

DEVELOPMENT NO.:	21039180
APPLICANT:	Jack Korcz
ADDRESS:	38 PHILLIPPS STREET, SOMERTON PARK SA 5044
NATURE OF DEVELOPMENT:	Two-storey detached dwelling with swimming pool, associated landscaping and fencing
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • General Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Hazards (Flooding) • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy
LODGEMENT DATE:	8 Dec 2021
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2021.16
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Alexander Stamatopoulos Development Planner

CONTENTS:

APPENDIX 1: Relevant P&D Code Policies
ATTACHMENT 1: Application Documents**ATTACHMENT 2: Representations****ATTACHMENT 3: Response to Representations**

DETAILED DESCRIPTION OF PROPOSAL:

The application is for the construction of a two-storey detached dwelling, swimming pool, front fence and associated landscaping.

The dwelling contains two levels with a parapet style design. The façade contains a variety of materials and design elements that provide articulation and visual interest. The front fence comprises rendered piers with vertical slat infill that allow the dwelling to present the streetscape. A variety of plantings are shown on the site plan in the front and rear yard of the dwelling.

The swimming pool is located in the north eastern corner along with the associated pool equipment. The equipment will be contained within a soundproof enclosure. No retaining is proposed with the application. The existing crossover will be used for vehicle access, however it will be widened to facilitate the double garage.

SUBJECT LAND & LOCALITY:**Site Description:**

Location reference: 38 PHILLIPPS ST SOMERTON PARK SA 5044

Title ref.: CT 6149/775 **Plan Parcel:** F11328 AL125 **Council:** CITY OF HOLDFAST BAY

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The subject land contains a rectangular-shaped allotment with a frontage of 22.86m and a depth of 32.99m resulting in an area of approximately 754sqm. The site currently hosts a single-storey dwelling and ancillary structures located at the rear. The land's topography follows the street where it slopes down from west to east.

See the photo below of the existing dwelling



See photo below of the sloping nature of the street looking east



An

Aerial image of the site is shown below



The locality is residential and primarily comprises single-storey detached dwellings on both sides of Phillipps Street. There are few examples of infill development in the locality as the original allotments have been kept intact. The examples of infill close to the site are found on the Esplanade (Waterfront Neighbourhood Zone) that anticipates medium densities. The density of the locality is low.

The primary setback pattern along the northern side of Phillipps Street lacks overall consistency. The dwellings that adjoin the subject land contain primary setbacks lesser than most dwellings to the east and west. Those dwellings with greater primary setbacks still lack a consistent pattern. The site is adjoined by a single-storey detached dwelling to the west, a two-storey dwelling to the east a three-level dwelling to the west and single-storey dwelling to the south.

The aerial of the locality is shown below highlighted in yellow.



CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:** Swimming pool, spa pool or associated safety features: Code Assessed - Performance Assessed
New housing
Detached dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION**REASON**

The development does not satisfy General Neighbourhood Zone DTS/DPF 4.1

LIST OF REPRESENTATIONS

- J Russian of 3 Yarrum Grove Somerton Park
- Mark Orel of 3 Yarrum Grove Somerton Park

Both of the above representors have engaged Botten Levinson Lawyers to act on their behalf.

The map below shows the location of the representors marked 'R'.

**SUMMARY OF THE REPRESENTATIONS**

- The rear upper-level windows will result in unreasonable overlooking into the adjoining property to the north.
- The rear upper-level windows should be obscured to 1.6m and note 1.5m from the finished floor level.
- Clarification of the rear upper-level windows can be opened.
- Ensure that the pool equipment associated with the swimming pool will be enclosed and 5m away from the nearest dwelling or not enclosed and at least 12m from an adjoining dwelling.
- Clarification regarding fencing along the rear boundary.

