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| DEVELOPMENT NO.: | 22020714 |
| APPLICANT: | Lares Homes |
| ADDRESS: | 26 KINGSTON CR KINGSTON PARK SA 5049 |
| NATURE OF DEVELOPMENT: | Two level detached dwelling with walls located on the southern side boundary, undercroft garage and associated retaining walls up to 1.1m in height |
| ZONING INFORMATION: | Zones: <ul style="list-style-type: none"> • General Neighbourhood Overlays: <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy |
| LODGEMENT DATE: | 21 Jun 2022 |
| RELEVANT AUTHORITY: | Assessment panel at City of Holdfast Bay |
| PLANNING & DESIGN CODE VERSION: | 2022.10 |
| CATEGORY OF DEVELOPMENT: | Code Assessed - Performance Assessed |
| NOTIFICATION: | Yes |
| RECOMMENDING OFFICER: | Alexander Stamatopoulos Development Planner |
| REFERRALS STATUTORY: | Nil |
| REFERRALS NON-STATUTORY: | Technical Services - Stormwater |

CONTENTS:

| | |
|---------------|----------------------------|
| APPENDIX 1: | Relevant P&D Code Policies |
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| ATTACHMENT 3: | Response to Representation |

DETAILED DESCRIPTION OF PROPOSAL:

The application seeks approval for a two level detached dwelling with associated retaining walls and fencing. The dwelling contains an undercroft garage which is partially under the existing ground level. This level is noted as the basement level on the submitted plans and contains garaging for vehicles, a gym area, lift, entry foyer a store and a staircase. The ground floor sits above the garage which contains a front balcony, master bedroom, study, side entry portico, two bedrooms, retreat and a laundry. The upper floor comprises a balcony with an enclosed southern end, open living areas, a powder room and study.

The façade of the dwelling will be rendered with side feature stone walls. The balcony balustrades are made of glass and are low. The southern end of the upper-level balcony is enclosed with a solid wall to accommodate a BBQ area. Two walls associated with the ground level will be located on the southern side boundary. The walls are separated by a courtyard.

Landscaping is proposed throughout the scheme to the front, sides and rear of the dwelling. Retaining walls will be constructed on the northern, eastern and southern boundaries. Access into the site will be via a 3.2m wide crossover.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 26 KINGSTON CR KINGSTON PARK SA 5049

Title ref.: CT 6265/246 **Plan Parcel:** D128882 AL101 **Council:** CITY OF HOLDFAST BAY

The subject site is currently vacant. There was a single-storey dwelling on the site which was recently demolished. The Council received an application to subdivide the allotment into two via a Torrens Title Division. Two subsequent allotments were created. The Council approved a two-storey detached dwelling on the southern divided allotment which is currently under construction.



Above: Existing single-storey dwelling prior to demolition.



Above: Two-storey dwelling currently under construction on the right, vacant subject land on the left.

