

TO: COUNCIL ASSESSMENT PANEL
 DATE: 26 OCTOBER 2022
 SUBJECT: COUNCIL ASSESSMENT REPORT
 AUTHOR: DEAN SPASIC
 DEVELOPMENT OFFICER PLANNING
 ATTACHMENTS: 1. PROPOSED PLANS
 2. STATEMENTS OF REPRESENTATIONS
 3. APPLICANT'S REPLY TO REPRESENTATIONS

DA NO.	:	110/00514/18
APPLICANT	:	GEORGE MAJDA AND ASSOCIATES
LOCATION	:	UNIT 4,34B SOUTH ESPLANADE, 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	:	BALCONY ATTACHED TO NORTHERN ELEVATION OF DWELLING
EXISTING USE	:	RESIDENTIAL
CATEGORY	:	THREE
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS

1. Background

The proposed development was granted planning consent on the 23 July 2018, however following completion of construction, the approval was challenged by a third party on the grounds that the development was *not minor* and therefore not a category 1 development for the purpose of public notification, and therefore should be re-assessed as a category 3 development. The Environment, Resources and Development Court quashed the approval and ordered that the application be re-assessed as a category 3 merit application.

From the public notification process, two representations were received, which has resulted in this application being presented to the Council Assessment Panel for consideration.

2. Subject Site and Locality

The subject site is located in a heritage conservation area (the subject building does not have any heritage value). The site is located immediately south of 32 South Esplanade (*Glenara*), which is a State Heritage Place, however it is my view that the visual prominence of the balcony has a negligible impact on the heritage listed property, particularly as it is not visible from the main viewing points of the property, such as South Esplanade and the Broadway. The structure therefore does not compromise the existing visual prominence of the heritage place.

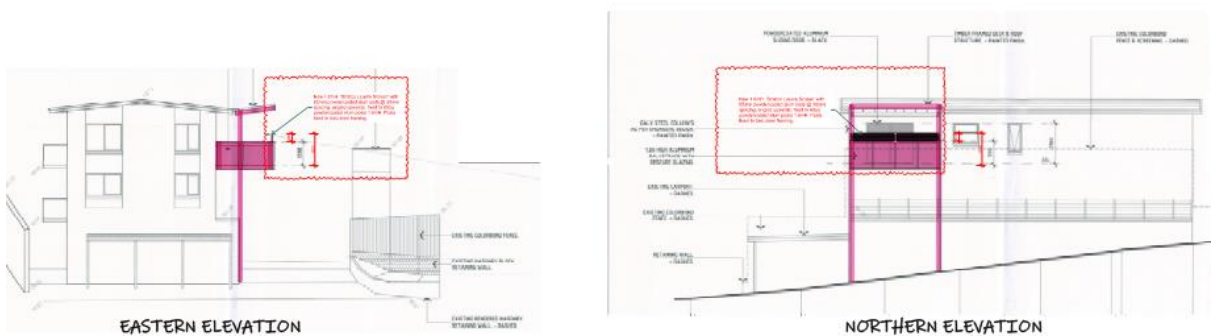
The subject site is on a hammerhead shaped allotment. The balcony is visible from the rear yards of the properties to the north, north-east and east of the subject site. There are a number of older multi storey residential flat buildings with windows and balconies that are unobscured, which enable occupants to overlook one another.



3. Proposed Development

The proposal comprises a 4.5 metre wide by 3.1 metre deep balcony which is accessible from the northern elevation of the first floor. The balcony has been constructed and therefore its proposed form can be viewed.

The proposal now includes screening to the northern elevation up to a height of 1.6 metres as a means of addressing the overlooking concerns raised by the owner of 32 South Esplanade (State Heritage Place). As the longer side of the balcony faces that property and therefore increases the level of overlooking in comparison with the north facing windows on the building.





The applicant has opted to leave a 1 metre high balustrades to the eastern and western elevations. The western elevation allows some view toward the sea, however there is little opportunity for overlooking from this vantage point. The eastern elevation looks out to other multi storey residential flat buildings, whereby occupants currently overlook one another, hence it was the applicants view that the status quo should remain.



4. Public Notification

Two representations were received, and summarised as follows:

Scott De Laine and Edwina Cooper of Unit 24, 3 Broadway, Glenelg South (who wish to be heard by the Council Assessment Panel):

- The balcony directly overlooks our living area, dining room, kitchen, bedroom and balcony;
- The balcony obstructs a view; and
- Poor stormwater management.

