carports either somewhat or entirely forward of the dwelling. When specifically considering the streetscape of Masters Avenue between Vivonne Way and Parsons Street, in my opinion, the construction of 6 carports or garage structures forward of the dwelling, (and noting only 4 of these are sited predominately or entirely forward of the dwelling) where the remaining 10 dwellings have their garaging either in line with or behind the main face of the dwelling, does not provide a basis to justify further erosion of the character of the streetscape.

Furthermore, of the four carports sited predominately or entirely forward of the dwelling (being 29, 38, 39 and 48 Masters Avenue), only two of these structures received Development Approval, this being issued in 1989 (29 Masters) and 2004 (39 Masters). According to the Supreme Court, the existence of unauthorised development in the locality of a proposed development cannot be relied upon in support of a proposed development. This is because an applicant should not be able to improve the merits of his or her application by relying on the

illegal conduct of others (see *Durham v State Planning Authority* (1982) 30 SASR 481 and *Sullivan & Anor v District Council of Riverton* (1997) 69 SASR 234).

The fact that development which is in conflict with the Council's Development Plan exists within a locality is not a basis upon which further departures from the Plan should be justified. Rather, each application must be determined on its own merits in the context of the planning policies applicable at the time the application is made. See, for example, *Dal Pra v City of Happy Valley* [1995] EDLR 107; *Just v City of Mitcham* [2008] SAERDC 37.

Having said this, Commissioner Hamnet, in the cases of *Dal Pra* and *Just* stated that "*If the character of a particular locality has been so altered by a succession of planning decisions as to bring into question the relevance of existing policies.....that may well prove to be a material consideration in the assessment of an application*".

It is acknowledged that the existing garage and carport structures outlined above form part of the streetscape and regardless of whether they have approval, can remain there for the life of the buildings.

In my view, limited regard should be had for the existing non-approved structures as, if consent was sought for these structures, it is unlikely that they would be supported under the current Development Plan provisions. Therefore, the application must be determined on its own merits in the context of the current Development Plan provisions, and not based upon other similar development within the locality (both unauthorised and approved).

With the exception of 48 Masters Avenue (which is flat roofed), none of the above mentioned structures incorporate as limited a front setback and separation to the primary street as the proposed development. The carport is proposed to be setback between 600-700mm from the primary street frontage which, combined with the gable ended nature of the built form, is likely to make it highly visible from the street and present significant visual dominance and streetscape impacts.

In my opinion, due to the structure being situated at close proximity to the primary street boundary and incorporating a gable end and materials which do not complement the dwelling, attention will be drawn to the carport rather than the habitable elements/function of the dwelling.

In conclusion, the placement of such a structure substantially forward of the building line is nonetheless discouraged by Council's current design criteria and, in my opinion, will detrimentally impact the existing streetscape and will further disrupt what is generally a consistent and attractive setting of existing buildings/structures within the street.

ANALYSIS/CONCLUSION

The proposed freestanding carport is to be sited entirely forward of the subject dwelling. Whilst other garaging structures forward of their associated dwellings exist within the locality, previous legal decisions and advice confirms that limited weight should be placed on their existence. In my view, support for the structure based upon what is existing within the immediate locality may undermine the intent of the Development Plan provisions and result in a poor and unacceptable streetscape outcome.

Ultimately, in my view, attention will nonetheless be drawn to the carport structure, rather than the habitable elements of the subject dwelling, where such structures should be subservient and ancillary to the dwelling.

As a result of the above considerations it is my view that the proposed development, whilst not seriously at variance to the Marion Council Development Plan in accordance with Section 35 (2) of the Development Act 1993, does not development sufficiently accord with the relevant provisions of the Marion Council Development Plan to warrant approval. As such, and it is recommended that Development Plan Consent be refused for the following reasons.

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: 100/1192/2015 for a freestanding carport forward of the dwelling at 31 Masters Avenue, Marion be REFUSED for the following reasons:

REASONS FOR REFUSAL

- (1) The proposal fails to achieve a setback of 8 metres and is not considered to be ancillary to the existing dwelling, thereby failing to accord with Residential Zone Principles of Development Control 5 and 8.
- (2) The carport does not have a roof form and pitch, building materials and detailing that complement the associated dwelling, thereby failing to accord with Residential Development Principle of Development Control 8.
- (3) The proposed carport is not of a standard and appearance that responds to and reinforces positive aspects of the local environment and built form. The setback of the proposed carport is not consistent with, or compatible to the setback of the majority of dwellings and buildings in the street and is considered have a detrimental impact on the appearance and character of the locality, thereby failing to accord with Design and Appearance Objective 1.

Attachments

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

DEVELOPMENT ASSESSMENT PANEL
Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.7
Originating Officer:	Nicholas Timotheou Development Officer - Planning
Applicant:	Format Homes
Development Description:	Single storey dwelling and garage
Site Location:	31 Travers Street, Sturt
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 1 / Consent
Lodgement Date:	15/09/2016
Development Plan:	Consolidated – 28 April 2016
Application No:	100/1700/2016
Recommendation:	That Development Plan Consent be GRANTED subject to conditions

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 detached dwellings as Category 1 development. The subject application is required to be determined by the Development Assessment Panel by virtue of the proposed new dwelling supporting an allotment area less than the minimum of 375 square metres required for detached dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotment to the Development Assessment Panel.

BACKGROUND

Land Division application 2016/1084 (100/D125/16) was initially lodged with Council. Due to the undersized nature of the allotments combined with the site dimensions, a land use application was requested.

Some members of the Panel may recall Development Application 100/1078/2016 which proposed a dwelling, albeit that was for the northern portion of the subject land. The previous application was presented to the Panel and received Development Plan Consent in September 2016.

The land division application remains on hold pending the outcome of the subject land use application.

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

Amendments Requested	Amendments Made
Site coverage should be reduced to more closely align the Development Plan provisions.	Site coverage reduced from 52% to 43%.
Private open space should be increased to a minimum 20%.	Private open space increased from 58sqm (19.2%) to 63sqm (21%)
The front setback of the dwelling should be increased to a minimum 5.0 metres.	Front setback increased from 4 – 4.5m to 4.9 - 5.5m.
The secondary street setback should be increased to a minimum 2.0 metres.	Secondary street setback increased from 1-2m to 2m at the closest point.
The rear setback should be increased to a minimum 3.0 metres (for no more than 50% of the rear boundary width) and 6m beyond	Rear setback was initially setback 0.9m which stepped to 5m. The plans have been amended to achieve a 3m rear setback which increases to 4.2m and steps to 5m.

SUBJECT LAND & LOCALITY

The subject land comprises 31 Travers Street, Sturt. The allotment is irregular in shape and incorporates a corner cut-off to the south-western corner of the allotment, resulting in a frontage width of 14.6 metres to Travers Street, average depth of 30 metres and total site area of 601 square metres. The site currently accommodates a detached dwelling in good condition, which is setback approximately 10 metres to the main façade.

Vehicular access is currently available via Travers Street as well as Parkmore Avenue. The contour of the land is relatively flat and there are no regulated or significant trees located on the subject land. Despite there being large trees on adjoining land, none achieve a trunk circumference greater than 2.0 metres and as such are exempt from regulated or significant tree status.

The original housing stock is typically defined by single storey detached dwellings and both single and double storey residential flat buildings, at low to low-medium densities. Recent infill development has occurred in the locality, displaying a variety of dwelling types including detached, semi-detached, group and row dwellings.

It is also acknowledged that the subject land is within walking distance of the Myer Road Reserve and in close proximity to the Neighbourhood Centre Zone situated at the Diagonal Road and Miller Street junction as well as Westfield Marion Shopping Centre, which is located within a Regional Centre Zone.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The proposed development is for the construction of a single storey detached dwelling which incorporates a garage wall abutting the internal boundary.

The dwelling incorporates a single garage, open plan kitchen/living/dining, two bedrooms and associated wet areas/ensuite. The dwelling presents to Parkmore Avenue and incorporates a single garage to the front façade. The dwelling seeks a new crossover that will require the removal of a Council street tree. The front façade of the dwelling features exposed brick and Colorbond roofing.

Refer Attachment III

INTERNAL DEPARTMENT COMMENTS

Engineering:	The proposed finished floor levels and finished paving levels are considered to address the flood risk over the subject land.
Coordinator Arboriculture:	The street tree adjacent the subject land, along Parkmore Avenue have been identified as an <i>Acacia melanoxylon</i> . The tree removal is considered appropriate, provided a fee of \$400 + GST is paid by the applicant.

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

Objectives

- 1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.
- 2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.

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.