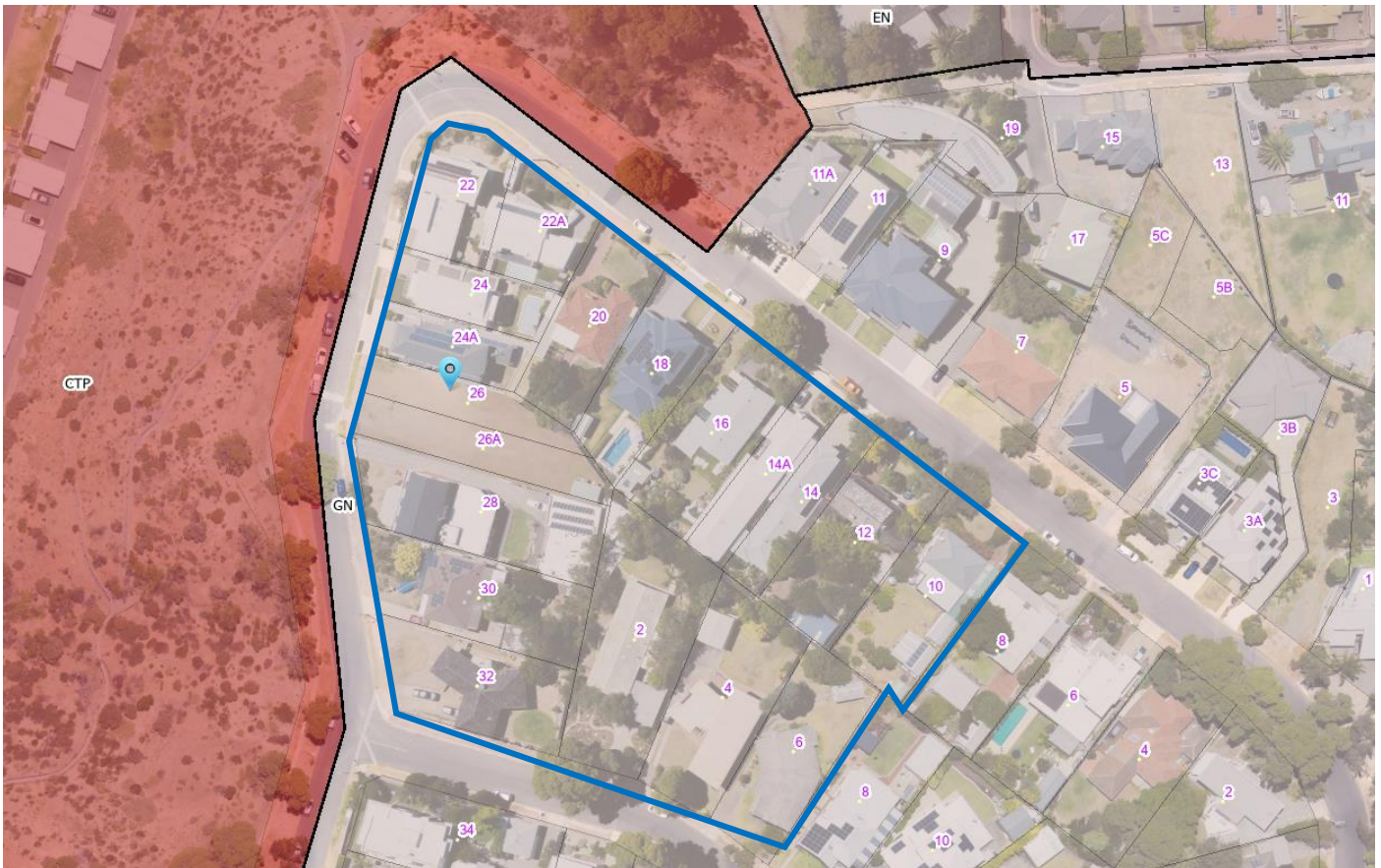
Below: Dwellings to the west of the site.



The site is located on the western Fringe of Kingston Park adjacent to a cliff that abuts the Kingston Caravan Park to the west. The allotments to the north, east and south contain dwellings located in the General Neighbourhood Zone.

The built form of the locality is generally consistent with the majority comprised of single and two-storey dwellings. The suburb has not been subject to major infill and retains a low density. Directly adjoining the site to the north is a two level detached dwelling with partial undercroft garage, to the south a two storey dwelling currently under construction and the east are the rear yards of dwellings that front the east-west part of Kingston Crescent.

The aerial below highlights the locality in blue. The site is located in the General Neighbourhood Zone which abuts the Caravan and Tourist Park Zone to the west.



CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 New housing
 Detached dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 Code Assessed - Performance Assessed
- **REASON**
 P&D Code

PUBLIC NOTIFICATION

• REASON

The application does not satisfy General Neighbourhood Zone DTS/DPF 4.1 in that the wall height is greater than 7 metres when measured from the top of the footings.

