

MINUTES OF THE MEETING of the Council Assessment Panel of Mount Barker District Council held in the Council Chambers of the Local Government Centre, 6 Dutton Road Mount Barker on Wednesday 16 August 2023, commencing at 9.30 am.

PRESENT **(Members)** Mark Adcock (Presiding Member), Tom Gregory, Geoff Parsons, Sally Roberts and Harry Seager.  
**(Staff)** Manager City Development (A Humphries), Senior Planner, City Development (G Sproule), Senior Planner, City Development (Matthew Fielke) and the Minute Secretary (K Gale).

**1. APOLOGIES**

Nil

**2. CONFLICT OF INTEREST DECLARATION**

Nil

**3. CONFIRMATION OF MINUTES**

Moved Tom Gregory that the minutes for the meeting held on 19 July 2023 be taken as read and confirmed.

Seconded Harry Seager

CARRIED  
CAP20230816.01

**4. REPORTS DEFERRED**

Nil.

**5. REPORTS BY OFFICERS**

**5.1. DEVELOPMENT ACT APPLICATIONS**

**5.1.1. NON-COMPLYING APPLICATIONS**

Nil.

**5.1.2. CATEGORY 3 APPLICATIONS**

Nil.

**5.1.3. CATEGORY 2 APPLICATIONS**

Nil

**5.1.4. CATEGORY 1 APPLICATIONS**

Nil.

**5.2. PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT APPLICATIONS**



**5.2.1. 22024268 – KEVJOHN PTY LTD**

<b>Application ID</b>	22024268
<b>Applicant</b>	Kevjohn Pty Ltd
<b>Subject Land</b>	33 Mawson Road, Meadows 5 Battunga Road, Meadows
<b>Nature of Development</b>	Construction of a shop (supermarket) and car parking, including removal of two (2) significant trees (1 Flooded Gum and 1 Tasmanian Blue Gum) and four (4) regulated trees (2 Flooded Gums, 1 River Red Gum and 1 Southern Mahogany) and associated fencing, two (2) illuminated pylon signs, water storage tanks, outbuildings (toilets and pump room), landscaping and infrastructure.
<b>Lodgement Date</b>	15 April 2023
<b>Relevant Authority</b>	Assessment Panel – Mount Barker District Council
<b>Zone</b>	Suburban Business
<b>Sub Zone</b>	N/A
<b>Planning and Design Code Version Number</b>	2023.5 –30 March 2023
<b>Categorisation</b>	Code Assessed (Performance Assessed)
<b>Notification</b>	Yes
<b>Representations</b>	Yes
<b>Persons to be heard</b>	6
<b>Referrals - Statutory</b>	<ul style="list-style-type: none"><li>• Commissioner of Highways</li></ul>
<b>Referrals – Non-Statutory</b>	<ul style="list-style-type: none"><li>• Development Engineering Officer</li><li>• Urban Forest Officer</li></ul>
<b>Responsible Officer</b>	Matthew Fielke – Senior Planner
<b>Recommendation</b>	Grant Planning Consent

Amanda Price-McGregor, Green Light Planning Solutions & Anthony Kelly, Mellor Olsson Lawyers spoke on behalf of Meadows Investment Trust against the application.

Kathy Moritz spoke against the application

Donald Crosby spoke against the application

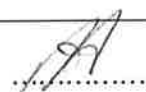
Syd McDonald, Botten Levinson Lawyers spoke on behalf of Kevjohn Pty Ltd for the application.

The Panel discussed the application and reached the following decision:

Harry Seager moved that the Council Assessment Panel:

DETERMINE that the proposed development is not seriously at variance with the provisions of the Planning and Design Code, in accordance with Section 126(1) of the *Planning, Development and Infrastructure Act 2016*; and

GRANT Planning Consent to the application by Kevjon Pty Ltd for the construction of a shop (supermarket) and car parking, including removal of two (2) significant trees and four (4) regulated trees and associated fencing, two (2) illuminated pylon signs, water storage tanks, outbuildings (toilets and pump room), landscaping and infrastructure at



33 Mawson Road and 5 Battunga Road, Meadows as detailed in Application ID: 22024268, subject to the following conditions, reserved matters and advisory notes:

### **RESERVED MATTERS**

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the following matters shall be reserved for further assessment, delegated by the Council Assessment Panel to the Council Assessment Manager to assess and approve the additional information, and to attach any additional conditions, prior to the granting of Development Approval (or select stage of Development Approval):