<i>PDC 1</i>	<i>The following forms of development are envisaged in the policy area:</i> <ul style="list-style-type: none"> ▪ <i>affordable housing</i> ▪ <i>dwelling including a residential flat building</i> ▪ <i>supported accommodation.</i> 	Complies
<i>PDC 2</i>	<i>Development should not be undertaken unless it is consistent with the desired character for the policy area.</i>	Complies
<i>PDC 3</i>	<i>Minimum Site Area: 375sqm</i>	Does Not Comply 301sqm
	<i>Minimum Frontage: 12m</i>	Complies 13.6m
	<i>Minimum Depth: 20m</i>	Does Not Comply 14.6m – 19.8m

Assessment

The application proposes a single storey detached dwelling on an allotment that previously accommodated a single storey detached dwelling. Council acknowledges a separate land division application has been lodged (as indicated by the indicative boundary shown on the plan). As such, the proposal inevitably seeks an increase in the number of dwellings on the land by one. It is acknowledged that the density proposed is in-keeping with recent development in the locality and that redevelopment of existing housing stock, at a higher density, is encouraged by the Objectives and Desired Character statement of the Northern Policy Area 13.

In addition to the above, it is acknowledged that the Residential Zone and Northern Policy Area 13 encourages an increase in densities adjacent to public transport and within close proximity to public open space and centre zones. The subject site is located within walking distance to public transport options along Diagonal Road. The subject land is also situated in close proximity to notable centre zones in the locality including the Neighbourhood Centre Zone on the Diagonal Road and Miller Street junction and Westfield Marion Shopping Centre which is located within the Regional Centre Zone.

Further, it is acknowledged that the dwelling features two bedrooms, thereby increasing the range of housing stock within the locality. Despite the site area of the allotment failing to meet the minimum sought, I am of the opinion that the proposed dwelling will assist in catering for changing demographics and particularly smaller household sizes.

It is acknowledged that the proposed depth of the allotment fails to meet the minimum 20 metres required and the site area falls 74 square metres short of the minimum 375 square metres for detached dwellings in the Northern Policy Area 13. Despite the site area and dimensions failing to meet the minimum sought, it is acknowledged that this non-compliance with Council's Development Plan will not come at the expense of the dwelling's ability to function appropriately. It has been demonstrated that dwelling can function on the undersized allotment in terms of (but not limited to) site coverage, setbacks to boundaries, POS, access arrangements and design and appearance. It is also of value to note that the proposed frontage width exceeds the minimum sought in the Northern Policy Area 13 which allows for additional landscaping.

The application requires the removal of a Council street trees due to the proposed crossover location. The tree is not considered to significantly contribute to the amenity of the local area and Council's Arborist has determined that removal and replacement of the trees are suitable at a cost of \$400 + GST.

The dwelling maintains a coherent streetscape as a result of an appropriate street setback and dwelling design, which will be modern in terms of providing a mixture of colours and materials, achieving positive contribution to the streetscape. The proposal is considered to complement the relevant Objectives, Desired Character statement and Principles of Development Control of the Northern Policy Area 13.

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>Site coverage:</p> <p>Does Not Comply 129.8sqm (43.1%)</p>
<p>The Marion Council Development Plan stipulates that site coverage should not exceed 40% of the site area; The proposal surpasses this limit at 43.1%. The following considerations are noted with regard to the discrepancy in site coverage:</p> <ul style="list-style-type: none"> (a) The proposal generally achieves sufficient areas of private open space (POS) and setbacks from boundaries (discussed further below). Accordingly, the excess in built form should not result in a distinct impact on the function of the proposed dwelling nor the amenity of adjacent land. (b) 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, landscaping and convenient storage of household waste and recycling receptacles. (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. As such, 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). <p>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 dwelling.</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> <ul style="list-style-type: none"> <i>(a) would not be contrary to the relevant setback and private open space provisions</i> <i>(b) would not adversely affect the amenity of adjoining properties</i> <i>(c) would not conflict with other relevant criteria of this Development Plan.</i> <p><i>Residential Zone: PDC 9</i></p>	<p>Complies</p> <p>The proposal maintains appropriate setbacks to boundaries and allows for adequate POS. As such, the excess in site coverage is unlikely to adversely affect the amenity of adjoining properties. These points will be discussed further throughout this report.</p>

Site coverage should ensure sufficient space is provided for:

- (a) pedestrian and vehicle access and vehicle parking
- (b) domestic storage
- (c) outdoor clothes drying
- (d) rainwater tanks
- (e) private open space and landscaping
- (f) convenient storage of household waste and recycling receptacles.

General Section: Residential Development: PDC 14

Complies

The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS, landscaping and waste storage.

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

Complies

63sqm (21%)

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

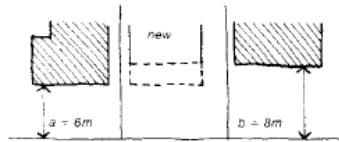
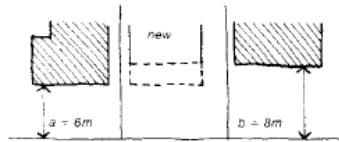
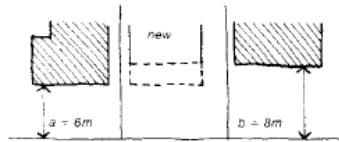
General Section: Residential Development: PDC 17

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 side/rear of the dwelling and 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) Adequate separation has been provided from bedrooms of dwellings on adjacent sites and standard fencing is considered to provide an appropriate level of privacy.
- h) The POS area should not be significantly shaded during winter by the associated 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.

Does Not Comply

- g) The proposed POS area faces east; however, a portion of the area achieves a northerly aspect to provide for comfortable year round use. Adequate natural light is considered to be available for the POS to function appropriately.

<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>Complies</p>								
<p>Building Setbacks from Road Boundaries</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.</i></p> <p><i>General Section: Design and Appearance: PDC 21</i></p>	<p>Complies</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 4.9 metres is considered to contribute positively to the function, appearance and desired character of the locality through the provision of appropriate transition to existing dwellings on adjoining land.</p>								
<p><i>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:</i></p> <table border="1"> <thead> <tr> <th>Setback difference between buildings on adjoining allotments with the same primary street frontage</th><th>Setback of new building</th></tr> </thead> <tbody> <tr> <td>Up to 2 metres</td><td>The same setback as one of the adjoining buildings, as illustrated below:</td></tr> <tr> <td colspan="2">  <p>When $b \leq 2$, setback of new dwelling = a or b</p> </td></tr> <tr> <td>Greater than 2 metres</td><td>At least the average setback of the adjoining buildings</td></tr> </tbody> </table> <p><i>General Section: Design and Appearance: PDC 22</i></p>	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 $b \leq 2$, setback of new dwelling = a or b</p>		Greater than 2 metres	At least the average setback of the adjoining buildings	<p>Partially Complies</p> <p>4.9m</p> <p>It is acknowledged that Development Approval has been issued for the construction of a pair of semi-detached dwellings situated at 26B and 26C Travers Street. The dwellings are currently under construction and it is noted that the secondary street setback to Bradman Street is equal to 1.0 metre (approved as Complying Development).</p> <p>(Therefore, the dwellings on adjoining land set back approximately 7.5 and 1 metres, which equals an average setback of 4.25 metres).</p> <p>It is also acknowledged that a dwelling has been issued Development Plan Consent for the northern portion of the subject land at 4.9 metres.</p> <p>Further, given the bend in the road, it is my view that the reduced front setback will not result in negative impacts to the streetscape.</p>
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 $b \leq 2$, setback of new dwelling = a or b</p>									
Greater than 2 metres	At least the average setback of the adjoining buildings								
<p><i>Minimum setback from secondary road frontage: 2 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies</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>Complies</p> <p>Habitable rooms are adequately separated from pedestrian and vehicle movement.</p>								
<p>Side Setbacks</p>									
<p><i>Minimum setback from side boundaries:</i></p> <p><i>Where the wall height is not greater than 3 metres:</i></p> <p><i>0.9 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Complies</p> <p>0.9m to the internal boundary</p>								

