

## **DTI:Planning Review**

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**From:** Kevin Sykes [REDACTED]  
**Sent:** Friday, 16 December 2022 12:50 AM  
**To:** DTI:Planning Review  
**Subject:** Planning Review 2022

[REDACTED] [REDACTED]

[REDACTED]

Hello,

My submission to the Planning Submission implementation review is as follows.

I have been a resident/house owner in the Marino suburb of Marion Council since 1985.

When I initially purchased my home a corner block of 807 square metres on a reasonably level block the planning /zoning laws of the Marion Council( Residential Zone R1 at that time ) allowed land owners to subdivide; usually by creating two blocks of approximately 400 sq metres. Several land holders designed & constructed impressive homes on these oversized blocks over the following years without any effect on the 'character' of the area.

My home was originally built in 1967 & includes asbestos materials & substantial cracks & soil movement due to design faults & inadequate foundations when built. The suburb Marino includes many similar buildings similarly constructed at that time in the same condition with substantial exterior & interior cracking.

I have invested many thousands of dollars over the years in trying to correct the substantial damage/infilling/underpinning foundations caused by the inadequate design, without any benefit as the cracks reopen in time.

I have been advised the only proper & safe remedy for the asbestos issue is to remove it by demolishing the property.

In 2112 I requested the Council agree to subdivide my block into two allotments of 403 metres each(approx.)

I believed that given I purchased the property(1985) under planning rules that allowed subdivision I would be given approval.

This was denied & subsequent Court action proceeded (Sykes V City of Marion (2013) SAERD3. It was submitted in expert court evidence ( and not challenged) that 45 properties in a radius of 400 metres had already been subdivided. It was further noted that the property immediately opposite mine on the other side of the street was already subdivided ; the property on the opposite corner was also subdivided, and an another property 2 doors down comprised a two story unit development of 6 flats. Directly opposite my property are maisonettes not previously known to the Marion Council as admitted in the court hearing.

The case has been described as a "notable case" in the SA planning lexicon & is frequently referred to re the merits of a particular case being argued ! It should be noted it was the first case the Commissioner who had only recently been appointed presided over !

**Prior to the Court case commenced two employees of the Marion Council approached me to withdraw the case with a provision that the Council would implement the zoning change to enable me to proceed with my re-development. It was stated that within 5 years the zoning changes would be made. Both these men subsequently gave evidence in Court opposing my proposal.**

**The new Planning Code promised many changes that potentially were of benefit to my situation and** boasted would support further improvements and facilitate quality planning in the future and ensure greater consistency and compliance across the state. Other residents in the wider Marion Council area and in many other Council areas are free to subdivide their properties without onerous conditions applied by a recalcitrant Council that are unfair, prohibitive & arbitrary and penalise householders in my suburb.

My property is 120 metres from the Marino Rocks Railway station; One of the well-publicized & stated aims of the Planning code was to allow for increased population density near transit corridors & railway stations. It seems the SA Planning Department allowed and facilitated Marion Council to ignore these objectives. I would have thought given the stated aims of the SA planning code & potential benefits to the State of South Australia no Council would have been able to ignore what is now the law of the state ! Most other Local Government Councils have facilitated these enhanced planning densities near railway stations !

I had enormous confidence that the New Planning Laws were for the benefit of everyone, regardless where they reside. Seemingly property developers get all the benefits and the property owner gets the dross !

I am appalled & upset that 10 years after I first made application I can still not get agreement to subdivide my property which was available to me at the time of purchase of the land. Marion Council has made no progress nor review of the existing planning codes with a view to changes to the Development code.

My overall contribution to the Planning review is that the Planning authority became beholden to a 'bandit' Marion Council which was always opposed to what was proposed, tardy & reluctant to engage & succeeded in making no change/implementation & defeated the proponents of change; who seemingly lacked the will, energy, clout & the legal power to impose the aims of the code.

One wonders what ICAC would make of it ?