1. A detailed site works and drainage plan, including:
  - a. Design levels for the car park;
  - b. Alignment and levels for all stormwater pipes and proposed outlet at the Meadows Creek,
  - c. Details of bio-retention basins, and;
  - d. Provision of a gross pollutant trap, including coalescer in accordance with European Standard EN 858-1
2. Plans and details shall be submitted to the Council Assessment Manager for approval for tree sensitive measures in lieu of traditional pavement methods for the following:  
Tree 1 – Tree sensitive pavement including sub-base located within the TPZ radius of 15 metres.  
Tree 9 – Tree sensitive pavement including sub-base located within the TPZ radius of 7.68 metres.  
Tree 12 – Tree sensitive pavement including sub-base located within the TPZ radius of 9.12 metres.  
Tree 18 – Tree sensitive tank footings (sub-base) within the TPZ of 6.57 metres.
3. A revised design of the advertising signage (freestanding & parapet) that better reflects Advertising PO 1.2 and 1.5 by reducing signage height and scale is to be provided to the satisfaction of the Council Assessment Manager prior to the granting of Development Approval.
4. A detailed landscaping plan prepared by a suitably qualified landscape professional (i.e. landscape architect) which includes broadly indigenous species, a maintenance strategy and considers the proposed plantings extent and maturity is to be provided to the satisfaction of the Council Assessment Manager prior to the granting of Development Approval.
5. A detailed fencing plan (perimeter fencing) is to be prepared including proposed heights, materials and design which is reflective of the Meadows Historic Area Statement (MtB11) and provided to the satisfaction of the Council Assessment Manager prior to the granting of Development Approval.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above Matters, at the discretion of the Assessment Manager in accordance with the above delegation.


### **CONDITIONS**

#### **Council conditions**

##### Condition 1

The development herein approved shall be carried out in accordance with the stamped plans and details accompanying this application, except where amended by the following condition(s). Relevant approved documentation includes:

- Planning drawings prepared by Jelfs Building Design, including:
  - Cover sheet – sheet 1 of 10 – dated 26 May 2023;
  - Floor plans – sheet 2 of 10 – dated 26 May 2023;



- Elevation plans – sheet 3 of 10 – dated 26 May 2023;
- Existing floor plan and elevations – sheet 4 of 10 – dated 26 May 2023;
- Footpaths plan – sheet 5 of 10 – dated 26 May 2023;
- Site plan – sheet 6 of 10 – dated 4 Apr 2023;
- Site plan – sheet 7 of 10 – dated 26 May 2023;
- Site plan – sheet 8 of 10 – dated 26 May 2023;
- Overshadowing plans – sheet 9 of 10 – dated 26 May 2023;
- Overshadowing plans – sheet 10 of 10 – dated 26 May 2023.
- Tree drawings prepared by Jelfs Building Design, including:
  - Original trees site plan – sheet 1 of 5 – dated 31 May 2023;
  - Existing trees to be retained – sheet 2 of 5 – dated 31 May 2023;
  - Remaining regulated and significant trees proposed to be removed – sheet 3 of 5 – dated 31 May 2023;
  - Trees already removed – sheet 4 of 5 – dated 31 May 2023;
  - Remaining uncontrolled trees proposed to be removed – sheet 5 of 5 – dated 31 May 2023.

Condition 2

Replacement trees must be planted within 12 months of completion of the development at the following rates:  
i. if the development relates to a regulated tree—2 trees to replace a regulated tree; or ii. if the development relates to a significant tree—3 trees to replace a significant tree. Replacement trees cannot be within a species specified under regulation 3F(4)(b) of the Planning, Development and Infrastructure (General) Regulations 2017, and cannot be planted within 10 metres of an existing dwelling or in-ground swimming pool.

Condition 3

The development once operable must comply with the recommendations of Sonus Pty Ltd in Parts 3.1, 3.3.1 and 3.3.2 of their Environmental Noise Assessment Report (Ref: S7083C9) dated March 2023.

Condition 4

All vehicle car parks, driveways, vehicle entry and manoeuvring areas must be designed, constructed and maintained in accordance with Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009).

Condition 5

Landscaping must be completed prior to occupation of the development and maintained in accordance with the plans and details forming part of the development authorisation.

Condition 6

Areas for activities including loading, unloading and storage of waste refuse bins must be paved with an impervious material and kept in a clean and tidy condition at all times to the satisfaction of Council.

Condition 7

Hours of operation are limited to the following:

Element of the Land Use	Hours of Operation
Shop (Supermarket)	7:00am to 9:00pm Monday to Friday 8:00am to 6:00pm Saturday, Sunday & Public Holidays
Deliveries	7:00am to 9:00pm Monday to Friday 8:00am to 5:00pm Saturday and Sunday & Public Holidays
Waste collection	7:00am to 7:00pm Monday to Saturday



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	9:00am to 7:00pm Sundays and Public Holidays
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Condition 8

All external lighting must be designed and constructed in accordance with the Australian Standard (AS 4282-1997). Lighting must be appropriately shielded and directed away from adjacent land to prevent light spill and nuisance impacts.

Condition 9

All new fencing constructed to the property boundaries shall be stepped down and reduced in height where they are proposed to extend forward of the building line(s) of adjacent dwellings.

Condition 10

All illuminated signs visible from the adjacent roads should be limited to a low level of illumination (i.e. <150Cd/m<sup>2</sup>). Illuminated elements of signage should be switched off outside of the regular operating hours of the shop.

**Conditions imposed by Commissioner of Highways under Section 122 of the Act**

Condition 11

The access to Mawson Road and Battunga Road shall be consistent with JB Design, Site Plan, Proposed Shops, Sheet 6 of 10, dated 4 April 2023 and Frank Siow & Associates Traffic and Parking Assessment, dated 9 March 2023.

