

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **28 AUGUST 2019**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **DEAN SPASIC**
DEVELOPMENT OFFICER - PLANNING

ATTACHMENTS: **1. LOCALITY MAP**
2. PROPOSAL PLANS
3. REPRESENTATIONS

HEARING OF REPRESENTORS: **IVAN WINTER**
 HEARING OF APPLICANT: **SARAH AND NATHAN POWELL**

DA NO.	:	110/00415/19
APPLICANT	:	ROSSDALE HOMES
LOCATION	:	3 SKYE STREET, SEACLIFF PARK
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL ZONE
NATURE OF DEVELOPMENT:		MERIT
PROPOSAL	:	TWO STOREY DETACHED DWELLING WITH INTEGRAL GARAGE LOCATED ON THE SOUTH EASTERN SIDE BOUNDARY (ALLOTMENT 101 - 1/28 OPHIR CRESCENT, SEACLIFF PARK)
REFERRALS	:	NOT APPLICABLE
CATEGORY	:	TWO
REPRESENTATIONS	:	TWO
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS

1. Background

The subject site was recently subdivided creating two allotments from one allotment as part of application 110/00484/18. This division resulted in the retainment of the existing dwelling over an area of 516 square metres and creation of a new allotment with the remaining land area of 331 square metres. The division was approved with regard to the fact the existing building is retained as well as the balance of division resulting in average site areas of 432 square metres, which is greater than the minimum anticipated for the detached dwellings.

2. Site and Locality

The subject site is located on the eastern side of Gilbertson Gully and on the southern side of the Skye Street and Ophir Crescent intersection. The land is located 130 metres from Susan Grace Benny Reserve, which comprises an area of 13,000 square metres.

The surrounding locality comprises a mix of old and new housing stock and land divisions associated with corner sites as well as some examples of hammerheads.

The land is not located within a prescribed Residential Code area, although immediately east of the site is a prescribed area, hence it is foreseeable that future housing stock within the immediate and greater locality will comprise conventional two storey built form. The primary reason for this area being excluded from the Residential Code mapping was in relation to the general topography locality as opposed to any built form influences such as character dwellings, heritage implications or the like.

Refer to Attachment 1

3. Proposed Development

The proposed development comprises the construction of a two storey detached dwelling with integral garage located on the south-eastern side boundary over the newly created allotment which will eventually be identified as 1/28 Ophir Crescent, Seacliff Park.

Refer to Attachment 2

4. Development Data

Dwelling	Proposed	Development Plan	Development Plan Satisfied?
Site area	331 square metres	400 square metres	Existing allotment
Site coverage	52 percent of the site area	Maximum 50 percent	No, however 2% variance is negligible
Private open space	83 square metres 25 percent of the site area	Minimum 20 percent	Yes
North-eastern primary setback	Verandah 2.5 metres Main face of dwelling 4.2 metres Garage 6.6 metres	The building should be setback in-line with the setback of the adjacent building with a frontage to the same street. Adjacent buildings are setback 6.5 and 3.8 metres	Yes
South-eastern side setback	Garage wall located on the boundary, which abuts the garage of the south-eastern adjacent property	Where a wall is located on a boundary, the maximum height should not exceed 3 metres above the natural ground level with a wall length not exceeding 8 metres	Yes
	Ground level wall setback 1.6 metres	The ground level component should be setback a minimum distance of 1 metre	Yes
	Upper level wall setback 2.5 metres	The upper level component should be setback a minimum distance of 2.5 metres	Yes

North-western side setback	Ground level wall setback 900mm	The ground level component should be setback a minimum distance of 1 mere	Yes
	Upper level wall setback 2.5 metres	The upper level component should be setback a minimum distance of 2.5 metres	Yes
South-western rear boundary setback	Ground level wall 4 metres	The ground level component should be setback a minimum distance of 4 metres	Yes
	Upper level wall 7.8 metres	The upper level component should be setback a minimum distance of 6 metres	Yes

5. Public Consultation

The proposal was subject to a Category 2 public notification process due to the proposal comprising a wall located on an allotment boundary with a height exceeding 2.75 metres above the natural ground level. A total of two statement of representations were received, to which the concerns are summarised as follows:

