

TO: **COUNCIL ASSESSMENT PANEL**  
 DATE: **23 SEPTEMBER 2020**  
 SUBJECT: **COUNCIL ASSESSMENT REPORT**  
 AUTHOR: **ALEXANDER STAMATOPOULOS**  
**DEVELOPMENT OFFICER - PLANNING**

ATTACHMENTS: **1. LOCALITY MAP**  
**2. PROPOSAL PLANS**  
**3. REPRESENTATION**  
**4. RESPONSE TO REPRESENTATION**

HEARING OF REPRESENTORS: **P MARIN**  
 HEARING OF APPLICANT: **C AND C ROLLAS**

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DA NO.:	110/00443/20
APPLICANT:	CON ROLLAS
LOCATION:	43 MARINE PARADE, SEACLIFF
DEVELOPMENT PLAN:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA:	RESIDENTIAL CHARACTER ZONE - SEACLIFF POLICY AREA 12
NATURE OF DEVELOPMENT:	MERIT
PROPOSAL:	CONSTRUCTION OF RETAINING WALL VARYING IN HEIGHT TO A MAXIMUM OF 2.1M SETBACK 1M FROM WHEATLAND STREET (RETROSPECTIVE APPLICATION)
REFERRALS:	NIL
CATEGORY:	THREE
REPRESENTATIONS:	ONE
RECOMMENDATION:	DEVELOPMENT PLAN CONSENT

## 1. Background

The subject site contained a stone retaining wall that was located inside the northern boundary of the site. Over the years the wall became dilapidated and was removed to ensure the safety of both the public and the land owners. The removal of the retaining wall resulted in the erosion of land which in turn resulted in the area adjacent to the existing wall to be rendered unusable and unsafe. To address the issue the applicant constructed the subjected retaining wall without obtaining development approval.

The Council was made aware of the structure and a Section 84 notice was issued on the 17 June 2020. As a result of the notice being issued the owner of the property ceased all works and lodged a retrospective application.

**2. Site and Locality**

The subject site is located in the Residential Character Zone Seacliff Policy Area 12. The allotment is located on the corner of Marine Parade and Wheatland Street and contains an access driveway off Myrtle Road. The site contains an area of approximately 1220 m<sup>2</sup> and accommodates a two storey detached dwelling. The dwelling is substantially elevated from the road level given the circumstances of the sloping nature of the locality. There are existing retaining walls on the northern and western side boundaries that support the raised level of site.

Wheatland Street connects motorists from Brighton Road to the Esplanade and is a popular thoroughfare for road users. The street contains a substantial slope down from Brighton Road to the Esplanade and is dominated by residential dwellings. The character of the immediate locality lacks consistency as it is comprised of a mixture of dwelling types with varied architectural styles and building heights.

*Refer to Attachment 1*

**3. Proposed Development**

The proposal seeks retrospective approval for a retaining wall that has been constructed varying in height from 850mm to 2.1m in height which spans 16.6m along the northern side boundary setback 1m from Wheatland Street. The retaining wall is constructed of Smart Walling System product which is comprised of 1200mm x 600mm modular panels.

The walls are made of a high impact polystyrene resin which when filled with concrete form a rock-solid wall where the panels develop a permanent "skin" which is water and termite proof. The applicant has confirmed that the wall will be painted to ensure an appropriate external finish.

*Refer to Attachment 2*

**4. Procedural Matters**

The application is a Category 3 Development subject to Section 38 2(c) of the Development Act as shown below:

(2) Subject to subsection (2a), the following provisions apply in relation to the assignment of developments to these categories:

(a) the regulations or a [Development Plan](#) may assign a form of [development](#) to Category 1 or to Category 2 and if a particular form of [development](#) is assigned to a category by both the regulations and a [Development Plan](#)—

(i) if the regulations provide that an assignment by a [Development Plan](#) may prevail—the assignment provided by the [Development Plan](#) will, to the extent of any inconsistency, prevail (subject to the operation of paragraph (b)); but

(ii) in any other case—the assignment provided by the regulations will, to the extent of any inconsistency, prevail;

(b) the regulations may assign a form of [development](#) to Category 2A and this will prevail to the extent of any assignment provided by a [Development Plan](#) under paragraph (a);

(c) any development that is not assigned to a category under paragraph (a) or (b) will be taken to be a Category 3 development for the purposes of this section.

The application does not warrant any referrals subject to Schedule 8 of the Development Regulations 2008.

## 5. Public Notification

One representation was received during the Category 3 consultation period. A summary of the representation is shown below:

### Paul Marin of Fopp of 9/222 Esplanade, Seacliff:

The concerns raised in the representation do not specifically relate to the application put before the Council. The representor raised concerns regarding the existing retaining wall along the northern and western side of the subject site that is on-grade with the footpath level.