The applicant responded to the representations shown in attachments 3 to 3.3.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

Land Use - General Neighbourhood Zone Assessment Provisions

Desired Outcome	
DO 1	Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Use and Intensity	
PO 1.1 Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.	DTS/DPF 1.1 Development comprises one or more of the following: (a) Ancillary accommodation (b) Community facility (c) Consulting room (d) Dwelling (e) Educational establishment (f) Office (g) Place of Worship (h) Pre-school (i) Recreation area (j) Residential flat building (k) Retirement facility (l) Shop (m) Student accommodation (n) Supported accommodation

The General Neighbourhood Zone anticipates residential land uses except small scale non-residential land uses. The proposed detached dwelling achieves the desired outcome for the zone as a dwelling is listed in DPF 1.1 as an anticipated land use, therefore, satisfying PO 1.1.

Building Height - General Neighbourhood Zone Assessment Provisions

Building Height	
PO 4.1 Buildings contribute to a low-rise suburban character.	DTS/DPF 4.1 Building height (excluding garages, carports and outbuildings) no greater than: (a) 2 building levels and 9m and (b) wall height that is no greater than 7m except in the case of a gable end.

The Zone anticipates two storey buildings with maximum wall heights of 7m and overall total heights of 9m. The dwelling contains two levels with a garage that is stepped below the floor level of the dwelling. The wall height at its highest point will be 7.61m from natural ground level which exceeds the quantitative standard by 610mm due to the parapet design of the dwelling. Impacts of the wall height is discussed below as it relates to the relative side setbacks.

Setbacks, Design & Appearance - General Neighbourhood Zone Assessment Provisions

Primary Street Setback	
PO 5.1 Buildings are setback from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape.	DTS/DPF 5.1 The building line of a building set back from the primary street boundary: (a) no more than 1m in front of the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin the site if not separated by a public road or a vacant allotment) (b) where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), no more than 1m in front of the setback to the building line of that building or (c) not less than 5m where no building exists on an adjoining site with the same primary street frontage.

The adjoining property to the west of the site contains a primary setback of 4.6m and the eastern dwelling 4.9m. DPF 5.1 (b) anticipates dwellings to be setback no more than 1m in front of the building line of the adjoining dwellings primary setback. Therefore a primary setback of 3.75m is required. The primary setback of the dwelling proposed is 4.5m at its closest point and therefore satisfies the policy.

Side boundary setback	
<p>PO 8.1</p> <p>Building walls are set back from side boundaries to provide:</p> <p>(a) separation between dwellings in a way that contributes to a suburban character and</p> <p>(b) access to natural light and ventilation for neighbours.</p>	<p>DTS/DPF 8.1</p> <p>Other than walls located on a side boundary, building walls are set back from side boundaries:</p> <p>(a) at least 900mm where the wall height is up to 3m</p> <p>(b) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m and</p> <p>(c) at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.</p>
Rear boundary setback	
<p>PO 9.1</p> <p>Dwelling walls are set back from rear boundaries to provide:</p> <p>(a) separation between dwellings in a way that contributes to a suburban character</p> <p>(b) access to natural light and ventilation for neighbours</p> <p>(c) private open space</p> <p>(d) space for landscaping and vegetation.</p>	<p>DTS/DPF 9.1</p> <p>Dwelling walls are set back from the rear boundary at least:</p> <p>(a) if the size of the site is less than 301m²—</p> <p>(i) 3m in relation to the ground floor of the dwelling</p> <p>(ii) 5m in relation to any other building level of the dwelling</p> <p>(b) if the size of the site is 301m² or more—</p> <p>(i) 4m in relation to the ground floor of the dwelling</p> <p>(ii) 6m in relation to any other building level of the dwelling.</p>

The rear setback is well over 4m to the lower level and 6m to the upper and is satisfactory allowing for ample private open space areas.

The dwelling contains side setbacks to both boundaries of 2.3m at their closest point. The wall on the western side of the dwelling contains a 6.4m high wall which anticipates a side setback of 2m. The 2.3m side setback is considered to be adequate.

The eastern wall contains a height of 8.12m, greater than the western side as it contains a parapet element. This wall demands a setback of 2.6m, resulting in a 300mm shortfall. Impacts of the shortfall are considered reasonable in this instance as the parapet wall is only a small component of the eastern facing wall. The majority of the bulk of the wall, excluding the parapet, is 6.8m in height and demands a 2.1m side setback which is achieved.