Ivan Winter – 2 Vale Road, Seacliff Park

- The Residential Code must not influence, in any way, the assessment of this development application;
- The proposed building will adversely impact the amenity and wellbeing of adjoining property owners due to oversized dwelling for the small site area, which is contrary to the principles of development control as follows:
 - General Section, Residential Development PDC 21 – a minimum setback of 6 metres for a building of two or more storeys. *Administration Note: PDC 21 has been misquoted here, the parameters identify a 4 metre setback for a wall height of 3 metres or less and 6 metres for a wall height of two or more storeys, which has been achieved;*
 - General Section, Residential Development PDC 21 – the proposed development should be setback a minimum of 2.445 metres from the north-west side boundary for a building of two storeys with a visible wall height of 5.89 metres above natural ground level. *Administration Note: The FFL is 250mm above the lowest site level adjacent to the footing and the wall height is 5.6 metres above the footing, hence a total wall height of 5.85 metres. PDC 21 anticipates a minimum boundary setback of 2.5 metres in the case of the proposed wall height, which has been achieved;*
 - Residential Zone, Objective 3, Desired Character, which stipulates unobtrusive small scale development of comparable height, mass, scale and setbacks to that of existing building in the Zone and should generally be single storey in height in areas east of Brighton Road. The only two storey dwellings on the south western side of Ophir Crescent were built over 20 years ago and should not be used as a precedence, or influence in assessing this development application. *Administration Note: Other development does not set a precedence, however,*

when assessing a proposal, the assessment authority must have regard to the existing built form character, such as the two storey building across the street at 33 Ophir Crescent and other nearby examples, as well as regard to the 'as of right' built form character within the immediate vicinity (ie. Res Code) and how that will influence the built form character of the locality in the foreseeable future;

- Residential Zone, Form and Character PDC 6 – development should not be undertaken unless it is consistent with the desired character of the zone;
- Residential Zone, Minimum Site Area PDC 7 – the mass and height of the proposed two storey detached dwelling requires an area of not less than 400 square metres. The proposed development is unable to comply with this requirement due to the undersized site of only 330 square metres. *Administration Note: the allotment is existing, hence the site area merits cannot be considered as part of this proposal. Further, PDC 7 does not reference the number of storeys relative to a suitable site area. It is largely accepted throughout metropolitan Adelaide in planning that two storey buildings are more appropriate for smaller sites given the building footprint is less than a single storey building;*
- Residential Zone, Maximum Wall Height PDC 8 – dwellings east of Brighton Road should have a wall height not exceeding 3.5 metres above the natural ground level. To exceed the maximum wall height stipulated by 2.39 metres and not incorporate the second storey within the lower storey roof space, is a very significant and unacceptable deviation thus presenting excessive height and mass to adjacent residents and therefore, fails to comply with the PDC.

Robert and Roslyn O'Connell – 21A Gilbertson Road, Seacliff Park

- When purchasing our property, we were of the understanding that the area south-west of Ophir Crescent was zoned single storey, thus there was an expectation that future development would be single storey and not encroach on our site lines to the sky over our rear boundary or stop our winter sun from lighting our rear patio;
- The whole block bounded by Gilbertson Road, Skye Street, Ophir Crescent and Vale Road contain 6 single storey dwellings. If this two storey dwelling is approved, it would be out of character with the area and seriously reduce the privacy, amenity and value of surrounding buildings, as well as increase noise pollution in all adjoining properties;
- The size and height of the building appears to be excessive for the 300 square metre plot of land. It appears that the rear wall of the adjoining residence at 3 Skye Street forms part of the north-west boundary of the new development. This wall has a large window in it and has an overhanging eave and air conditioner which would encroach the boundary;
- Request that the height of vegetation planted adjacent to the rear boundary of adjoining 21A Gilbertson Road be kept below the height of the boundary fence, as to not stop winter sunlight from our property. *Administration Note: A condition relating to control of the height of vegetation is not a valid condition and near impossible to monitor and enforce from a time and monetary perspective. The planting of trees, shrubs and grasses does not constitute development and it is not appropriate for Council to dictate to that extent, how one establishes and manages their garden. It is more appropriate for the neighbours to discuss this more specific details, as a civil matter to achieve a resolution.*

The applicant has considered the representations and provided the following comments:

- It is acknowledged that two storey built form is contrary to the Development Plan criteria, however, there are examples of where this has occurred both historically and more recently;
- The two storey has been specifically designed to suit a small family. We would like to avoid limiting the scope of the build to just a single storey given the approved block specifications;

- The design has regard to neighbouring properties, such as a rear setback of 7.8 metres to the upper level wall, which ensures minimal interference with the natural light entering adjacent properties;
- It is considered that the side setbacks comply with the Development Plan;
- It can be argued that the development is not out of character with the area, given the historical precedence of two storey dwellings; as well as new two storey builds within the Zone. This will no doubt continue, reflecting the on-going development of a dynamic and evolving aesthetic in the area;
- The building is a modest two storey dwelling with a floor plan of only 220 square metres of living space;
- We fail to see how a two storey building would have any greater impact with respect to noise than a single storey dwelling.