<p><i>Maximum length and height when wall is located on side boundary:</i> <i>(a) where the wall does not adjoin communal open space or a public reserve – 8 metres in length and 3 metres in height</i> <i>(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.</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Not applicable The proposed wall is situated along the internal boundary of the subject land.</p>
<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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>Complies The separation from the side boundaries 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 (as discussed further in the Overshadowing section of this report). 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.</p>
<h2>Rear Setbacks</h2>	
<p><i>Minimum setback from rear boundary:</i> <i>(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</i> <i>(b) 8 metres for all other parts of the dwelling with a wall height greater than 3 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p>Does Not Comply 3m which increases to 4.2m (60%) and 5m (13.7%).</p>
<p>Given the angled nature of the rear boundary, the gradual increase in rear setback and stepping of the dwelling, it is my view that the bulk of the building and associated visual impacts will be of a minor nature. It is also acknowledged that adequate separation has been provided from the rear boundary to limit overshadowing to the adjacent property.</p> <p>It is also of value to note; the eastern allotment boundary currently serves as a side boundary for the existing dwelling. If a new dwelling/s were to present to Kent Avenue, a 2.0 metre side setback could be achieved for a two storey wall and accord with the applicable provisions of the Development Plan, which would arguably result in greater impacts to the adjacent land in relation to overshadowing and visual impacts.</p> <p>The non-compliance in rear setback could be attributed to the lack of allotment depth and the undersized nature of the allotment; however, it has been demonstrated that the dwelling will be able to function appropriately in relation to site coverage, private open space area/dimensions and the other applicable provisions of the Development Plan. Given this failing is unlikely to result in amenity impacts to adjacent land I am of the view that this aspect of the proposal is appropriate.</p>	
<p><i>Buildings should be sited with respect to side and rear property boundaries to:</i> <i>(a) maintain or enhance the amenity of adjoining properties in terms of noise, privacy and sunlight</i> <i>(b) minimise the impact of bulk and scale of development on adjoining properties</i> <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>Complies Although the rear setback does not 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. The setback is considered sufficient to appropriately minimise noise impacts, maintain privacy and ensure appropriate access to sunlight (as discussed further in the Overshadowing section of this report). As such, the shortfall in setback should not result in 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.</p>

Building Height

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

Residential Zone: PDC 6

Complies
4.7m

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

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:

General Section: Residential Development: PDC 12

Parameter

Value

Maximum floor area 60 square metres

Complies

Maximum wall or post height 3 metres

Complies

Maximum building height 5 metres

Complies

Maximum height of finished floor level 0.3 metres

Complies

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
6m

Minimum setback from side or rear boundaries (when not located on the boundary) 0.6 metres for an open structure, or 0.9 metres for a solid or enclosed wall

Complies

Maximum length on the boundary 8 metres or 45 per cent of the length on that boundary (whichever is the lesser)

Not applicable
Garage wall is situated along the internal boundary.

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
3.6m (26.3%)

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.

Complies

General Section: Residential Development: PDC 13

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
2 spaces

Detached Semi-detached Row	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.		
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). General Section: Transportation & Access: PDC 43	Complies a) Sufficient car parking is provided for the proposed dwelling, as demonstrated by compliance with PDC 7. b) Centre facilities and public transport are located in walking distance of the dwelling 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.	
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). General Section: Land Division: PDC 22	Complies 3 on-street car parking spaces are provided for the proposed allotments, which satisfies PDC 22.	
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 3m	
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 requires the removal of one Council street tree which has been deemed appropriate by the Council's Coordinator Arboriculture.	
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. General Section: Transportation and Access: PDC 28	Complies The vehicle access point is separated by a minimum distance of 6 metres to the existing crossover along Parkmore Avenue.	

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 a design anticipated within the Northern Policy Area 13. The dwelling façade incorporates the following elements to enhance its design and appearance:

- Exposed brick to the main façade which steps to minimise building mass and proportion
- Protruding portico
- Eave overhang and pitched roof form at 25 degree slope
- Fenestration

The dwelling incorporates a 25 degree Colorbond roof exposed brick to the main facade. The garage features a Colorbond roller door. These materials should not result in glare to neighbouring properties, drivers or cyclists.

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

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 dwelling has been designed to present the front entry point and habitable room windows 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.

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

Complies

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

The elevations of the dwelling features a mixture of exposed brick, 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) Given that south forms the street boundary, a majority of winter shadow will be cast within the side yard of the proposed dwelling. However, some shadow will be cast into the eastern adjoining property in afternoon hours.

Shadow cast into the eastern adjoining property only begins in afternoon hours, such that all areas of private open space and habitable windows will be free from shadow during morning hours. Consequently, 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

Complies

The main activity areas of the dwelling faces east, with a partial northerly orientation which should nonetheless receive appropriate winter sunlight.

As identified in the Overshadowing section of this table, the proposed dwelling has been 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 dwelling incorporate a hipped roof form set at a 25 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 100.65, finished paving level of 100.45 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

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

Although a landscaping plan has not been provided, it is acknowledged that there is ample front yard area, which allows for persons purchasing or choosing to reside in the dwelling to landscape to their satisfaction.

ANALYSIS/CONCLUSION

It is my view that the proposed development satisfies the relevant Objectives, Desired Character and Principles of Development Control of the Northern Policy Area 13, being an area which encourages the redevelopment of the existing housing stock at low to low-medium densities and to meet a variety of accommodation needs.

It is acknowledged that the proposal fails to achieve some of the quantitative provisions of Council's Development Plan; however, where shortfalls have been identified, it has been demonstrated that they have merit. The assessment discussion in the above table has considered the identified shortfalls with the proposal and in each case, the impact of these discrepancies has not been found to result in unreasonable impacts to the dwelling's ability to function appropriately or to the amenity of adjoining land. When these shortfalls are considered on balance with the overall compliance with Council's Development Plan, the merit of the application is considered to outweigh any discrepancies. Further, assessment against the qualitative provisions of Council's Development Plan has demonstrated that the general layout and design of the dwelling is compatible with that sought by the Residential 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: 100/1700/2016 for a single storey dwelling and garage at 31 Travers Street, Sturt 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. 100/1700/2016, 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

- 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 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.
- 5. 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

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.8
Originating Officer:	Kristen Sheffield Development Officer - Planning
Applicant:	Mr Jack Pete
Development Description:	Land Division (Community Title 1 into 3 allotments) and further development of those allotments for the construction of a two (2) storey detached dwelling and a single storey residential flat building comprising two (2) dwellings and associated landscaping
Site Location:	67 Lascelles Avenue, Warradale
Zone:	Residential Zone
Policy Area:	Northern Policy Area 13
Application Type:	Category 2 / Consent
Lodgement Date:	28/10/2016
Development Plan:	Consolidated – 28 April 2016
DAC Number:	100/C248/16
Application No:	100/2004/2016
Recommendation:	That Development Plan Consent and Land Division Consent be GRANTED subject to conditions

CATEGORISATION & DELEGATION

The subject application is a Category 1 form of development pursuant to Schedule 9 (Part 1: 2(a)(iv)) of the Development Regulations 2008, which assigns the construction of detached dwellings or single storey dwellings as Category 1 development. The subject application is required to be determined by the Development Assessment Panel by virtue of one of the proposed dwellings supporting an allotment area less than the minimum of 375 square metres required for detached dwellings within the Northern Policy Area 13. Council has delegated decisions with respect to undersize allotments to the Development Assessment Panel.

BACKGROUND

Development Application 100/1853/2016 for the construction of three two-storey row dwellings had previously been lodged with Council, albeit did not include the division of the land. This application is currently on hold; however, during the assessment process, Council staff requested modifications (which are reflected in the subject application) to the proposal plans to address the following concerns:

Amendments Requested	Amendments Made
The POS of Dwellings 2 and 3 should be provided with minimum dimensions of 5 x 5 metres.	No change.
Vehicle manoeuvrability spaces for allotments 2 and 3 must be amended to enable the provision of safe and convenient movements.	Aisle width of the vehicle turning spaces increased.
Landscape screening should be provided forward of Bedroom 1 of Dwellings 2 and 3.	Landscaping screening provided forward of Bedroom 1 of Dwellings 2 and 3.

SUBJECT LAND & LOCALITY

The subject land is located at 67 Lascelles Avenue, Warradale. The allotment is rectangular with a width of 19.51 metres, depth of 45.72 metres, and total site area of 892 square metres.

The subject land currently accommodates a single-storey detached dwelling in average condition with vehicular access to an attached garage adjacent the eastern side boundary. Several other ancillary structures are located to the rear of the existing dwelling. The contour of the land is relatively flat, and while several trees are located on the subject land, none of these are classified as regulated pursuant to the current legislation.

The locality consists of a mix of redeveloped/sub-divided properties, (which typically take the form of detached, semi-detached, row and group dwellings) and single storey detached dwellings at low densities, which are representative of the original dwelling stock.

The site is located 250 metres walking distance from Warradale Park Reserve, a large public open space reserve, with a large turfed area, tennis courts, cricket nets and a children's playground. The Regional Centre Zone is situated some 500 metres east of the subject land, while Warradale Railway Station is located approximately 400 metres walking distance to the north of the site.

Refer Attachments I & II

PROPOSED DEVELOPMENT

The applicant proposes a Community Titled residential sub-division to create two additional allotments (three in total) and the construction of a two-storey detached dwelling (Dwelling 1) facing Lascelles Avenue, and a single-storey residential flat building comprising two dwellings (Dwellings 2 and 3) to the rear.