Kenneth Waite and Katrina Ely of 32 South Esplanade, Glenelg South (who wish to be heard by the Panel):

- Concerns with visual privacy from both the new glazed doorway access and balcony (which was not screened when the plans were presented for public notification).

In response to the representations, the applicant has opted to submit amended plans demonstrating a 1.6 metre high screen along the northern elevation.

5. Development Assessment

CONSOLIDATED 2 JUNE 2016

ZONE SECTION – RESIDENTIAL CHARACTER ZONE – NEW GLENELG POLICY AREA 11	
OBJECTIVES	Assessment
1 an area of heritage value where heritage character and integrity is conserved and reinforced.	Complies
2 Accommodation of detached and semi-detached dwellings at a scale that complements the predominant late Victorian and early 20 th Century housing styles.	N/A
3 Preservation and enhancement of vistas particularly along Broadway, Moseley Street and Partridge Street, which are characterized by Norfolk Island Pine street tree plantings.	N/A
4 Development that contributes to the desired character of the policy area.	N/A although the development does not compromise the desired character
DESIRED CHARACTER	
The policy area comprises an area subdivided by John Bentham Neales in 1850, with the area on the western side subdivided into large allotments, and smaller, narrow, regularly spaced allotments created in the eastern sections from Hastings Street to Brighton Road. Over time, many of the larger allotments were re-subdivided into smaller allotments, with the 1870s and 1880s being the most intense residential development phase until the 1920s when remaining vacant allotments were developed for housing.	
This policy area represents typical residential development in Glenelg based on the early subdivision patterns and containing excellent examples of all domestic architectural types, styles and periods from the largest of seaside mansions to the humblest of workers cottages.	
Development within the policy area will primarily be single storey detached dwellings and single storey semi-detached dwellings that complement the late Victorian and early 20 th Century housing predominant in the locality. Development of buildings, or in the vicinity of buildings, constructed in the late Victorian and early 20 th Century periods will conserve and enhance their distinctive features including their wall heights, roof forms, scale, external detailing, external materials and fencing.	
Development will conserve and enhance the cohesive streetscapes of the policy area, particularly those east of Moseley Street, having regard to predominant building setbacks, scale, external materials, fencing and appearance of existing dwellings in the locality. Likewise, the rows of Norfolk Island Pines planted on Broadway and Partridge Street, and the oaks in Moseley Street, are notable elements that also contribute to the character of the policy area	

PRINCIPLES OF DEVELOPMENT CONTROL	Assessment
1 The following forms of development are envisaged in the policy area: <ul style="list-style-type: none"> · Detached dwelling · Domestic outbuilding in association with a dwelling · Domestic structure · Semi detached dwelling 	N/A
2 Development should not be undertaken unless it is consistent with the desired character for the policy area.	N/A
3 the site area per dwelling should not be less than 500 square metres.	N/A
4 A building should not exceed 2 storeys above the existing natural ground level.	Complies
5 Garages and carports should be setback a minimum distance of 500mm from the main face of the associated dwelling or building and have a maximum opening width of 6metres or 50 percent of the allotment frontage, whichever is less.	N/A
6 Development along Broadway should preserve and reinforce the vistas between Brighton Road and the foreshore.	Complies

GENERAL SECTION – DESIGN AND APPEARANCE – DEVELOPMENT ADJACENT HERITAGE PLACES	
PRINCIPLES OF DEVELOPMENT CONTROL	Assessment
8 The design of multi-storey buildings should not detract from the form and materials of adjacent State and local heritage places listed in Table HoB/ 5 - State Heritage Places or in Table HoB/4- Local Heritage Places.	Complies
9 Development on land adjacent to a State or local heritage place, as listed in Table HoB/5 - State Heritage Places or in Table Hob/4 - Local Heritage Places, should be sited and designed to reinforce the historic character of the place and maintain its visual prominence.	Complies

GENERAL SECTION – DESIGN AND APPEARANCE – VISUAL PRIVACY	
PRINCIPLES OF DEVELOPMENT CONTROL	Assessment
11 Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as: <ul style="list-style-type: none"> (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 	Does not comply (eastern elevation)
12 Permanently fixed external screening devices should be designed and coloured to complement the associated building's external materials and finishes.	Complies

GENERAL SECTION – HISTORIC CONSERVATION AREA	
OBJECTIVES	Assessment
1 the conservation of areas of historical significance	Complies