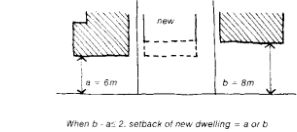
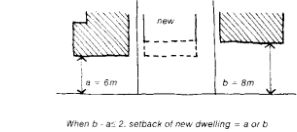
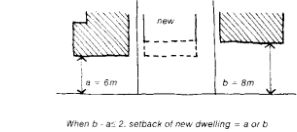
6. Development Plan Provisions

The following tables contain a detailed assessment of the proposal against the provisions in the Holdfast Bay (City) Development Plan consolidated 2 June 2016:

General Section – Design and Appearance	
Objectives	
1. Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.	Complies
Principles of Development Controls	
1 Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following: (a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandas, eaves, parapets and window screens	Complies
2 Where a building is sited on or close to a side boundary, the side boundary wall should be sited and limited in length and height to minimise: (a) the visual impact of the building as viewed from adjoining properties (b) overshadowing of adjoining properties and allow adequate sun light to neighbouring buildings.	Complies
3 The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties or drivers.	Complies
5 Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.	Complies

General Section – Design and Appearance (Cont)	
Principles of Development Controls	
10 The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of: (a) windows of habitable rooms (b) upper-level private balconies that provide the primary open space area for a dwelling (c) solar collectors (such as solar hot water systems and photovoltaic cells).	Complies
11 Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as: (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct (b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms (c) screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.	Complies
13 Buildings (other than ancillary buildings or group dwellings) should be designed so that their main façade faces the primary street frontage of the land on which they are situated.	Complies
15 Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.	Complies
16 Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.	Complies
General Section – Residential Development	
Objectives	
1 Safe, convenient, pleasant and healthy-living environments that meet the full range of needs and preferences of the community.	Complies
2 A diverse range of dwelling types and sizes available to cater for changing demographics, particularly smaller household sizes and supported accommodation.	
4 The revitalisation of residential areas to support the viability of community services and infrastructure.	
Principles of Development Controls	
1 Residential allotments and sites should maximise solar orientation and have the area and dimensions to accommodate: (a) the siting and construction of a dwelling and associated ancillary outbuildings (b) the provision of landscaping and private open space (c) convenient and safe vehicle, pedestrian and cycling access and parking (d) water sensitive design systems that enable the storage, treatment and reuse of stormwater.	Complies
3 Residential allotments should be of varying sizes to encourage housing diversity.	Complies

General Section – Residential Development (Cont)	
Principles of Development Controls	
5 Residential development should be designed to ensure living rooms have an external outlook.	Complies
6 Entries to dwellings should be clearly visible from the streets that they front to enable visitors to identify a specific dwelling easily.	Complies
10 The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to: (a) windows of habitable rooms (all rooms excluding bathrooms, laundries and hallways), particularly living areas (b) ground-level private open space (c) upper-level private balconies that provide the primary open space area for any dwelling (d) access to solar energy.	Complies
11 Development should ensure that north-facing windows to habitable rooms (all rooms excluding bathrooms, laundries and hallways) of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 5 pm on the 21 June.	Complies
12 Development should ensure that ground-level open space of existing buildings receives direct sunlight for a minimum of two hours between 9 am and 3 pm on 21 June to at least the smaller of the following: (a) half of the existing ground-level open space (b) 35 square metres of the existing ground-level open space (with at least one of the area's dimensions measuring 2.5 metres). Development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.	Complies
13 Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complement the associated dwelling.	Complies
14 Garages and carports facing the street should not dominate the streetscape and should be designed in accordance with the following: (a) have a maximum total width of garage or carport openings of 6 metres or 50 per cent of the dwelling frontage width, whichever is the lesser (b) be located at least 0.5 metres behind the main face of the associated dwelling (c) where it is in the form of an enclosed double carport or garage, be setback at least 8 metres from the primary road frontage and incorporate one of the following: (i) two individual doors with a distance of not less than 300 millimetres between them (ii) double tilt-up doors with moulded door panels having a maximum width of no more than 5 metres (d) be constructed of materials that integrate with those of the associated dwelling, or pre-coloured treated metal.	Complies