Dwelling 1 is two-storey in nature and incorporates three bedrooms (main with ensuite), a living area and a bathroom on the upper level whilst the ground level incorporates a laundry, bathroom and open plan kitchen/dining/living areas with direct access to the main area of private open space. A double width carport is situated along the western boundary, which seeks to gain access via a new crossover located adjacent the western side boundary.

Dwellings 2 and 3 (residential flat dwellings) are single-storey in nature and incorporate three bedrooms (main with ensuite), a bathroom and open plan kitchen/living/meals areas with direct access to the associated area of private open space. Both dwellings are provided with single width garages (incorporating a laundry) and an associated visitor space. Vehicular access is achieved through an internal common driveway running the length of the eastern boundary.

Low through to high level landscaping has been provided throughout the subject site, and along both sides of the common driveway.

Refer Attachment III

GOVERNMENT AGENCY REFERRAL

SA Water:	Refer to <i>Attachment IV</i> for the standard SA Water land division comments.
Development Assessment Commission (DAC):	Refer to <i>Attachment IV</i> for the standard DAC land division comments.

Refer Attachment IV

INTERNAL DEPARTMENT COMMENTS

Engineering:	The engineered site works and drainage plan has been assessed by Council's Engineer who has advised that the finished floor levels for the new dwellings are considered appropriate with respect to the risk of flooding.
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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

Objectives

- 1 An attractive residential zone comprising a range of dwelling types including a minimum of 15 per cent affordable housing.*
- 2 Increased dwelling densities in close proximity to centres, public and community transport routes and public open spaces.*

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><i>The following forms of development are envisaged in the policy area:</i></p> <ul style="list-style-type: none"> ▪ <i>affordable housing</i> ▪ <i>dwelling including a residential flat building</i> ▪ <i>supported accommodation.</i> 	Complies
PDC 2	<i>Development should not be undertaken unless it is consistent with the desired character for the policy area.</i>	Complies
PDC 3	<p><i>Minimum Site Area:</i> <i>Detached dwellings (Dwelling 1): 375m²</i> <i>Residential flat dwellings (Dwelling 2 & 3): 300m²</i></p>	<p>Does Not Comply Dwelling 1: 265.5 m² Dwellings 2 & 3: 224.8m²</p> <p>Partially Complies Average site areas of Dwellings 2 and 3: 313.25m² (including common driveway)</p>
	<p><i>Minimum Frontage:</i> <i>Detached dwellings (Dwelling 1): 12m</i> <i>Residential flat dwellings (Dwelling 2 & 3): 4 metres (hammerhead handle width)</i></p>	<p>Complies Dwelling 1: 14.01m Dwellings 2 & 3: 5.5m</p>
	<p><i>Minimum Depth:</i> <i>Detached dwellings (Dwelling 1): 20m</i> <i>Residential flat dwellings (Dwelling 2 & 3): 45m</i></p>	<p>Does Not Comply Dwelling 1: 17.68m</p> <p>Complies Dwellings 2 & 3: 45.72m</p>

Assessment

Objectives & Desired Character

The application proposes to replace an existing single-storey detached dwelling in average condition, with a two-storey detached dwelling and a single-storey residential flat building comprising two dwellings, both of which are forms 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.

Given that the subject land is located within walking distance of public transport routes, centre facilities and public open space, the wider locality contains features identified in Objective 2 of the Residential Zone as warranting increased residential densities.

On balance, the proposal is considered to adequately comply with the Objectives and Desired Character of the Northern Policy Area 13.

Site Areas

The site area of each proposed allotment fails to meet the minimum prescribed for detached and residential flat dwellings within the Northern Policy Area 13.

Detached dwellings require a minimum 375 square metres whereas Dwelling 1 comprises an allotment area of 265.5 square metres, which equates to a shortfall of 109.5 square metres (29.2%). Although the undersized nature of the allotment is significant, the allotment presents a generous frontage width reflective of other detached dwellings within this policy area. As such, in my opinion, the undersized nature of the allotment will not be apparent from the street as the predominant pattern of wider frontages for detached dwellings will be maintained.

Dwellings 2 and 3 each maintain an average site area of 224.8 square metres each, where an average of 300 square metres is prescribed for residential flat dwellings within the Northern Policy Area 13. This equates to a shortfall of 75.2 square metres per dwelling, or 25% less than the minimum sought. While the individual site area of each dwelling falls substantially short of the prescribed minimum, it is noted that these figures exclude the common driveway and manoeuvring areas. This method of calculating site area has been employed in accordance with Principle 8 (General Section: Land Division), which stipulates that:

Allotments in the form of a battleaxe configuration should... have an area, that meet the minimum allotment sizes for the proposed form of dwelling, (excluding the area of the 'handle' of such an allotment).

It is noted that if the driveway and manoeuvring areas were to be included within site area calculations, the combined allotment and driveway area of allotments 2 and 3 would equate to 626.5 square metres, or 313.25 square metres per allotment –above the minimum 300 square metres sought.

Nonetheless, given the considerable size of the individual shortfalls in site area, it is important to consider whether the proposed residential densities are fundamentally contradictory to that anticipated within the Policy Area. The subject land maintains an overall site area of 892 square metres; resulting in an average site area of 297.3 square metres per dwelling. This average site area falls slightly short of the minimum 300 square metres required for group and residential flat dwellings in the Northern Policy Area 13, but would satisfy the minimum required for three row dwellings. Therefore, it may be suggested that while the site configuration results in shortfalls in site area, the proposed density is not necessarily inconsistent with that envisaged for the Policy Area, albeit acknowledging that row dwellings are specifically permitted a lesser site area as they provide a more efficient use of land than that of group or residential flat dwellings where a considerable portion of the subject land is used for the common driveway and vehicle manoeuvring areas.

In my opinion, the above considerations may suggest that the shortfalls in site areas may not be fatal to the merits of the subject application. However, it is also important to consider whether the shortfalls in site areas have resulted in subsequent design shortfalls. The design and form of the dwellings is assessed in the following section 'Development Assessment'.

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><u>Site coverage:</u></p> <p>Does Not Comply Dwelling 1: 44.1% (117m²) Dwelling 2: 61.5% (138.2m²) Dwelling 3: 61.5% (138.2m²)</p> <p><i>Average site coverage (including common driveway): 44.1%</i></p> <p><u>Floor area ratio:</u></p> <p>Complies Dwelling 1: 0.57 (152m²)</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> <ul style="list-style-type: none"> <i>(a) would not be contrary to the relevant setback and private open space provisions</i> <i>(b) would not adversely affect the amenity of adjoining properties</i> <i>(c) would not conflict with other relevant criteria of this Development Plan.</i> <p><i>Residential Zone: PDC 9</i></p>	<p>Complies</p> <p>The proposal maintains appropriate setbacks to boundaries (as discussed further below within this report) and allows for adequate POS. As such, the excess in site coverage is unlikely to adversely affect the amenity of adjoining properties.</p>
<p><i>Site coverage should ensure sufficient space is provided for:</i></p> <ul style="list-style-type: none"> <i>(a) pedestrian and vehicle access and vehicle parking</i> <i>(b) domestic storage</i> <i>(c) outdoor clothes drying</i> <i>(d) rainwater tanks</i> <i>(e) private open space and landscaping</i> <i>(f) convenient storage of household waste and recycling receptacles.</i> <p><i>General Section: Residential Development: PDC 14</i></p>	<p>Complies</p> <p>The proposal provides sufficient space for vehicle access and parking, domestic storage, outdoor clothes drying, rainwater tanks, POS 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>Does Not Comply 16.3% (145m²)</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: 21.4% (56.8m²)
5 x 5 metre POS dimension achieved

Partially Complies

Dwelling 2: 20.3% (45.6m²)
Dwelling 3: 20.3% (45.6m²)
5 x 5 metre POS dimension not achieved by Dwelling 2 and 3.

(Dwelling 2 and 3 each achieve a POS dimension of 4.225m x 6.87m).

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 dwellings and 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.
- 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

f) The POS area of Dwellings 1 is located next to bedrooms of the dwelling on the adjacent site to the west. However, this remains unchanged from the arrangement of the existing dwelling, albeit acknowledging that the use of the main POS area of Dwelling will be more concentrated/intensified compared to that of the existing dwelling.

Does Not Comply

- g) Due to the existing north/south orientation of the subject land, the proposed POS areas maintain a southerly aspect, which means they will have limited access to sunlight in winter months.
- h) The POS areas are likely to be shaded during winter by the associated dwelling, particularly the POS of Dwelling 1.

