

**CITY OF MARION  
COUNCIL ASSESSMENT PANEL MINUTES  
FOR THE MEETING HELD ON  
WEDNESDAY 20 DECEMBER 2023**

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**1.1 OPEN MEETING**

The Meeting commenced at 6.30pm

**1.2 PRESENT**

Michael Davis - Presiding Member  
Yvonne Svensson- Independent Member  
Ben Russ - Independent Member  
Bryn Adams - Independent Member  
Councillor Nathan Prior– Council Member

**1.3 APOLOGIES**

Nil

**1.4 IN ATTENDANCE**

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

**2. GENERAL OPERATIONS**

No items listed for discussion.

**3. DEVELOPMENT ACT 1993 APPLICATIONS**

No items listed for discussion.

#### 4. PDI ACT APPLICATIONS

##### 4.1 Report Reference: CAP201223 - 4.1

**Application No: 22043284**

**Site Location: 934 Marion Road, Sturt**

- Peter & Michelle Wakefield (Representor) addressed the Panel and the Presiding Member accepted a floor plan of the representors dwelling
- Theresa James of URPS and Daniel Harris of Otello (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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

- The Panel notes this report and concur with the findings and reasons for the recommendation;**
- The Panel concurs that the proposed development is not seriously at variance<sup>1</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- That Planning Consent for Development Application ID: 22043284 seeking a change of use and construction of a mixed-use three-level building for supported accommodation and ground level shop (café), with associated refuse enclosure, car parking, landscaping and below-ground retention tank at 934 MARION ROAD, STURT be APPROVED, subject to the following RESERVED MATTERS and CONDITIONS:**

#### **RESERVED MATTER(S)**

- Prior to the issuing of Development Approval, the applicant will provide to the Council Assessment Manager written confirmation from the relevant asset owner that the infrastructure (in-ground infrastructure) has been formally approved for removal.**
- Prior to the issuing of Development Approval, the applicant will provide to the Council Assessment Manager for consideration and approval, amended plans that more clearly demarcate the separation between the shop and co-working space/office associated with the supported accommodation, including physical separation.**

#### **CONDITIONS**

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<sup>1</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act).

What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. Hours of operation of the shop (café) are limited to the following:
  - 7 am - 9 pm (Sunday - Monday)
  - 7 am - 10 pm (Friday & Saturday)
3. Waste collection shall be limited to the following days and times:
  - Tuesday 9am to 12pm
  - Thursday 9am to 12pm
4. Site deliveries are limited to the following:
  - 7 am - 5 pm (Monday - Saturday)
  - 9 am – 5 pm (Sunday)
5. All waste and other rubbish shall be stored in a manner so that it does not, in the reasonable opinion of the Council, create:
  - insanitary conditions on or off the site;
  - an unreasonable nuisance off the site; or
  - pollution to the environment (including by pollution caused by substances, materials or things entering the stormwater system either by wind or water).
6. All waste and other rubbish shall be stored in the designated areas and screened from public view in accordance with the approved plans.
7. All devices/treatments proposed and nominated on the approved plans, and forming part of the Development Application, to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.
8. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.
9. A stormwater 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. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.
11. Wheel stopping devices shall be placed and maintained within each parking bay so as to prevent damage to adjoining fences, buildings or landscaping in accordance with Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009).
12. 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.

13. Designated accessible (disabled) car parking spaces shall be designed, constructed and maintained in accordance with Australian Standards (AS/NZS 2890.6.2009).
14. All car parking areas, driveways and vehicle manoeuvring areas must be constructed in accordance with the approved plans and recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.
15. The number of seats to be used by the shop for commercial operations shall be restricted to a maximum of 23.

#### **Commissioner of Highways**

16. To minimise the impact of waste collection vehicle movements on the adjacent Marion Road/Service Road connection, waste collection for the site shall only occur outside of the peak traffic periods on the adjacent roads and peak traffic generation periods of the site.

#### **Notes**

1. The proposed verandah encroachment is subject to a separate LMA and Section 221 process. In the event of Development Approval please contact the City of Marion Land & Property Team to commence the LMA/ Section 221 process.
2. To satisfy the requirements of the Food Act 2001 the premises will need to be constructed, designed and fitted out to ensure the safe preparation, production, packaging and storage of food and be operated and maintained in a clean and hygienic manner. It is therefore recommended that the applicant contact Council's Environmental Health Section on Ph: 8375 6600 to discuss requirements as soon as possible.