General Section – Residential Development (Cont)													
Principles of Development Controls													
<p>19 Except where specified in a particular zone, policy area or precinct or Residential High Density Zone, the main face of a building should be set back from the primary road frontage in accordance with the following table:</p> <table border="1" data-bbox="161 488 783 750"> <thead> <tr> <th>Setback difference between buildings on adjacent allotments with frontage to the same primary street</th> <th>Setback of new building</th> </tr> </thead> <tbody> <tr> <td>Up to 2 metres</td> <td>The same setback as one of the adjacent buildings, as illustrated below:</td> </tr> <tr> <td colspan="2" style="text-align: center;">  </td> </tr> <tr> <td>Greater than 2 metres</td> <td>At least the average setback of the adjacent buildings.</td> </tr> </tbody> </table>	Setback difference between buildings on adjacent allotments with frontage to the same primary street	Setback of new building	Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:			Greater than 2 metres	At least the average setback of the adjacent buildings.	Complies				
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<p>20 Dwelling setbacks from side and rear boundaries should be progressively increased as the height of the building increases to:</p> <p>(a) minimise the visual impact of buildings from adjoining properties</p> <p>(b) minimise the overshadowing of adjoining properties.</p>	Complies												
<p>21 Residential development (other than where located on a boundary) should be setback from side and rear boundaries in accordance with the following parameters:</p> <table border="1" data-bbox="161 1055 783 1317"> <thead> <tr> <th>Parameter</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Side walls with a height up to (and including) 3 metres at any point above the natural ground level</td> <td>1 metre</td> </tr> <tr> <td>Side walls with a height exceeding 3 metres and up to (and including) 6 metres at any point above the natural ground</td> <td>1.5 metres plus an additional 500 millimetres for every metre in height above 4 metres</td> </tr> <tr> <td>Side walls greater than 6 metres at any point above the natural ground level</td> <td>2.5 metres plus the increase in wall height above 6 metres</td> </tr> <tr> <td>Rear boundary setback for single storey buildings with a wall height 3 metres or less above natural ground level</td> <td>4 metres</td> </tr> <tr> <td>Rear boundary setback for a building of two or more storeys with a wall height more than 3 metres above natural ground level</td> <td>6 metres</td> </tr> </tbody> </table>	Parameter	Value	Side walls with a height up to (and including) 3 metres at any point above the natural ground level	1 metre	Side walls with a height exceeding 3 metres and up to (and including) 6 metres at any point above the natural ground	1.5 metres plus an additional 500 millimetres for every metre in height above 4 metres	Side walls greater than 6 metres at any point above the natural ground level	2.5 metres plus the increase in wall height above 6 metres	Rear boundary setback for single storey buildings with a wall height 3 metres or less above natural ground level	4 metres	Rear boundary setback for a building of two or more storeys with a wall height more than 3 metres above natural ground level	6 metres	Complies
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<p>23 Side boundary walls in residential areas should be limited in length and height to:</p> <p>(a) minimise their visual impact on adjoining properties</p> <p>(b) minimise the overshadowing of adjoining properties</p>	Complies												
<p>24 Walls associated with a dwelling located on a side boundary should be designed in accordance with the following parameters:</p> <p>(a) a height not exceeding 3 metres above natural ground level</p> <p>(b) a length not exceeding 8 metres</p> <p>(c) the wall, when its length is added to the length of any other relevant walls or structures located on that boundary:</p> <p>(i) will not result in all such relevant walls and structures exceeding a length equal to 45 per cent of the length of the boundary</p> <p>(ii) will not be within 3 metres of any other relevant wall or structure located along the boundary, except where the side wall is located immediately abutting the wall of an existing or simultaneously constructed building on the adjoining site and is constructed to the same or to a lesser length and height.</p>	Complies												

General Section – Residential Development (Cont)							
Principles of Development Controls							
<p>27 Carports and garages should be set back from road and building frontages so as to:</p> <ul style="list-style-type: none"> (a) contribute to the desired character of the area (b) not adversely impact on the safety of road users (c) provide safe entry and exit (d) not dominate the appearance of dwellings from the street. 	Complies						
<p>28 Site coverage (the proportion of a site covered by ground floor level buildings and structures including dwelling, garage, carport, verandas and outbuildings but excluding unroofed pergolas and unroofed balconies) should not exceed the following values:</p> <table border="1"> <thead> <tr> <th>Parameter</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Site with an area less than or equal to 300 square metres</td> <td>60 per cent</td> </tr> <tr> <td>Site with an area greater than 300 square metres</td> <td>50 per cent</td> </tr> </tbody> </table>	Parameter	Value	Site with an area less than or equal to 300 square metres	60 per cent	Site with an area greater than 300 square metres	50 per cent	Does not comply. Only 2 percent variance
Parameter	Value						
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Site with an area greater than 300 square metres	50 per cent						
<p>29 Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles. 	Complies						
<p>31 Private open space (land available for exclusive use by residents of each dwelling) should be provided for each dwelling (including a dwelling within a residential flat building) and should be sited and designed:</p> <ul style="list-style-type: none"> (a) to be accessed directly from the habitable rooms of the dwelling (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy (c) to take advantage of, but not adversely affect, natural features of the site (d) to minimise overlooking from adjacent buildings (e) to achieve separation from bedroom windows on adjoining sites (f) to have a northerly aspect to provide for comfortable year-round use (g) to not be significantly shaded during winter by the associated dwelling or adjacent development (h) to be shaded in summer (i) to minimise noise and air quality impacts that may arise from traffic, industry or other business activities within the locality (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling and the dimension and gradient of the site. 	Complies						