GENERAL SECTION – HISTORIC CONSERVATION AREA	
PRINCIPLES OF DEVELOPMENT CONTROL	Assessment
4 New buildings should not be placed or erected between the front street boundary and the facade of contributory items.	omplies
19 New buildings and structures adjacent to a contributory item should be sited, designed and built in a manner that reinforces and enhances the historic character of the contributory item. New buildings should be designed to maintain the prominence of existing historic buildings	Complies

GENERAL SECTION – RESIDENTIAL DEVELOPMENT – VISUAL PRIVACY	
PRINCIPLES OF DEVELOPMENT CONTROL	Assessment
40 Except for buildings of 3 or more storeys in the Minda Incorporated Brighton Campus, upper level windows, balconies, terraces and decks that overlook habitable room windows or private open space of dwellings should maximise visual privacy through the use of measures such as sill heights of not less than 1.7 metres or permanent screens having a height of 1.7 metres above finished floor level.	Does not comply
41 Where development is greater than single storey (excluding the Minda Incorporated Brighton Campus): (c) any upper storey balcony should be located and/or designed to avoid directly overlooking the private open space of adjoining residential properties and into habitable rooms (all rooms excluding bathrooms, laundries and hallways) of other dwellings	Does not comply (eastern elevation)

6. Summary of Assessment

Zone and Land use

The Zone, Residential Character, New Glenelg Policy Area 11 is a historic conservation area, although within the immediate locality, there is a mix of buildings that were constructed from the 1960s onwards, including a number of multi storey residential flat buildings. Nonetheless, there are some heritage buildings, including the Glenara State Heritage Place, which reflect the desired character of the locality. Land use envisaged in the Zone comprises detached and semi-detached dwellings, domestic outbuildings and structures. Although not specifically listed, a dwelling addition or balcony is a reasonably anticipated form of development in residential settings, including those with heritage value.

Heritage Impact

The balcony is located 4 metres from the northern boundary, which is adjacent to the State Heritage Place at 32 South Esplanade, Glenelg South. The visual impact on the heritage property is heavily minimised by the large privacy screen and vegetation established along its southern boundary (adjacent to the subject site). A referral to the Heritage Branch was not considered necessary in the context of this proposal, given the limited visibility of the balcony as viewed from significant vantage points, particularly South Esplanade. The state heritage place remains the dominant built form feature irrespective of the balcony.



Visual Privacy

The Development Plan anticipates balconies to be screened up to 1.7 metres in height in order to minimise direct overlooking into adjacent properties.

The proposal comprises screening up to 1.6 metres in height, which seeks to mitigate direct overlooking particularly to the northern adjacent property (*Glenara*). Although the screening is 100mm below the minimum anticipated, the 1.7 metre height is a general guideline. It is

reasonable to acknowledge in the case of this proposal that there are several mature trees along the southern boundary of the *Glenara* site which prevent direct views into the rear yard.



As mentioned above, there are several multi level residential flat buildings in the immediate vicinity, all of which have unobscured windows and balconies, thus overlooking is characteristic of this locality. The absence of screening to the eastern elevation is not considered to be unreasonable, particularly as the balcony is some 18 metres from the nearest dwelling.



The view towards the west is predominately toward the sea, therefore screening along the western elevation is not considered necessary.



7. Conclusion

The proposed balcony is considered to reflect modest and reasonably anticipated additional external element to an existing building, and is positioned in such a way that is not visually prominent from public spaces, and therefore does not compromise the built form character of the historic locality, particularly with respect to the adjacent State Heritage Place.

The amended plans demonstrating 1.6 metre screening to the northern elevation is a positive design element, which is considered to be a sufficient height and placement to successfully minimise direct overlooking into the northern adjacent property.

It is noted that the amendments do not include screening to the eastern elevation, however on balance with consideration to the existing level of amenity whereby most residents overlook one another, the absence of screening is a reasonable outcome.

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 110/00514/18 comprising the construction of a balcony at Unit 4, 34B South Esplanade, Glenelg South.**

PLANNING CONDITIONS

1. **The proposal shall be implemented as shown on the plans submitted to Council unless varied by any subsequent conditions imposed herein.**

2. Screening shall be established along the northern elevation to a minimum height of 1.6 metres above the balcony floor level, with horizontal louvres fixed at an upward angle with spacing of 30mm in order to prevent downward views into northern adjacent properties.