Site Coverage	
<p>PO 3.1</p> <p>Building footprints allow sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.</p>	<p>DTS/DPF 3.1</p> <p>The development does not result in site coverage exceeding 60%.</p>

The proposal will cover of 38% of the allotment.

Boundary Walls	
<p>PO 7.1</p> <p>Dwelling boundary walls are limited in height and length to manage visual and overshadowing impacts on adjoining properties.</p>	<p>DTS/DPF 7.1</p> <p>Except where the dwelling is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:</p> <p>(a) side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height</p> <p>(b) side boundary walls do not:</p> <ul style="list-style-type: none"> (i) exceed 3m in height from the top of footings (ii) exceed 11.5m in length (iii) when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary (iv) encroach within 3m of any other existing or proposed boundary walls on the subject land.

The eastern side boundary wall associated with the garage and laundry spans 7.8m in length. The height of the wall from the top of the footings is 3m except for the parapet which is 3.5m high and is a minor element. The above policies are satisfied.

General Development Policies – Design in Urban Areas Assessment Provisions

Residential Development – Low Rise	
External appearance	
<p>PO 20.1</p> <p>Garaging is designed to not detract from the streetscape or appearance of a <u>dwelling</u>.</p>	<p>DTS/DPF 20.1</p> <p>Garages and carports facing a street:</p> <ul style="list-style-type: none"> (a) are situated so that no part of the garage or carport will be in front of any part of the <u>building line</u> of the <u>dwelling</u> (b) are set back at least 5.5m from the boundary of the <u>primary street</u> (c) have a garage door / opening width not exceeding 7m (d) have a garage door / opening width not exceeding 50% of the <u>site</u> frontage unless the <u>dwelling</u> has two or more building levels at the <u>building line</u> fronting the same public street.
<p>PO 20.2</p> <p><u>Dwelling</u> elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.</p>	<p>DTS/DPF 20.2</p> <p>Each <u>dwelling</u> includes at least 3 of the following design features within the building elevation facing a <u>primary street</u>, and at least 2 of the following design features within the building elevation facing any other public road (other than a laneway) or a common driveway:</p> <ul style="list-style-type: none"> (a) a minimum of 30% of the building wall is set back an additional 300mm from the <u>building line</u> (b) a porch or portico projects at least 1m from the building wall (c) a balcony projects from the building wall (d) a verandah projects at least 1m from the building wall (e) eaves of a minimum 400mm width extend along the width of the front elevation (f) a minimum 30% of the width of the upper level projects forward from the lower level <u>primary building line</u> by at least 300mm (g) a minimum of two different materials or finishes are incorporated on the walls of the front building elevation, with a maximum of 80% of the building elevation in a single material or finish.

The proposed garage width of the dwelling is 5.5m which equates to 24% of the frontage. The façade of the dwelling satisfies design feature (a) as listed in DPF 20.2. Notwithstanding, the design of the house is considered to be appropriate. The horizontal design elements articulate the façade and the large windows alleviate the bulk of the rendered walling. The floor to ceiling windows with views into the void is a welcome feature to the façade. The garage is to be clad with a stone finish reducing the amount of rendered surfacing and also contains a canopy minimising its prominence.

Landscaping											
<p>PO 22.1</p> <p>Soft landscaping is incorporated into development to:</p> <ul style="list-style-type: none"> (a) minimise heat absorption and reflection (b) contribute shade and shelter (c) provide for stormwater infiltration and biodiversity (d) enhance the appearance of land and streetscapes. 	<p>DTS/DPF 22.1</p> <p>Residential development incorporates soft landscaping with a minimum dimension of 700mm provided in accordance with (a) and (b):</p> <ul style="list-style-type: none"> (a) a total area as determined by the following table: <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="background-color: #2c3e50; color: white;">Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</th> <th style="background-color: #2c3e50; color: white;">Minimum percentage of site</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><150</td> <td style="text-align: center;">10%</td> </tr> <tr> <td style="text-align: center;">150-200</td> <td style="text-align: center;">15%</td> </tr> <tr> <td style="text-align: center;">>200-450</td> <td style="text-align: center;">20%</td> </tr> <tr> <td style="text-align: center;">>450</td> <td style="text-align: center;">25%</td> </tr> </tbody> </table> <ul style="list-style-type: none"> (b) at least 30% of any land between the primary street boundary and the primary building line. 	Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site	<150	10%	150-200	15%	>200-450	20%	>450	25%
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>450	25%										