General Section – Residential Development (Cont)											
Principles of Development Controls											
<p>32 Dwellings and residential flat buildings at ground level should include private open space that conforms to the requirements identified in the following table:</p> <table border="1"> <thead> <tr> <th>Site area of dwelling</th> <th>Minimum area of private open space</th> <th>Provisions</th> </tr> </thead> <tbody> <tr> <td>250 square metres or greater</td> <td>20 per cent of site area</td> <td> <p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.</p> <p>One part of the space should be directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p> </td> </tr> <tr> <td>Less than 250 square metres</td> <td>35 square metres</td> <td> <p>Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.</p> <p>One part of the space is directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.</p> </td> </tr> </tbody> </table>		Site area of dwelling	Minimum area of private open space	Provisions	250 square metres or greater	20 per cent of site area	<p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.</p> <p>One part of the space should be directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</p>	Less than 250 square metres	35 square metres	<p>Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.</p> <p>One part of the space is directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.</p>	Complies
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<p>33 Private open space should not include driveways, front yards (except where it is a group dwelling that has no frontage to a public road and the private open space is screened from adjacent dwellings), effluent drainage areas, rubbish bin storage, sites for rainwater tanks and other utility areas and common areas such as parking areas and communal open space.</p>		Complies									
<p>34 Private open space at ground level should be designed to provide a consolidated area of deep soil (an area of natural ground which excludes areas where there is a structure underneath, pools and non-permeable paved areas) to:</p> <ul style="list-style-type: none"> (a) assist with ease of drainage (b) allow for effective deep planting (c) reduce urban heat loading and improve micro-climatic conditions around sites and buildings. 		Complies									

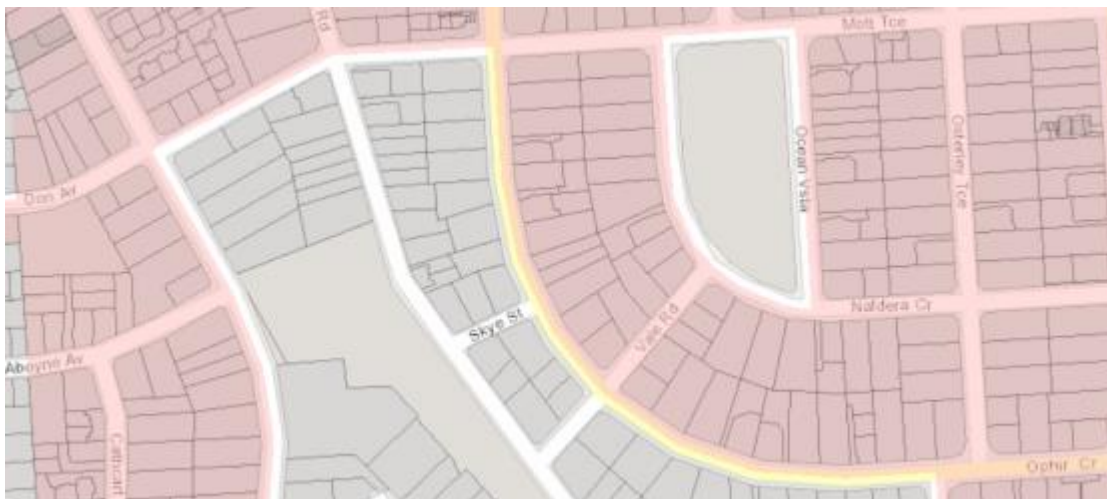
HOLDFAST BAY (CITY) DEVELOPMENT – ASSESSMENT – RESIDENTIAL ZONE AND POLICY AREAS – OBJECTIVES AND PRINCIPLES OF DEVELOPMENT CONTROL