Complies

Building Setbacks from Road Boundaries

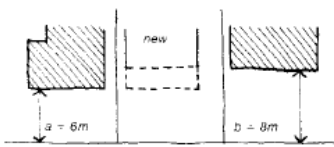
Except in areas where a new character is desired, the setback of buildings from public roads should:
(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
(b) contribute positively to the function, appearance and/or desired character of the locality.

General Section: Design and Appearance: PDC 21

Complies

The Desired Character of the Northern Policy Area 13 anticipates that new development will incorporate lesser front setbacks than the original dwelling stock. Newer dwellings within the locality comprise front setbacks varying between 5 and 7 metres, and as such, the proposed front setback of 5.5 metres is considered to contribute positively to the function, appearance and desired character of the locality, despite being located substantially forward of the dwellings on adjoining land.

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 $b - a < 2$, 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

Partially Complies

Dwelling 1: 5.5 metres

(Dwellings on adjoining land set back approximately 6 and 8 metres, which results in a required setback of 6 metres)

PDC 21 outlines that setbacks of buildings from the public road do not need to be similar/compatible with buildings on adjoining land when located in an area "where a new character is desired". The Northern Policy Area 13 anticipates redevelopment of the existing dwelling stock at higher densities with reduced front setbacks.

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.

Where the wall height is greater than 6 metres:
(a) if not adjacent the southern boundary, 2 metres plus an additional setback equal to the increase in wall height above 6 metres
(b) if adjacent the southern boundary, 3 metres plus an additional setback equal to the increase in wall height above 6 metres.

Residential Zone: PDC 6

Wall height not greater than 3 metres

Does not Comply

Dwelling 1: 0.6m

Complies

Dwelling 2: 0.9m

Dwelling 3: 0.9m

Wall height between 3 metres and 6 metres (Dwelling 1 only)

Does not Comply

Eastern side setback: 0.6m

Complies

Western side setback: 5.7m

<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>Partially Complies</p> <p>Despite both the lower and upper level of Dwelling 1 achieving limited separation from the internal boundary (located adjacent the common driveway servicing Lots 2 and 3), it is also acknowledged that the two storey wall will be setback 4.6m from the existing eastern allotment boundary. As such, any overshadowing/visual impacts are considered to be contained within the subject land and adjacent an area used for vehicle movements.</p>
<h2>Rear Setbacks</h2>	
<p><i>Minimum setback from rear boundary:</i></p> <p><i>(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</i></p> <p><i>(b) 8 metres for all other parts of the dwelling with a wall height greater than 3 metres</i></p> <p><i>Residential Zone: PDC 6</i></p>	<p><u>Wall height not greater than 3 metres</u></p> <p>Complies</p> <p>Dwelling 2: 3m increasing to 6.87m</p> <p>Dwelling 3: 3m increasing to 6.87m</p>
<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>Complies</p> <p>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 (as discussed further in the Overshadowing and Visual Privacy sections of this report). As such, 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.</p>
<h2>Building Height</h2>	
<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>Complies</p> <p>The proposed dwellings incorporate a maximum building height of 7.4 metres, which is less than the maximum permitted in the Policy Area.</p>
<p><i>Buildings on battle-axe allotments or the like should be single storey to reduce the visual impact of taller built form towards the rear of properties, and to maintain the privacy of adjoining residential properties.</i></p> <p><i>General Section: Residential Development: PDC 2</i></p>	<p>Complies</p>
<h2>Garages, Carports, Verandas and Outbuildings</h2>	
<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>Complies</p> <p>Each proposed garage is incorporated under the main roof of the associated dwelling.</p>

<p>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:</p> <p>General Section: Residential Development: PDC 12</p>		
Parameter	Value	
Maximum floor area	60 square metres	Complies
Maximum wall or post height	3 metres	Complies
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 Dwelling 1: Garage set back 6 metres, 0.5 metre behind the main face of the dwelling
Maximum length on the boundary	8 metres or 45 per cent of the length on that boundary (whichever is the lesser)	Complies Dwelling 1: Carport sited on the boundary for a length of 5.95 metres.
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 Dwelling 1: 41.4% (5.8m)
<p>Carports and garages should be setback from road and building frontages so as to:</p> <p>(a) not adversely impact on the safety of road users</p> <p>(b) provide safe entry and exit.</p> <p>General Section: Residential Development: PDC 13</p>		Complies
Vehicle Parking		
<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 & Access: PDC 34</p>		<p>Complies</p> <p>Dwelling 1: Three spaces provided, two covered spaces within the garage and two visitor spaces within the driveway.</p> <p>Dwellings 2 and 3: Each dwelling provides one garage space and one open visitor space, which equals a total of 4 on-site parking spaces. However, no independently accessible visitor parks are available.</p> <p><i>Note: 1.5 resident spaces x 2 dwellings = 3 Plus 0.6 visitor spaces required for 2 dwellings = 3.6 on-site spaces required</i></p>
Detached Semi-detached Row	2 per dwelling containing up to 3 bedrooms one of which is to be covered.	
*Applies for Dwelling 1		
Group Residential flat building	1.5 per dwelling one of which is to be covered plus 1 visitor space per 3 dwellings.	
*Applies for Dwellings 2 and 3		
Table Mar/2 - Off-street Vehicle Parking Requirements.		
<p>On-site vehicle parking should be provided having regard to:</p> <p>(a) the number, nature and size of proposed dwellings</p> <p>(b) proximity to centre facilities, public and community transport within walking distance of the dwellings</p> <p>(c) the anticipated mobility and transport requirements of the likely occupants, particularly groups such as aged persons</p> <p>(d) availability of on-street car parking</p> <p>(e) any loss of on-street parking arising from the development (e.g. an increase in number of driveway crossovers).</p>		<p>Complies</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 in walking distance of the dwellings</p> <p>c) The likely occupants are anticipated to have standard mobility and transport requirements.</p>

<p>General Section: Transportation & Access: PDC 43</p>				<p>Does Not Comply</p> <p>d) e) The proposed development results in a loss of on street car parking, as only one on-street car parking space shall remain available adjacent the subject land, where two spaces are currently available.</p>
<p>Vehicle parking areas servicing more than one dwelling should be of a size and location to:</p> <p>(a) serve users, including pedestrians, cyclists and motorists, efficiently, conveniently and safely</p> <p>(b) provide adequate space for vehicles, including emergency service vehicles, to manoeuvre between the street and the parking area</p> <p>(c) reinforce or contribute to attractive streetscapes.</p> <p>General Section: Transportation & Access: PDC 44</p>				<p>Complies</p> <p>(a) (b) Sufficient space has been provided that will enable vehicles to manoeuvre between the street and parking area in an efficient, convenient and safe manner.</p> <p>(c) The proposed vehicle parking areas are located to the rear of the site and therefore should maintain an attractive streetscape.</p>
<p>The provision of ground level vehicle parking areas, including garages and carports (other than where located along a rear lane access way), should:</p> <p>(a) not face the primary street frontage</p> <p>(b) be located to the rear of buildings with access from a shared internal laneway</p> <p>(c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building.</p> <p>General Section: Transportation & Access: PDC 45</p>				<p>Complies</p> <p>The parking areas of Dwelling 2 and 3 are located to the rear of Dwelling 1 with access from a shared internal laneway, and therefore do not face the primary street frontage.</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>Does not Comply</p> <p>1 on-street car parking space is provided for the proposed allotments, which does not satisfy PDC 22.</p>
Access				
<p>The width of driveway crossovers serving single dwellings should be minimised and have a maximum width of:</p> <p>(a) 3 metres wide for a single driveway</p> <p>(b) 5 metres wide for a double driveway.</p> <p>General Section: Residential Development: PDC 39</p>				<p>Complies</p> <p>Dwelling 1: 3m</p> <p>Dwellings 2 and 3: Existing crossover utilized for the proposed common driveway.</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>Complies</p> <p>The proposed crossover is set back a minimum 2 metres from the existing street tree.</p>
<p>Driveways serving hammerhead sites, or more than one dwelling, should satisfy the following:</p>				<p>Complies</p> <p>3-metre-wide common driveway and 0.5 metre landscaping strips along the eastern and western sides of the driveway.</p>
Dwellings served	Trafficable width (metres)		Width beyond first 6 metres	Minimum landscape strips on both sides of driveway (metres)
	Intersection with public road and first 6 metres			
	Arterial roads	Other roads		
1 – 3	6	3	3	0.5
<p>General Section: Residential Development: PDC 41</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>Complies</p> <p>Vehicle access points are separated by a minimum distance of 6 metres.</p>
<p>Design & Appearance</p>	
<p><i>Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following:</i></p> <ul style="list-style-type: none"> <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><i>General Section: Design & 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 & Appearance: PDC 3</i></p>	<p>Complies</p> <p>The proposed dwellings reflect the desired character of the locality, and incorporate a relatively contemporary design.</p> <p>Dwelling 1 incorporates a mixture of face brickwork to the lower level and Scyon Matrix cladding to the upper level. Stepping is provided between the lower and upper levels of the western side of the dwelling. While it is acknowledged that stepping between the lower and upper levels of the eastern elevation of this dwelling is limited, a reasonable level of articulation is nonetheless provided due to a mixture of face brickwork, render and fenestration to this elevation, avoiding extensive areas of uninterrupted walling exposed to public view.</p> <p>Dwellings 2 and 3 also incorporate a mixture of render and face brickwork.</p> <p>All dwellings incorporate Colorbond roof sheeting in 'Wallaby' at a 22.5-degree pitch and panel lift garage doors.</p> <p>The proposed materials should not result in unreasonable 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>Complies</p>
<p>Relationship to the Street and Public Realm</p>	
<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 & 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>Complies</p> <p>Dwelling 1 is designed so that the 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 render, cladding, fenestration and stepping to avoid extensive areas of uninterrupted walling exposed to public view.</p>

