

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **27 MAY 2020**
 SUBJECT: **COUNCIL ASSESSMENT PANEL REPORT**
 AUTHOR: **DEAN SPASIC**
DEVELOPMENT OFFICER PLANNING

ATTACHMENTS: **1. LOCALITY PLAN**
2. PROPOSED PLANS
3. STATEMENTS OF REPRESENTATIONS
4. APPLICANT'S REPLY TO REPRESENTATIONS

HEARING OF REPRESENTORS: **NOT APPLICABLE**
 HEARING OF APPLICANT: **NOT APPLICABLE**

DA NO.	:	110/00934/19
APPLICANT	:	SORIANO HOMES
LOCATION	:	6 ROBERT STREET, GLENELG SOUTH
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL CHARACTER ZONE NEW GLENELG POLICY AREA 11
NATURE OF DEVELOPMENT:	:	MERIT
PROPOSAL	:	TENNIS COURT LIGHTING
EXISTING USE	:	DETACHED DWELLING
REFERRALS	:	NIL
CATEGORY	:	THREE
REPRESENTATIONS	:	FOUR
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT

1. Site and Locality

The subject site is located on the southern side of Robert Street, Glenelg South and comprises a total site area of some 1700 square metres, and is bounded by a hammerhead development to the east, large allotments to the south, and group dwellings to the west.

The locality is characterised by a predominance of larger residential allotments, with large rear yards, to which some also contain tennis courts. There are 2 to the south-east of the site and 1 to the south-west of the site. 11 and 23 Broadway (south-east and south-west of the subject site) have tennis courts with lighting.

2. Proposed Development

The proposed development comprises the construction of four tennis court lights in the rear yard, to support the existing tennis court.

3. Public Consultation

The development is assigned as Category 3 development as it was not considered to achieve Development Regulations 2008 Public notice categories—Schedule 9, Part 1 - Category 1 Development, Clause 2(g) a kind of development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.

A total of four representations were received, all signing the one document:

- Ken Crocker of 2/8 Robert Street, Glenelg South
- Greg Harris of 3/8 Robert Street, Glenelg South
- Helen Preston of 3/8 Robert Street, Glenelg South
- David Moss of 6/8 Robert Street, Glenelg South

The representation referenced the following as the key reasons for objection:

- The light poles have already been installed, hence the builder is assuming a favourable outcome irrespective of any concerns raised by neighbours;
- The close proximity of the representors units 4, 5 and 6 to the light poles;
- Tennis playing under lights is usually accompanied by loud urgings, characteristic of domestic sporting contests; and
- Do not understand the luminosity which we are being asked to tolerate. It is difficult for the lay person to translate the luminaire layout readings on the obtrusive lighting plan into perceived effects.

The applicant has provided the following reply:

- There has been no assumption of approval. The posts have been installed, however the installation of the lights is subject to approval of this application (the posts do not constitute development);
- Obtrusive light calculations have been prepared by CME Lighting as well as detail about the directional lighting sought to be used. The lighting to be used is no more intrusive than what was existing prior to the recent development works associated with the dwelling, as well as other tennis courts in the area;
- The previous tennis court lights had been in operation for more than 30 years, comprised non-directional spotlights (which are sought to be replaced with directional lighting, designed specifically to spoil light onto the tennis court only; and
- The previous tennis court was on the western boundary, to which no complaints were ever received during that 30 year period. The new tennis court is approximately 15 metres away from the western boundary, therefore far less impact.

HOLDFAST BAY (CITY) DEVELOPMENT - ASSESSMENT - LAND DIVISION - COUNCIL WIDE PRINCIPLES OF DEVELOPMENT CONTROL

General Section, Design and Appearance	
Principles of Development Control	Assessment
17 Outdoor lighting should not result in light spillage on adjacent land.	Complies.

4. Summary of Assessment**Light Spill**

Principle of development control 17, as per the above table is the only reference in the Holdfast Bay (City) Development Plan with respect to tennis court lights. This is due to the fact that the poles alone, do not constitute development, hence the assessment is limited to the consideration of the amenity adjacent land owners with specific reference to light spill.

It is important to note that considerations such as noise nuisance cannot form part of the assessment, given the fact that noise associated with persons playing tennis, is reflective of an outdoor activity that is reasonably anticipated in a residential setting. Noise associated with residential related land uses is not a consideration under the Development Act or Development Plan.

With respect to the light spill, the documentation submitted by the applicant, specifically, the documentation provided by CME Lighting indicates that the proposed lights will not spill into adjacent land, and are designed in such a way that projects light onto the tennis court only. The tennis court is some 15 metres from the representor's properties, therefore an adequate separation distance from the projected light spill.

The planning assessment also has regard to the historic use of the site, which included a tennis court directly adjacent to the representor's properties, over some 30 years, to which the lighting associated with that court was of a kind that would not be considered appropriate in comparison to current lighting technology, hence the proposed tennis court lights reflect a vastly improved outcome in comparison to the historic use of the land.

5. Conclusion

The proposed development satisfied the relevant provision of Council's Development Plan.

6. RECOMMENDATION

- 1. The proposed development is NOT seriously at variance with the policies in the Development Plan.**
- 2. Following a detailed assessment of the proposal against the provisions of the Holdfast Bay (City) Development Plan, the Council Assessment Panel resolves to grant Development Plan Consent to Development Application 110/00934/19 comprising the installation of tennis court lighting at 6 Robert Street, Glenelg South.**

PLANNING CONDITIONS

1. The proposal shall be implemented as shown on the plans prepared by Rubidium Light, CME0019-E01-1, CME0019-E01-2, CME0019-E01-3 dated -12-19 documentation relating to GigaTera MAHA 400W LED Area Flood Lighting and site plan reference Q010-WD01 and submitted to Council, unless varied by any subsequent conditions imposed herein.
2. The lighting shall be implemented as per the documentation prepared by CME Lighting, and specifically that lighting is configured in such a way that does not result in light spill onto adjacent properties, in order to ensure that neighbouring residents are protected from unreasonable lighting nuisance.