The site contains 34% soft landscaping, which is more than the 25% anticipated minimum. Two small trees are located adjacent to the front bathroom consistent with Urban Tree Canopy Overlay DPF 1.1 shown below.

DTS/DPF 1.1

Tree planting is provided in accordance with the following:

Site size per dwelling (m ²)	Tree size* and number required per dwelling
<450	1 small tree
450-800	1 medium tree or 2 small trees
>800	1 large tree or 2 medium trees or 4 small trees

Overlooking / Visual Privacy (low rise buildings)	
<p>PO 10.1</p> <p>Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.</p>	<p>DTS/DPF 10.1</p> <p>Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:</p> <ul style="list-style-type: none"> (a) are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm (b) have sill heights greater than or equal to 1.5m above finished floor level (c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.

All side and rear upper-level windows contain obscured glass below 1.5m from the finished floor level satisfying DPF 10.1 (b). The applicant confirmed in response to the representations that the windows will not open any more than 125mm as anticipated by DPF 10.1 (a). A condition reflecting this has also been placed on consent.

Traffic Impact, Access and Parking

General Development Policies – Design in Urban Areas Assessment Provisions

<p>PO 23.3</p> <p>Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, domestic waste collection, landscaped street frontages and on-street parking.</p>	<p>DTS/DPF 23.3</p> <p>Driveways and access points satisfy (a) or (b):</p> <ul style="list-style-type: none"> (a) sites with a frontage to a public road of 10m or less, have a width between 3.0 and 3.2 metres measured at the property boundary and are the only access point provided on the site. (b) sites with a frontage to a public road greater than 10m: <ul style="list-style-type: none"> (i) have a maximum width of 5m measured at the property boundary and are the only access point provided on the site; (ii) have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.
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The existing crossover is to be widened to 4.2m which achieves the abovementioned policy.

Hazards – (Flooding) and (Flooding General)

The site is located in two flooding overlays as a small portion of the land is subject to flooding. Below is an aerial of the flood mapping which shows the (Flooding) overlay on the left and (Flooding General) on the right.



The site falls in the overlays despite only a fraction of the land being subject to flooding which is not considered to put the dwelling at adverse risk. The flooding is located toward the lower part of the site which continues to fall to the east given the land's topography. This part of the dwelling contains a floor level that is in excess of 500mm from the existing natural ground level and kerb level which mitigates the minor risk of flooding. Stormwater management conditions have been placed on the consent.

CONCLUSION

The proposed dwelling achieves the Desired Outcome for the General Neighbourhood Zone and also satisfies a majority of the relevant performance outcomes. The proposed dwelling is suitable for the sloping nature of the site which is consistent with the established built form of the locality. The application does not result in an overdevelopment of the site allowing adequate space for the provision of landscaping and a primary setback that is consistent with the established pattern of the locality.

RECOMMENDATION

Planning consent

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21039180, by Jack Korcz is granted Planning Consent subject to the following conditions:

CONDITIONS**Planning Consent**

1. The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
3. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).
4. 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.
5. That the associated swimming pool filter pump must be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.
6. That all upstairs windows shall have minimum window sill heights of 1.5 metres above finished floor level, or any glass below 1.5 metres shall be obscure and not capable of being opened more than 125mm or as otherwise approved.

ADVISORY NOTES**General Notes**

1. 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.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. 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.
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).
5. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

OFFICER MAKING RECOMMENDATION**Name:** Alexander Stamatopoulos**Title:** Development Planner**Date:** 03/02/2022