Condition 12

All vehicles shall enter and exit the site in a forward direction.

Condition 13

The largest vehicle permitted on site shall be restricted to a 12.5m Heavy Rigid Vehicle with all commercial vehicle facilities designed in accordance with AS 2890.2:2018.

Condition 14

The two closest car parking spaces to the Mawson Road access point shall be dedicated to staff parking only. Suitable signage and line marking shall be installed to achieve this outcome.

Condition 15

The pylon sign adjacent the Mawson Road and Battunga Road access points shall be located to achieve clear sightlines, as per Urban Transport Routes Overlay DTS/DPF 5.1, a) and b).

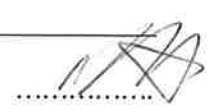
Condition 16

Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.

Condition 17

Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's expense.

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### **ADVISORY NOTES**

#### **Advisory Note 1**

Any person proposing to undertake building work within the Mount Barker District Council is reminded of their obligation to take all reasonable measures to protect Council infrastructure. Any incidental damage to the infrastructure - pipes, footpath, verge, street trees etc, must be reinstated to a standard acceptable to Council at the applicants' expense. If you have any queries please contact Council on 8391 7200.

#### **Advisory Note 2**

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

#### **Advisory Note 3**

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

#### **Advisory Note 4**

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

#### **Advisory Note 5**

The applicant is reminded of their general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that any activities on the site do not pollute the environment.

#### **Advisory Note 6**

The proposed development is required to be connected to an approved **wastewater management system** (includes new or alterations to existing on-site systems, sewer systems and associated underfloor plumbing). A wastewater management system should be approved by Council prior to the commencement of construction.

#### **Advisory Note 7**

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).

#### **Advisory Note 8**

A Traffic Impact Statement is required to be provided and endorsed by Council prior to operation.

Seconded Sally Roberts.

CARRIED  
CAP20230816.02

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**5.2.2. 23000653 – AARON HAYMAN**

<b>Application ID</b>	23000653
<b>Applicant</b>	Aaron Hayman
<b>Subject Land</b>	57 Aurora Circuit, Meadows
<b>Nature of Development</b>	Retaining wall and fence in association with existing dwelling
<b>Lodgement Date</b>	16 January 2023
<b>Relevant Authority</b>	Assessment Panel at Mount Barker District Council
<b>Zone</b>	Neighbourhood
<b>Planning and Design Code Version Number</b>	2023.3 – 16 February 2023
<b>Categorisation</b>	Code Assessed (Performance Assessed)
<b>Notification</b>	Yes
<b>Representations</b>	Yes
<b>Persons to be heard</b>	One (1)
<b>Referrals - Statutory</b>	Nil
<b>Referrals – Non-Statutory</b>	Nil
<b>Responsible Officer</b>	Author – Kieron Barnes – Planning Consultant Recommending Officer – Greg Sproule
<b>Recommendation</b>	Grant Planning Consent

Helen and Richard Coombe spoke against the application.

Aaron Hayman spoke for the application.

The Panel discussed the application and reached the following decision:

Tom Gregory moved that the Council Assessment Panel:

DETERMINE that the proposed development is not seriously at variance with the provisions of the Planning and Design Code, in accordance with Section 126(1) of the *Planning, Development and Infrastructure Act 2016*; and

GRANT Planning Consent to the application by Aaron Hayman to construct a retaining wall and fence in association with an existing dwelling at 57 Aurora Circuit, Meadows as detailed in (Application ID: 23000653) subject to the following conditions and advisory notes:

**CONDITIONS**

**Council conditions**

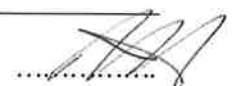
**Condition 1**

The development herein approved shall be carried out in accordance with the stamped plans and details accompanying this application.

**Council Advisory Notes**

**Advisory Note 1**

The granting of this consent does not remove the need for the applicant to obtain all other consents that may be required by other statutes or regulations.



**Advisory Note 2**

Encumbrances may apply to your property. Prior to seeking development approval and/or prior to commencing construction, you are advised to obtain any necessary Encumbrance Approval from your Encumbrancer. Failure to obtain Encumbrance Approval prior to commencing development could result in legal ramifications with the Encumbrancer. Encumbrance details can be found on your Certificate of Title and/or through discussions with your developer. The granting of this consent does not necessarily imply that encumbrance approval will be granted/obtained.

**Advisory Note 3**

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

**Advisory Note 4**

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to an extension having been granted by the relevant authority.

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

**Advisory Note 5**

Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the approved position is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.

**Advisory Note 6**

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).

Seconded Sally Roberts

CARRIED  
CAP20230816.03

**6. REVIEW OF ASSESSMENT MANAGER DECISIONS**

Nil

**7. INFORMATION REPORTS**

Nil

**8. CONFIDENTIAL REPORTS**

Nil

**9. POLICY MATTERS ARISING FROM THIS AGENDA**

Nil





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**10. OTHER BUSINESS**

Nil

**11. CLOSURE**

Meeting declared closed at 12.19hrs

  
\_\_\_\_\_  
CHAIRMAN

20/9/23  
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DATE