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

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 of living rooms of existing dwellings should not be overshadowed between 9 am and 3pm in winter solstice.

b) Given that south forms the rear boundary of the subject land, a majority of winter shadow will be cast within the rear yards of the proposed dwellings. Some shadow will also be cast into the western adjoining property in morning hours, and to the eastern adjoining property in afternoon hours.

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. Likewise, shadow cast into the eastern adjoining property only begins in afternoon hours. Consequently, 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

Dwelling 1 incorporates sill heights of 1.7 metres above the floor level for upper level 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.

Noise

External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from:
(a) active communal recreation areas, parking areas and vehicle access ways
(b) service equipment areas and fixed noise sources on the same or adjacent sites.

General Section: Residential Development: PDC 30

Complies

Dwellings 2 and 3 feature bedroom windows sited adjacent the common driveway. These windows are separated from the common driveway by a distance of 1 metre and incorporate landscape screening between the driveway and bedroom window. This combination of separation and landscaping is considered to provide sufficient “separating or shielding” to minimise external noise and light intrusion as envisaged by PDC 29.

Window shutter devices, external screening or alternative additional preventative measures could be constructed/installed by future occupants, if desired.

Site Facilities and Storage

Site facilities for group dwellings, multiple dwellings and residential flat buildings should include:
(a) mail box facilities sited close to the major pedestrian entrance to the site
(b) bicycle parking for residents and visitors (for developments containing more than 6 dwellings)
(c) household waste and recyclable material storage areas located away from dwellings and screened from public view.

General Section: Residential Development: PDC 31

Partially Complies

a) Common letterboxes are featured at the entrance to the common driveway.
b) Not applicable, as the development does not contain more than 6 dwellings.
c) Although common waste storage areas are not provided, this is not considered necessary given that each dwelling maintains side gate access to its rear garden. As such, bins could be efficiently stored in the private utility areas of each dwelling.

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

Partially Complies

The site's orientation (with the front boundary oriented north) makes it difficult to provide energy efficient dwelling orientation with typical modern dwelling layouts (living areas located at the rear of the dwellings, opening out onto the POS area). A southern orientation means that these living/POS areas will receive limited sunlight in winter months.

That being said, the internal living area of Dwelling 1, whilst opening to the south-facing POS, includes a northern orientation with generously proportioned windows to the front (northern) elevation. The dwelling also features north-facing windows to two of the three upper level bedrooms for exposure to winter sunlight.

Dwellings 2 and 3 have limited opportunity to maximise northern living areas, as this would result in living areas facing the common driveway.

On balance, the energy efficiency of the proposed dwellings is considered adequate.

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 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 the proposed finished floor levels 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

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

Landscaping is proposed throughout the development site, including Manchurian Pear trees to the front and rear of Dwelling 1, and rear of Dwellings 2 and 3. Mountain Ribbonwood (small trees/shrubs) and Seaspray groundcovers are proposed adjacent the common driveway.

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

<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>General Section: Landscaping, Fences & Walls: PDC 5</p>	<p>Complies</p> <p>The application proposes retaining walls varying in height to a maximum 450 millimetres. If a standard 1.8-metre-high fence is constructed atop these walls, this will result in a maximum structure height of 2.25 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.</p>
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LAND DIVISION ASSESSMENT

The relevant objectives and principles of development control from the General Section: Land Division section of the Marion Council Development Plan are listed and assessed in the following table:

Land Division	
<p>Objectives</p> <p>1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing underutilised infrastructure and facilities.</p>	Complies
<p>2 Land division that creates allotments appropriate for the intended use.</p>	Complies
<p>3 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.</p>	Complies
<p>Principles of Development Control</p> <p>When land is divided:</p> <p>(a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner</p> <p>(b) a sufficient water supply should be made available for each allotment</p> <p>(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</p> <p>(d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.</p> <p>General Section: Land Division: PDC 1</p>	<p>Complies</p> <p>a) Stormwater is capable of being drained safely and efficiently from the allotment, subject to recommended conditions of consent 4, 5 and 6.</p> <p>b) SA Water have confirmed that water supply is available (subject to conditions).</p> <p>c) SA Water have confirmed that sewerage connection is available (subject to conditions).</p> <p>d) N/A</p>

<p><i>Land should not be divided if any of the following apply:</i></p> <p><i>(a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use</i></p> <p><i>(b) any allotment will not have a frontage to one of the following:</i></p> <p style="padding-left: 40px;"><i>(i) an existing road</i></p> <p style="padding-left: 40px;"><i>(ii) a proposed public road</i></p> <p style="padding-left: 40px;"><i>(iii) access to a public road via an internal roadway in a plan of community division</i></p> <p><i>(c) the intended use of the land is likely to require excessive cut and/or fill</i></p> <p><i>(d) it is likely to lead to undue erosion of the subject land or land within the locality</i></p> <p><i>(e) the area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development</i></p> <p><i>(f) the intended use of the land would be contrary to the zone objectives</i></p> <p><i>(g) any allotments will straddle more than one zone, policy area or precinct.</i></p> <p><i>General Section: Land Division: PDC 2</i></p>	<p>Complies</p> <p>a) The dwellings have been designed in accordance with a majority of design criteria, thereby demonstrating that the allotments are suitable for their intended use.</p> <p>b) All allotments will have a frontage to the public road (when including the common driveway).</p> <p>c) Minor cut/fill is required</p> <p>d) Erosion is unlikely</p> <p>e) The area is sewerred</p> <p>f) The intended use of the allotments is consistent with the zone objectives</p> <p>g) The allotments are located wholly within the zone and policy area.</p>
<p><i>Except within the Suburban Activity Node Zone, residential allotments should have a depth of no more than four times the width of the frontage or four times the average width of the allotment.</i></p> <p><i>General Section: Land Division: PDC 3</i></p>	<p>Complies</p>
<p><i>The design of a land division should incorporate:</i></p> <p><i>(a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities</i></p> <p><i>(b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare</i></p> <p><i>(c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones</i></p> <p><i>(d) suitable land set aside for useable local open space</i></p> <p><i>(e) public utility services within road reserves and where necessary within dedicated easements</i></p> <p><i>(f) the preservation of significant natural, cultural or landscape features including State and local heritage places</i></p> <p><i>(g) protection for existing vegetation and drainage lines</i></p> <p><i>(h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development</i></p> <p><i>(i) the preservation of significant trees.</i></p> <p><i>General Section: Land Division: PDC 7</i></p>	<p>Complies</p>
<p><i>Allotments in the form of a battleaxe configuration should:</i></p> <p><i>(a) have an area, that meet the minimum allotment sizes for the proposed form of dwelling, (excluding the area of the 'handle' of such an allotment)</i></p> <p><i>(b) contain sufficient area on the allotment for a vehicle to turn around to enable it to egress the allotment in a forward direction</i></p> <p><i>(c) not be created where it would lead to multiple access points onto a road which would dominate or adversely affect the amenity of the streetscape</i></p> <p><i>(d) be avoided where their creation would be incompatible with the prevailing pattern of development.</i></p> <p><i>General Section: Land Division: PDC 8</i></p>	<p>Does Not Comply</p> <p>a) The area of the allotments do not satisfy the minimum allotment sizes for the proposed form of dwelling</p> <p>Complies</p> <p>b) Complies</p> <p>c) Complies</p> <p>d) Complies; other battleaxe developments are evident in the locality.</p>
<p><i>Access ways serving allotments in the form of a battleaxe configuration should:</i></p> <p><i>(a) provide for an access onto a public road, with the driveway 'handle' being not more than 35 metres in length and the width being not less than one of the following:</i></p> <p><i>(i) 4 metres for an allotment that accommodates no more than 3 dwellings</i></p> <p>...</p> <p><i>General Section: Land Division: PDC 9</i></p>	<p>Complies</p>