RESIDENTIAL ZONE	
Objectives	
<p>3. Development that contributes to the desired character of the zone.</p> <p>DESIRED CHARACTER</p> <p>The zone contains the majority of the city's living areas, which are of predominantly low-density suburban form, but within policy areas include medium-to-high density forms of housing on the coast, along key transport corridors and within Glenelg, as well as coordinated development opportunities within large institutional sites. The zone includes five policy areas, three of which cater for coastal development, one for the City's residential institutions (including Minda and Masonic Homes) and one for medium density development along the key transit routes of Brighton Road, Anzac Highway, Tapleys Hill Road and along sections of the Seaford railway transit corridor.</p> <p>Development outside of the policy areas will be suburban in nature and evolve in response to progressive infill development of existing individual sites and through consolidation of sites to form larger comprehensive redevelopment opportunities. Infill development outside of the Policy Areas will not compromise the suburban character but will progressively increase dwelling densities through unobtrusive small-scale developments. In this regard, infill development will have a comparable height, mass, scale and setbacks to that of existing dwellings in the relevant locality.</p> <p>The zone's primarily suburban character outside of the policy areas is defined by detached dwellings on individual allotments. Infill development in these suburban areas will contribute to the city's housing diversity through development opportunities that (in order of preference):</p> <ul style="list-style-type: none"> (a) increase dwelling numbers on allotments that have dual road frontages (b) provide low scale dwellings at the rear of large allotments with street frontages wide enough to accommodate appropriate sited and sized driveway access and landscaping (c) semi-detached dwellings, where site considerations permit. <p>Development outside of the policy areas will generally be single storey in height in the areas east of Brighton Road, and up to two storeys in height in the areas west of Brighton Road. Buildings will be both domestic and contemporary in design and character to support and reinforce the essentially suburban character through typical domestic design forms, low front fencing and landscaping. Landscaping will help define the public realm and private property boundaries, and substantial landscaped front yards will contribute to the locality, with the retention of mature trees. Development will have side and rear building setbacks that incorporate an access path on one side, with on-boundary built form limited in height, length and location to the equivalent of typical open carports or garaging. Vehicle garaging will be set back clearly behind the immediately adjacent part of the front building facade. Development will enhance and protect streetscape character by minimising driveway access points and width of crossovers and driveways. Undercroft car parking will also be avoided on flat sites and sites that slope down from the street level. Buildings will be stepped and articulated at the front elevation to achieve visual relief and architectural interest as viewed from the street.</p> <p>Residential development outside of the policy areas will utilise materials and finishes that respond to the character of the immediate locality and utilise brick, stone and rendered finishes to provide visual interest to facades. Development will also incorporate architectural design and detailing that responds to localised character by way of fenestration, doorways, windows, eaves and roof forms. Development will be setback and orientated to minimise impacts of the privacy of neighbouring residents.</p>	Complies
Principles of Development Controls	
<p>1 The following forms of development are envisaged in the zone:</p> <ul style="list-style-type: none"> ▪ affordable housing ▪ domestic outbuilding in association with a dwelling ▪ domestic structure ▪ dwelling ▪ dwelling addition ▪ small scale non-residential use that serves the local community, for example: <ul style="list-style-type: none"> - child care facility - health and welfare service - open space - primary and secondary school - recreation area ▪ supported accommodation. 	Complies
<p>5 The use and placement of outbuildings should be ancillary to and in association with a dwelling or dwellings.</p>	Complies
<p>6 Development should not be undertaken unless it is consistent with the desired character for the zone.</p>	Complies

RESIDENTIAL ZONE										
Principles of Development Controls										
8 Dwellings and residential flat buildings, except where specified in a particular policy area or precinct, should not exceed the maximum heights shown in the following table:		Complies								
<table border="1"> <thead> <tr> <th>Location of the dwelling</th> <th>Maximum wall height above natural ground level</th> <th>Maximum height above natural ground level</th> </tr> </thead> <tbody> <tr> <td>West of Brighton Road or Tapleys Hill Road</td> <td>7 metres</td> <td>Two storeys</td> </tr> <tr> <td>East of Brighton Road or Tapleys Hill Road</td> <td>3.5 metres</td> <td>One storey, or two storeys if the second storey is incorporated within the roof space and the floor area of the second storey does not exceed 40 percent of the ground floor footprint of the dwelling, including attached garages.</td> </tr> </tbody> </table>	Location of the dwelling		Maximum wall height above natural ground level	Maximum height above natural ground level	West of Brighton Road or Tapleys Hill Road	7 metres	Two storeys	East of Brighton Road or Tapleys Hill Road	3.5 metres	One storey, or two storeys if the second storey is incorporated within the roof space and the floor area of the second storey does not exceed 40 percent of the ground floor footprint of the dwelling, including attached garages.
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9 Dwellings and/or residential flat buildings should be setback a minimum of one metre from one side boundary to incorporate pedestrian access.		Complies								

7. Summary of Assessment

Zone and Built Form Character



Conclusion

The Desired Character for the Residential Zone anticipates *Development outside of the policy areas will generally be single storey in height in the areas east of Brighton Road and up to two storeys in height in the areas west of Brighton Road (my emphasis)*. When considering the general built form within the locality, the housing stock remains, *in most cases*, single storey. The wording there within the Desired Character, opens the possibility for two storey built form where there is planning merit.