The applicant acknowledged the representors concerns by responding with a letter dated 31 July 2020 marked as Attachment 4 of this report. While the representation was not relevant to the proposal, the applicant stated in the response that the on-grade retaining walls to the north and west of the site will be subject to renovation the near future to ensure stability and safety of the site.

## 6. Development Data

DEVELOPMENT DATA			
Aspect	Proposed	Development Plan	Compliance
<u>Wall Height</u>	850mm to 2.1m	3m	<u>Complies</u>
<u>Setback</u>	1m	2m	<u>1m shortfall</u>

## 7. Development Plan Provisions

### HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – GENERAL SECTION – COUNCIL WIDE – PRINCIPLES OF DEVELOPMENT CONTROL

<b>Landscaping, Fences and Walls</b>	
5. Fences and walls, including retaining walls, should: (a) not result in damage to neighbouring trees (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street (e) assist in highlighting building entrances (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites (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 (h) be constructed of non-flammable materials.	(a) Complies (b) Does not comply (c) Complies (d) Does not comply (e) N/A (f) Complies (g) Complies (h) Complies
6. Retaining walls should be constructed as a stepped series of low walls, incorporate landscaping to soften the appearance of the retaining wall and use locally indigenous plant species where possible.	Does not comply
<b>Design and Appearance</b>	
22. Except in areas where a new character is desired, the setback of development from public roads should be: (a) screened from public view by a combination of built form, solid fencing and/or landscaping (b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles (c) sited away from sensitive land uses.	(a) Complies (b) N/A (c) N/A
<b>Residential Development</b>	
25. Walls with a height of up to (and including) 3 metres above natural ground level (excluding veranda, porch and balcony structures) should be setback 2 metres from the secondary street frontage	1m shortfall

### HOLDFAST BAY (CITY) DEVELOPMENT – ASSESSMENT – RESIDENTIAL CHARACTER ZONE

<b>RESIDENTIAL CHARACTER ZONE</b>	
<b>Objectives</b>	
2. Development that is designed to reflect the traditional character elements of the area, particularly as presented to the streetscape.	Locality is not considered to contain character
3. Development that contributes to the desired character of the zone.	Complies

<b>RESIDENTIAL CHARACTER ZONE (Cont)</b>	
<b>Desired Character</b>	
<p>The zone comprises a number of policy areas in the areas of Glenelg, Glenelg East, Glenelg North, Glenelg South, Brighton and Seacliff. The zone displays and will continue to display strong heritage and historic character created by original subdivision patterns, low-density character, street layouts and concentrations of early dwelling styles including bungalows, cottages, villas and tudors. Development in the zone also displays and will continue to display mature landscaping and biodiversity.</p> <p>Development will contribute to the character of the zone through the retention, conservation and enhancement of the existing desirable features as articulated in the various policy areas. Residential development and its landscaping will dominate and be consistent with and contribute to the character of the policy area in which it is located.</p> <p>Development should retain existing older style dwellings of attractive appearance and sound condition which are consistent with the desired character of the policy area.</p>	
<b>Principles of Development Control</b>	
5. Development should not be undertaken unless it is consistent with the desired character for the zone.	Complies
<b>SEACLIFF POLICY AREA 14</b>	
<b>Objectives</b>	
1. Development that contributes to the desired character of the policy area.	Complies.
<b>Desired Character</b>	
<p>The policy area includes the area between Young Street and Pine Avenue, and extends from the allotments behind the Esplanade eastwards to Brighton Road. The railway line is a significant feature within the policy area, creating a significant north-south movement and landscape corridor but restricting east-west access and movement.</p> <p>The policy area has unique characteristics, having been subdivided and first settled earlier than the adjoining precincts. It is characterised by a sloping landform overlaid with a rectilinear 19th Century pattern of roads resulting in smaller allotment sizes, narrow streets, reduced setbacks, limited street trees and limited stormwater infrastructure. While there is a diversity of architectural eras and styles evident, the policy area is characterised by small to medium scale detached dwellings constructed in the 1880s to 1920s west of the railway line, and a similar development scale constructed during the later 1930s to 1960s east of the railway line. These dwelling forms typically vary between one and two storeys in height throughout the policy area.</p> <p>Further infill development will be limited in response to the constraints of the existing road and stormwater infrastructure, and the need to preserve public coastal views and open space.</p>	