<p><i>Allotments should have an orientation, size and configuration to encourage development that:</i></p> <p><i>(a) minimises the need for earthworks and retaining walls</i></p> <p><i>(b) maintains natural drainage systems</i></p> <p><i>(c) faces abutting streets and open spaces</i></p> <p><i>(d) does not require the removal of existing native vegetation to facilitate that development</i></p> <p><i>(e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.</i></p> <p><i>General Section: Land Division: PDC 10</i></p>	<p>Complies</p>
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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
- Percentage of pervious land area
- Private open space dimensions (Dwellings 2 and 3)
- On-street car parking

Site coverage

The Northern Policy Area 13 prescribes maximum site coverage of 40% of the site area, whereas Lot 1 comprises site coverage of 44.1%, while site coverage of 61.5% is observed for the curtilage of each Lots 2 and 3. The following considerations are noted with regard to the discrepancy in site coverage;

- Overall site coverage equates to some 44.1% of the total site area (including the common driveway), only marginally above the prescribed maximum of 40%.
- The proposal generally achieves sufficient areas of private open space (POS) and setbacks from boundaries. Accordingly, the excess in built form should not result in a distinct impact on the function of the proposed dwellings nor the amenity of adjacent land.
- The proposal is considered to generally comply with PDC 13 (General Section: Residential Development) given that adequate space is provided for pedestrian and vehicle access and vehicle parking, domestic storage, outdoor clothes drying, rainwater tanks, private open space and convenient storage of household waste and recycling receptacles.
- 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 4-2B, which permits maximum site coverage of 60% for new detached and semi-detached dwellings. As such, 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.

Percentage of pervious land area

The Development Plan seeks for at least 20% of the land area to remain pervious in order to reduce levels of stormwater runoff from the land, reduce urban heat loading and improve micro-climatic conditions around sites and buildings as well as allow for effective deep planting. The proposed development fails to satisfy this requirement, with only 145 square metres (16.3%) remaining pervious and undeveloped.

Ordinarily applications propose conservative areas of paving within the POS, enough to accommodate an alfresco area, whereas the subject application incorporates more generous levels of paving to the rear of the dwellings. Were the paving within the POS of each dwelling to be reduced to a more conservative area, the pervious surfaces of the site may increase to exceed 20% of the total site area. Whilst this excess is undesirable, it is acknowledged that paving a surface is not development, and may occur on any site to levels exceeding that sought by the Development Plan, without any approval required. Nonetheless the non-compliance in pervious surfaces is noted and considered accordingly with the overall merit of the proposal.

Private open space dimensions (Dwellings 2 and 3)

POS should incorporate a minimum dimension of 5 x 5 metres, directly accessible from the internal living area of the associated dwellings. The POS dimensions of Dwellings 2 and 3 do not strictly comply with the prescribed dimension requirements, with an area of 4.225 metres by 6.87 metres instead provided for each dwelling. This shortfall is considered to be of minor consequence given that the POS of this dwelling nonetheless comprises sufficient area and shape to be functional for likely occupant needs.

On-street car parking

The proposed increase in density requires the provision of two (2) (rounded up from 1.5) on-street parking spaces adjacent the subject land (i.e. one on-street space per two allotments). However, only one on-street car park is maintained by the proposal. Given that the proposed development exceeds the total on-site parking requirements (albeit not including independently accessible on site visitor parks), and that the dwellings are located an acceptable walking distance to public transport and centre facilities, the shortfall in on-street car parking is deemed acceptable.

ANALYSIS/CONCLUSION

The preceding assessment has demonstrated that the nature of the proposed development complements the Desired Character and Objectives of the Northern Policy Area 13, as it achieves an increase in dwelling densities in close proximity to public transport routes, as well as providing further diversity in dwelling types.

Assessment of the proposal against qualitative and quantitative Development Plan criteria has demonstrated that the proposal generally achieves the design outcomes envisaged for residential development. However, it is acknowledged that the proposal maintains several non-compliances including site coverage, percentage of pervious areas, private open space dimensions and on-street car parking. Further 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 on unreasonable impacts to the amenity of adjacent land, the streetscape, or the locality.

The most significant numerical shortfall maintained by the proposal involves site areas. Considerations within this report have demonstrated that the individual shortfalls in site area are substantial, but that proposed density is not necessarily inconsistent with that envisaged for the Policy Area. Ultimately, I am of the view that the shortfall in site area is not considered to warrant refusal of the application given the proposal demonstrates merit in a majority of other assessment areas.

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 and Land Division 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) Development Plan Consent and Land Division Consent pursuant to section 33(1)(d) of the Development Act 1993 is hereby granted to Development Application No: 100/2004/2016 (issued with Development Assessment Commission land division application number 100/C248/16) for Land Division (Community Title 1 into 3 allotments) and further development of those allotments for the construction of a two (2) storey detached dwelling and a single storey residential flat building comprising two (2) dwellings and associated landscaping at 67 Lascelles Avenue, Warradale, 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. 100/2004/2016 (DAC Ref No. 100/C248/16), being drawings;
 - SK01.A, SK02.C, SK03.B prepared by Alexander Brown Architects, received by Council 12 December 2016; and
 - 'Plan of Proposed Division' prepared by SKS Surveys Pty Ltd; and
 - 'Civil Plan, issue E' prepared by Triaxial Consulting.

Except when varied by the following conditions of consent.

2. All buildings and all deleterious materials such as concrete slabs, footings, retaining walls, irrigation, water or sewer pipes and other rubbish shall be cleared from the subject land, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
3. The final survey plan shall be available to the Council, prior to the Council advising the Development Assessment Commission that it has no objection to the issue of a certificate pursuant to Section 51 of the Development Act.
4. 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

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 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.
7. 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.
8. 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.
9. Where the driveway crosses the front boundary, the finished ground level shall be between 50mm and 150mm above the top of kerb.

Land Division Consent

1. The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.

On receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to the development will be standard or non-standard fees.

The developer must inform potential purchasers of the community lots of the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

2. Payment of \$13352 into the Planning and Development Fund (2 allotment(s) @ \$6676/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.
3. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

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: External Agency Referral Comments

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 2.9 <i>Deferred DAP070617 – 2.12</i>
Originating Officer:	Kristen Sheffield Development Officer - Planning
Applicant:	CR Consultants
Development Description:	Carport addition to existing habitable outbuilding
Site Location:	24 Wattle Terrace, Plympton Park
Zone:	Residential Zone
Policy Area:	Medium Density Policy Area 12
Application Type:	Category 1 / Consent
Lodgement Date:	01/03/2016
Development Plan:	Consolidated – 28 April 2016
Application No:	100/368/2016
Recommendation:	Development Plan Consent (Granted)

BACKGROUND

As members will recall, the subject application was considered by the Panel at its meeting of 07 June 2017, whereby a decision upon the application was deferred for the following reason;

1. "To provide the applicant an opportunity to reduce the visual impact of the garage structure when viewed from the street".

The applicant has revisited the design of the proposal in light of the Panel's position, amending the proposal from a garage, to a carport addition to an existing habitable outbuilding. For all other relevant plans for this proposal, please refer to the Agenda of 07 June 2017, or contact the author of this report

DISCUSSION

As noted within the previous report to this Panel, the Development Plan seeks for garages and carports to be sited at least 0.5 metres behind the main face of the dwelling to ensure the residential portion of the dwelling is the most prominent and visible, and not dominated in appearance by car parking structures; which should be subservient and ancillary to the main building. Whereas the proposed double carport is sited 6.7 metres forward of the main face of the associated dwelling.

It is acknowledged that several dwellings within the locality comprise garages and/or carports either somewhat or entirely forward of the dwelling. For the Panel's reference, the following properties incorporate garages or carports closer to the primary street boundary than the main face of the associated dwelling:

1 Ferry Avenue	Garage sited 2.5m forward of main face of the dwelling.	Dwelling existed prior to 1999, no record of Development Approval located. Land division approved in 1994.
1/5 and 2/5 Ferry Avenue	Garages sited entirely forward of the associated dwelling.	Approved as per DA 100/619/1991
12 Wattle Terrace	Carport (and roller door) sited entirely forward of the associated dwelling.	Existed prior to 2002 and no Development Approval shown in Council's records.
13 Wattle Terrace	Carport (and roller door) sited entirely forward of the associated dwelling.	Existed prior to 2004 and no Development Approval shown in Council's records.
14A Wattle Terrace	Carport (and roller door) sited entirely forward of the associated dwelling.	Approved as per DA 100/808/1994
19 Wattle Terrace	Portion of carport sited 3m forward of main face of the dwelling.	Approved as per DA 100/1054/2009
28 Wattle Terrace	Portion of carport sited 0.5m forward of main face of the dwelling.	Approved as per DA 100/745/1996

However, as previously outlined, of the carports sited entirely forward of the dwelling on Wattle Terrace, only one received Development Approval, this being issued over 20 years ago. The existence of unauthorised development in the locality of a proposed development cannot be relied upon in support of a proposed development as an applicant should not be able to improve the merits of his or her application by relying on the illegal conduct of others (see *Durham v State Planning Authority* (1982) 30 SASR 481 and *Sullivan & Anor v District Council of Riverton* (1997) 69 SASR 234).