**4.2 Report Reference: CAP201223 - 4.2**  
**Application No: 22042992**  
**Site Location: 293 Sturt Road, Sturt**

- Xinyu (Christine) Xu (Representor) addressed the Panel
- Alexander Stamatopoulos attending on behalf of Mr Demetrios Diamanti (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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

- (a) The Panel notes this report:**
- (b) The Panel concurs that the proposed development is not seriously at variance<sup>2</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- (c) That Planning Consent for Development Application ID: 22042992 for construction of a three-storey residential flat building comprising 7 dwellings as well as associated driveway and landscaping at 293 Sturt Road, Sturt, be REFUSED for the following reasons:**

**REASONS FOR REFUSAL**

- 1. The proposed development fails to satisfy Urban Renewal Neighbourhood Zone PO 8.1 by proposing a high density residential development of over 70 dwellings per hectare, which is incongruous with the medium density of housing desired by PO 8.1 and its associated DPF 8.1.**
- 2. The proposed development fails to satisfy Urban Renewal Neighbourhood Zone PO 8.2 by proposing a high density residential development on a site that is of insufficient size to achieve a high standard of amenity for occupants and neighbours.**
- 3. The proposed development fails to satisfy Urban Renewal Neighbourhood Zone PO 6.1 by failing to provide eastern side setbacks from the second level balconies that are sufficient to achieve adequate separation between buildings to minimise visual impact from the adjoining land.**
- 4. The proposed development fails to satisfy Urban Renewal Neighbourhood Zone PO 7.1 by failing to provide a rear setback that is sufficient to achieve adequate separation between buildings to minimise visual impact.**

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<sup>2</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act).

What is ‘seriously at variance’ is not a defined legislative term and is not synonymous with a proposal that is merely ‘at variance’ with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

5. Does not adequately meet Urban Renewal Neighbourhood Zone PO 2.1 as the site is not of sufficient size to manage the massing and impacts on adjoining residential development from the three-storey built form.
6. The proposed development fails to satisfy Design in Urban Areas PO 27.1 by proposing inadequate areas of private open space for dwellings 1-6.
7. The proposed area of communal open space fails to satisfy Design in Urban Areas PO 32.1, as it is not appropriately sited to meet the amenity needs of residents due to the space being substantially overshadowed by the proposed building.
8. The proposed development fails to satisfy General Development Policies - Design in Urban Areas PO 35.3 as provision has not been made for suitable household waste and recyclable material storage facilities due to the provision of inadequate space for dwellings 1-6 to be provided with their own individual sets of household general waste, green waste and recycling bins or suitable private waste collection facilities.
9. Does not meet Design in Urban Areas PO 12.1 as the building does not positively contribute to the character of the local area by responding to local context.

**4.3 Report Reference: CAP201223 - 4.3**  
**Application No: 23025354**  
**Site Location: 3 Arthur Street, Plympton Park**

- Nathan Sim (Representor) addressed the Panel (via Microsoft Teams)
- Alexander Stamatopoulos and Mr Brett Taylor (Applicant) addressed the Panel

The Council Assessment Panel resolved that;

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

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;**
- (b) The Panel concurs that the proposed development is not seriously at variance<sup>3</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- (a) That Planning Consent for Development Application ID: 23025354 for the construction of an upper-level dwelling addition and internal alterations, at 3 Arthur Street, Plympton Park, be GRANTED subject to the following Conditions.**

**CONDITIONS**

- 1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
- 2. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.**
- 3. All new building work shall be finished in a professional manner with all materials and finishes consistent with the stamped plans.**

**NOTES**

- 1. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).**

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<sup>3</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a “development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code” (or the Development Plan if under the Development Act).

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2. If you are a developer or owner-builder, there are important Commonwealth telecommunications rules you need to comply with. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
3. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
4. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.
5. All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).
6. Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).

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

Verbal updated provided/No items listed.

**6. POLICY OBSERVATIONS**

The Panel noted that the Local Activity Centre Zone is not included within a Designated Area in regard to bicycle parking requirements as per the Transport, Parking and Access provisions.

The Panel noted that the Local Activity Centre Zone and other non-residential type zones lack landscaping provisions.

**7. OTHER BUSINESS**

No items listed for discussion.

**8. CONFIRMATION OF MINUTES**

The minutes of this meeting held Wednesday 20 December 2023 taken as read and confirmed this twentieth day of December 2023.

**9. MEETING CLOSURE**

- Length of meeting: 1 hour and 59 minutes
- Number of Representors appearing before the Panel: 3
- Number of Applicants appearing before the Panel: 3

**MEETING DECLARED CLOSED AT 8.29PM**



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