It is accepted that Residential Zone, Principle of Development Control 8, specifically seeks to ensure the two storey height is controlled, however, the wording between the Desired Character and PDC 8 is inconsistent in its intent and must be considered on balance with the built form character of the locality in which the subject site is situated.

It is further acknowledge that the subject site is within a pocket that has been excluded from the Residential Zone code provisions. When the State Government determined areas to be prescribed for Residential Code assessment, certain areas where excluded, including Heritage, Character and areas of varying topography. In the case of the subject site, the land is located within 50 metres of

Gilbertson Gully and is characterised by varying topography (ie, the land slopes downward toward the fully. The omission of this locality from the Residential Code therefore is not in any way a reflection of built form character, but rather the topography of the land. As per the Residential Code map below, the locality immediately east and north of the subject land can accommodate two storey built form, further emphasising the lack of built form character found within this locality.

When considering the Development Plan seeking single storey built form west of Brighton and Tapleys Hill Road, it is not clear what the intent is with this provision (particularly as these localities do not have a strong residential built form character, hence the planning value of this provision is questionable in the first instance. Importantly the introduction of residential Code development in 2008 significantly reduced the value of Residential Zone PDC 8, except in the case of localities where there is an intact, built form character. It cannot be said that the subject locality currently exempt from Residential Code provisions has a strong built form character. In fact, it has a diversity of housing stock, including a conventional two storey building, some 50 metres away at 1 Vale Road. The planning assessment must have regard to existing built form, irrespective as to whether built form satisfies the Development Plan principles.

In summary, it cannot be said that the subject locality is entirely free of conventional two storey built form, or is it likely that two storey built form will not occur as close as 20 metres across the street where Residential Code provisions allow substantial two storey built form.

On balance, with regard to the wording of the Desired Character Statement, the proximity of the prescribed residential code area, the existence of two storey dwellings within sight of the subject land (ie. 33 Ophir Crescent) and the limited built form character of immediate and surrounding locality, there is no good planning reason to suggest that a conventional two storey dwelling is unacceptable on the subject land.

Site Coverage

The proposed development results in site coverage amounting to 52% of the site area. Although the Development Plan lists a quantitative requirement by way of a percentage (maximum 50%), the fundamental objectives associated with the provision of site coverage have been adequately achieved, which includes.

- Pedestrian and vehicle access;
- Domestic storage;
- Outdoor clothes drying;
- Rainwater tanks;
- Private open space and landscaping; and
- Convenient storage of household waste and recycling receptacles.

Private Open Space

The proposed development accommodates a private open space area that amounts to 83 square metres, or 25% of the total site area. The Development Plan anticipates a minimum private open space area amounting to 20% of the site area.

The proposed areas accommodating private open space achieve the fundamental objectives for private open space, which include areas that are exclusively used by occupants and providing outdoor space in the form of recreation, entertaining and landscaping.

Northern Primary Street Setback

The adjacent buildings are setback 6.5 and 3.8 metres from the Ophir Crescent street boundary. The Development Plan anticipates a primary boundary setback that is complementary to the neighbouring building setbacks.

The proposed building is setback 4.2 metres at the main face, 2.5 metres at the front porch/balcony and 6.6 metres to the garage. The proposed building setback is considered to be complementary to the setbacks of the neighbouring buildings, particularly as it is well articulated with varying setbacks to building walls and a varying of building materials.

Side and Rear Boundary Setbacks

The garage wall is located on the south-eastern side boundary which abuts the garage on the south-eastern adjacent property, hence no visual or overshadowing impacts.

The ground level walls are setback 900 mm from the side boundaries and the upper level walls are setback 2.5 metres from the south-eastern side boundary and 3.9 metres from the north-western side boundary.

The Development Plan anticipates a minimum setback of 900mm at the ground level and 2.5 metres for the upper level walls.

The building is setback 4 metres at the ground level and 7.8 metres at the upper level from the south-western rear boundary.

The Development Plan anticipates a minimum setback of 4 metres at the ground level and 6 metres at the upper level walls.