It is of further worth to note that of the structures granted Development Approval on both Wattle Terrace and Ferry Avenue, the majority were approved prior to 2002. The fact that approved development which is in conflict with Council's current Development Plan exists within a locality is not a basis upon which further departures from the Plan should be justified. Rather, each application must be determined on its own merits in the context of the planning policies applicable at the time the application is made. (See *Dal Pra v City of Happy Valley* [1995] EDLR 107; *Just v City of Mitcham* [2008] SAERDC 37).

Accordingly, the application must be determined on its own merits in the context of the current Development Plan provisions, and not based upon other similar development within the locality (both unauthorised and approved). In this regard, it is noted that Objective 2 of the Medium Density Policy Area 12 seeks for development to minimise the potential impact of garaging of vehicles on the character of the area. The proposed double carport sited some 6.7 metres forward of the main face of the dwelling, does not satisfy this objective.

This being said, it must be acknowledged that the amended proposal to a carport (instead of a garage) somewhat reduces the visual impact of the garage structure when viewed from the street, particularly given that further Council consent would be required for the installation of a roller door or the like. The proposed carport additions also comprise materials and finishes which are on balance considered complementary to the existing dwelling.

In addition, due to the angled nature of Wattle Terrace, the proposed double carport is to be sited approximately in line with the adjacent dwelling at 23 Wattle Terrace. This may further reduce the impacts of the proposed carport within the streetscape.

ANALYSIS/CONCLUSION

The applicant has sought to address the Panel's reasons for deferral by amending the garage component of the proposal to a double width carport. Nonetheless the proposed carport addition is to be sited substantially forward of the subject dwelling. While other garaging structures forward of their associated dwellings exist within the locality, previous legal advice confirms that limited weight should be placed on their existence.

It is noted that the materials and finishes of the proposed carport are complementary of the existing dwelling and its design elements, and the location of the carport generally in-line with habitable portions of the adjacent dwelling to the east, somewhat reduces the visual impact of the proposal within the streetscape. Further, the amended proposal to a carport (instead of a garage) does address the Panel's previous reason for deferral, in that the visual impact of the garage structure is reduced from that previously proposed.

It is acknowledged that the proposed development is finely balanced, however ultimately, I am of the opinion that the proposed carport structure forward of the dwelling may be considered acceptable given the reduced visual impact from that previously proposed in combination with the complementary materials and finishes and the location of the carport generally in line with the adjacent dwelling. As such, I am of the view that the proposed development is not seriously at variance to the 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; and
- (c) That Development Plan Consent for Development Application No: 100/368/2016 for a carport addition to an existing habitable outbuilding at 24 Wattle Terrace, Plympton Park 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. 100/368/2016, except when varied by the following conditions of consent.
- 2. 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.
- 3. Stormwater must be disposed of in such a manner that does not flow or discharge onto land of adjoining owners, lie against any building or create insanitary conditions.

4. The external appearance, materials and finishes of the new structure/building shall match or complement those of the existing building, to the reasonable satisfaction of the Council.
5. The carport structure shall not be enclosed on any side with any solid material, roller door, or the like at any time unless the further development approval of the Council is obtained.

Attachments

Attachment I: Aerial Photograph/Site Locality Plan

Attachment II: Proposal Plan and supporting documentation

DEVELOPMENT ASSESSMENT PANEL
Wednesday 19 July 2017

CONFIDENTIAL REPORTS OF MANAGER DEVELOPMENT SERVICES

Agenda Ref No: DAP190717 – 3.1

Reason for confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with Section 56A (12) of the Development Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (vii) provision of legal advice
- (viii) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial.

RECOMMENDATION

1. The Development Assessment Panel orders pursuant to Section 56A (12) of the Development Act 1993, that the public, with the exception of the Manager of Development Services, Team Leader Planning, Development Officer – Planning, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Executive Officer, of the Development Assessment Panel.
2. Under Section 56A (12) of the Development Act 1993 an order be made that item 8 including the report, attachments and discussions having been dealt with in confidence under Section 56A (12) (ix) of the Development Act 1993, and in accordance with Section 56A(16) shall be kept in confidence until a decision of the Environment Resources and Development Court relevant to the item is made.
3. Further, that at completion of the confidential session the meeting be re-opened to the public.

DEVELOPMENT ASSESSMENT PANEL
Wednesday 19 July 2017

CONFIDENTIAL REPORTS OF MANAGER DEVELOPMENT SERVICES

Agenda Ref No: DAP190717 – 3.2

Reason for confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with Section 56A (12) of the Development Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (vii) provision of legal advice
- (viii) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial.

RECOMMENDATION

1. The Development Assessment Panel orders pursuant to Section 56A (12) of the Development Act 1993, that the public, with the exception of the Manager of Development Services, Team Leader Planning, Development Officer – Planning, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Executive Officer, of the Development Assessment Panel.
2. Under Section 56A (12) of the Development Act 1993 an order be made that item 8 including the report, attachments and discussions having been dealt with in confidence under Section 56A (12) (ix) of the Development Act 1993, and in accordance with Section 56A(16) shall be kept in confidence until a decision of the Environment Resources and Development Court relevant to the item is made.
3. Further, that at completion of the confidential session the meeting be re-opened to the public.

DEVELOPMENT ASSESSMENT PANEL

Wednesday 19 July 2017

Agenda Ref No:	DAP190717 – 3.3
Originating Officer:	Alex Wright Acting Team Leader - Planning
Applicant:	APN Outdoor Pty Ltd
Development Description:	To attach a 12.58m wide by 3.36m high LED sign to the southern facade of the Marion Road Bridge under the Southern Expressway adjacent 946-952 Marion Road, Sturt
Site Location:	946-952 Marion Road, Sturt
Zone:	Residential
Policy Area:	Northern Policy Area 13
Application Type:	Category 3/ Non-Complying
Lodgement Date:	15/05/2017
Development Plan:	Consolidated – 28 April 2017
Application No:	100/845/2017
Recommendation:	The report be noted

INTRODUCTION

The subject application is a Category 3/Non-complying form of development by virtue of the Procedural Matters section of the Residential Zone, where advertisements and/or advertising hoardings are listed as a non-complying form of development, unless satisfying a number of criteria.

The proposed development is considered to be a non-complying form of development as the advertisement area exceeds 4 square metres, it is not erected on the same allotment as the use it seeks to advertise and the message contained thereon does not relate entirely to a lawful use of land.

The applicant seeks to develop the land for to attach a 12.58m wide by 3.36m high LED sign to the southern facade of the Marion Road Bridge, which supports the Southern Expressway. The sign will incorporate third party advertisements.

Whilst located within the Residential Zone, the site is not located within close proximity to any residential allotments of note that would be unreasonably impacted by the proposed advertisement. The only occupied allotment within close vicinity of the site, is an existing Hungry Jacks business which is located approximately 70 metres to the southeast. The advertisement is attached to the southern side of the Marion Road Bridge which supports the Southern Expressway.

As a result of the above considerations, it is staff's view the proposed development displays sufficient merit to warrant further assessment. The Acting Manager – Development Services has agreed with staff's position and resolved to proceed to the full assessment of the application.

The applicant has provided a brief statement of support and Statement of Effect, pursuant to Section 39(2)(d) of the Development Act, 1993 and Regulation 17(4) of the Development Regulations, 2008.

Category 3 / Non-Complying public notification will occur between 12th July and 26th July 2017.

In due course, the application will be presented to the Development Assessment Panel for a decision.

RECOMMENDATION

The Panel note this report and resolve that the determination of the Acting Manager – Development Services to proceed with the further assessment of Non-complying Development Application No: 100/845/2017 which seeks to attach a 12.58m wide by 3.36m high LED sign to the southern facade of the Marion Road Bridge under the Southern Expressway adjacent 946-952 Marion Road be NOTED.

Attachments

Attachment I: Deposited Plan

Attachment II: Aerial Photograph

Attachment III: Proposal Plan and supporting documentation