<b>SEACLIFF POLICY AREA 14</b>	
<b>Desired Character</b>	
<p>Development will reinforce the existing historic street pattern, urban form and have regard to the slope of the land. With respect to the sloping topography of the policy area, buildings will be designed and sited to limit extensive cut and fill and be sited (and of a form and scale) to protect significant views and vistas. Development will also include landscape buffers and noise attenuation features for development on sites that abut the railway line.</p> <p>Development will incorporate side, front and rear building setbacks that provide landscaping opportunities, on-site stormwater retention/detention, complement the predominant setbacks within the locality and limit overlooking into neighbouring property. Notwithstanding, development may achieve coastal views through the utilisation of the sloping topography and may require horizontal views over (but not necessarily into) lower sites. Likewise, site topography may allow for overlooking into neighbouring properties more than normally tolerated in other zones and policy areas.</p>	
<b>Principles of Development Control</b>	
2. Development should not be undertaken unless it is consistent with the desired character for the policy area.	Complies
5. Development should be limited to single storey and in any case the vertical wall height at any point, excluding gables, should not exceed 3.5 metres above natural ground level.	Complies

## 8. Summary of Assessment

The application complies with a majority of the quantitative objectives and principles of the Holdfast Bay Development plan. The following assessment will touch on aspects of the application which requires further discussion.

**Built Form and Streetscape appearance**

The planning considerations of the application relate primarily to the overall appearance and its impacts to the immediate locality. Photos of the constructed retaining wall are shown below:



The wall contains a prominent appearance from the streetscape particularly where the land slopes down toward the west and the height of the wall increases to its highest point from natural ground level. In its current state the wall has not been finished and its construction is in its 'raw' form where the joints of the panels are visible.

Wheatland Street is not considered to be a street of high amenity as the pattern of development lacks consistency. There are multiple examples of the dwellings located on corner allotments where Wheatland Street is a secondary boundary resulting in a uniform streetscape. Wheatland Street spans east-west and is approximately 560 metres long. There are six roads that intersect with Wheatland Street that run north-south and are listed below:

- Acacia Street;
- Yacca Road;
- Kauri Parade;
- Waratah Street;
- Myrtle Road; and
- Marine Parade

The result of six streets intersecting with a road that spans a 560 metres results in a varied streetscape as there is limited space between the intersecting roads for dwellings to be consistently established with primary facades fronting Wheatland Street. As mentioned, the streetscape is characterised by dwellings on allotments with secondary boundaries facing Wheatland Street which contain little streetscape appeal as their main facades face the intersecting streets.

The streetscape photos below are a visual representation of the four dwellings located on the corners of Myrtle Road and Wheatland Street directly to the east of the subject site.





**40 Myrtle Road - North-western corner**



**1/57 Myrtle Road - South-eastern corner**



**54 Wheatland Street - North-eastern corner**



### 53 Wheatland Street - South-western corner

Given the sloping context of the site and the varied streetscape character there is merit for the proposal in its current location. It is acknowledged that the wall is a prominent structure when viewed from Wheatland Street however with appropriate conditions of approval, the visual bulk of the structure can be mitigated.

There is a 1 metre gap between the northern side boundary and the constructed wall which is an ideal setting for semi-mature landscaping to be established. The Holdfast Bay Development Plan is clear in that where retaining walls are constructed and contain a visual presence to the streetscape, their appearance should be mitigated by the inclusion of landscaping.

The proposal does not incorporate landscaping between the wall and the northern side boundary. As this is the case a condition of consent is recommended for mature landscaping to be established. This will satisfy PDC 6 of General Section Landscaping, Fences and Walls and PDC 22(a) Design and Appearance as listed below:

*6. Retaining walls should be constructed as a stepped series of low walls, incorporate landscaping to soften the appearance of the retaining wall and use locally indigenous plant species where possible*

*22. Except in areas where a new character is desired, the setback of development from public roads should be:*

*(a) screened from public view by a combination of built form, solid fencing and/or landscaping*

With the inclusion of the landscaping condition the visual prominence of the structure will be of a lesser scale and overall impacts to the streetscape will be negligible.

## 9. Conclusion

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal on balance satisfies the relevant provisions of the Development Plan. The proposal is broadly consistent with the desired character of the zone and will not detrimentally impact upon the amenity of the adjoining properties of the locality. Accordingly, the proposal warrants Development Plan Consent subject to conditions.

**10. 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 110/00443/20 subject to the following conditions:

**PLANNING CONDITIONS**

1. That the design and siting of the retaining wall shall be as shown on the plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein.
2. That landscaping comprising of semi mature trees and shrubs shall be planted between the retaining wall and the northern side boundary to the reasonable satisfaction of Council. The trees shall have a minimum height of 1500mm and the shrubs a minimum height and breadth of 300mm when planted. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
3. That the retaining wall be painted in a colour that matches or blends with the existing dwelling.