Solar Access

A shadow diagram has not been submitted as part of this development application, however, it is not considered necessary in this instance given the proposed side and rear boundary setbacks satisfy the Development Plan. Further, the orientation of the site and the sun during the winter solstice, is such that it is simple to understand how other properties would be impacted.

During the morning hours between 9:00 am and 12:00 pm, the proposed building will shade the properties to the west (1 Skye Street and 21A Gilberton Road). However, from 12:00 pm onwards, the shadow will move to the southern adjacent properties (2 Vale Road and 288 Ophir Crescent). By 3:00 pm, the building will cast a shadow over part of 288 Ophir Crescent, however primarily it is a garage.

Importantly, the proposed building will satisfy the Development Plan principles, which anticipate a minimum of three hours of access to sunlight for adjacent properties between 9:00 am and 3:00 pm during the winter solstice.

Conclusion

The proposed development satisfies all but one Development Plan provision, which is Residential Zone, Principle of Development Control 8 which seeks single storey built form east of Brighton Road. As expressed above, in subheading *Zone and Built Form Character* the value of this provision has been significantly diminished when considering the Desired Character Statement, which anticipates *development outside of the policy areas will **generally** be single storey in height in the areas east of Brighton Road (my emphasis), as well as the fact the built form character is not intact, the existence of conventional two storey dwellings both inside and out of the prescribed residential code area, as well as the fact that the eastern side of Ophir Crescent comprises a prescribed residential code area.*

The proposed building is considered to be modest in overall size and satisfies the Development Plan in terms of building setbacks, site coverage, private open space and vehicle parking.

Ultimately, a two storey building is not considered to be so visually brutal that it could compromise the amenity and quality of life surrounding residents, particularly as two storey buildings are a common form of residence found throughout metropolitan Adelaide and beyond.

8. 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 110/00415/19 for the construction of a two storey detached dwelling with integral garage located on the south eastern side boundary over the newly created allotment which will eventually be identified as 1/28 Ophir Crescent, Seacliff Park subject to the following conditions:**

PLANNING CONDITIONS

1. **That the design and siting of all buildings and structures and site works shall be as shown on the plans prepared by Residential Commercial Industrial Consulting Engineers, Job No. C25060, Sheets 1 and 2, Issue A, dated 22 June 2018 and plans prepared by ET Design, Job No. 384, revision PD-D, pages 2, 3, 6, 7 and 8 submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
2. **That storm water from each dwelling shall be collected and connected to a 1000 litre (minimum) rainwater tank with a sealed system over flow connection to the street water table. Final details of the location and size of the tank(s) shall be submitted to Council for approval prior to the issue of full Development Approval. Furthermore, all storm water from the dwelling and the site shall be collected and disposed of in a manner that does not adversely affect any properties adjoining the site or the stability of any building on adjacent sites.**

NOTE:

Storm water shall not be disposed of over a vehicle crossing place and any connection to the street water table, including remedial works to footpaths, verges or other Council infrastructure, is subject to any necessary approvals from Council and will be at the applicant's cost.

3. The stormwater disposal system shall cater for a 5 year rainfall event with discharge to the street not to exceed 10 litres per second. Any excess above this flow is to be detained on site to the reasonable satisfaction of Council.
4. That landscaping shall comprise where practicable, trees and shrubs that are indigenous to the local area and are semi mature or of fast growing tubestock. All such landscaping shall be established within 3 months of substantial completion of the development and any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
5. That all upstairs windows on the side and rear elevations shall have minimum window sill heights of 1.7 metres above finished floor level, or any glass below 1.7 metres shall be manufactured obscure glass and fixed shut or as otherwise approved by Council. Further details of this requirement shall be provided at Building Rules Assessment stage.
6. That construction shall take place between 7am and 7pm Monday to Saturday and not on Sundays or public holidays. All such work shall be undertaken in such a manner so as not to, in the reasonable opinion of Council, cause any nuisance or annoyance to any of the occupiers of buildings within the locality. Any work outside of these hours requires the written approval of Council.
7. The dust emissions from the site shall be controlled by a dust suppressant or by watering (subject to any relevant water restrictions) regularly to the reasonable satisfaction of Council.
8. That the builder shall at all times provide and maintain a waste receptacle to the reasonable satisfaction of Council on the site in which and at all times all builder's waste shall be contained for the duration of the construction period and the receptacle shall be emptied as required.
9. That all hard building materials, waste and litter on site be stored in a manner that secures it on site during the construction works.
10. That no solid or liquid trade wastes be discharged to the stormwater system.