• LIST OF REPRESENTATIONS

| Summary of Representors | | | |
|---|---|------------------|--|
| Address of Representor | Position | Wish to be heard | Concerns |
| <i>Phyllis Cameron of 11a Kingston Crescent Kingston Park</i> | <i>I support the development with some concerns</i> | <i>No</i> | <ul style="list-style-type: none"> - <i>Upper floor setbacks do not comply</i> - <i>House is oversized</i> - <i>Height is excessive</i> - <i>Overshadowing impacts to the south are unreasonable</i> - <i>Setting an undesirable precedence</i> |
| <i>Helen James of 16 Kingston Crescent Kingston Park</i> | <i>I support the development with some concerns</i> | <i>No</i> | <ul style="list-style-type: none"> - <i>Wall height is excessive</i> - <i>Bulk and scale are inappropriate</i> - <i>Lack of soft landscaping</i> - <i>Visual impact to the adjoining properties and street is undesirable</i> |
| <i>Barbara Foster of 26A Kingston Crescent Kingston Park</i> | <i>I oppose the development</i> | <i>Yes</i> | <ul style="list-style-type: none"> - <i>Upper level side setbacks do not comply</i> - <i>Primary setback is too short</i> - <i>Building height is excessive</i> - <i>The amount of soft landscaping is not adequate</i> |

• SUMMARY

The applicant engaged the planning consultancy firm URPS to provide a response to the representations. The response is shown in attachment 3. No changes were made to the built form of the dwelling as a result of the representations. The applicant did provide an updated landscaping plan showing an increase in plantings across the site. Further 3D rendered images were provided which provide context of how the dwelling sits in relation to the properties that adjoin.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Technical Services – Stormwater

PLANNING ASSESSMENT

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

Quantitative Provisions

| | Proposed | DPF Requirement | Achieved |
|-------------------------------|--|---|------------------------------------|
| Building Height | Two levels and 8.4m Wall Height 7.15m | 2 levels and 9m Wall Height 7m | Yes No |
| Boundary Development | 8.15m & 10.43m length or 35% of the total boundary 3m height from footing | 11.5m and 45% 3m height from footing | Yes Yes |
| Front Setback | 8.8m metres | 1m in front of average of adjoining 26a – primary setback 7.42m 24a – primary setback 9m <u>Quantitative requirement = 7.21m</u> | Yes |
| Rear Setback | 13m – lower level 17.5m - upper level | 4 metres at ground level and 6 metres at upper level | Yes |
| Side Setbacks | Ground level northern wall 962mm and 1.44m Ground level southern wall 1.88m Upper level northern wall 1.44m Upper level southern wall 1.88m | Ground level wall 900mm Ground level wall 900mm Upper level northern wall 2.2m Upper level southern wall 3.26m | Yes Yes No No |
| Site Coverage | 42 percent | 60% | Yes |
| Private Open Space | 95 square metres | 60 square metres | Yes |
| Soft Landscaping | 21 percent of the site area | 20 percent of the site area | Yes |
| Front Yard Landscaping | 12 percent | 30 percent | No |
| Tree Planting | 6 small trees 3 medium trees 2 large trees | 2 small trees or 1 medium tree | Yes |

The assessment below will discuss the components of the application that require a detailed discussion.

Building Height

The building is defined as a two level dwelling. A building level is defined in the Planning and Design Code as the following:

Building level

Means that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include any mezzanine or any building level having a floor that is located 1.5m or more below finished ground level.

As the undercroft garaging floor level is 1.5m below natural ground level it does not fit the definition of a building level. Therefore the dwelling is defined as being two levels.

DPF 4.1 references both *building height* and *wall height* which contain two separate definitions as shown below:

Building Height

Means the maximum vertical distance between the lower of the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

- a) *flues connected to a sewerage system*
- b) *telecommunications facility tower or monopole*
- c) *electricity pole or tower*
- d) *or any similar structure.*

Wall Height

Means the height of the wall measured from the top of its footings but excluding any part of the wall that is concealed behind an eave or similar roof structure and not visible external to the land.

The site slopes up from the western street level toward the eastern rear. The applicant has made use of the sloping land to accommodate an undercroft garage to the front of the dwelling. The undercroft is not entirely located under the existing ground level and the dwelling when viewed from the street can be perceived as being greater than 2 levels. However, the majority of the dwelling is 2 levels from natural ground level as the site slopes up to the rear. The *building height* from the lowest point of natural ground level is 8.43m, well under the anticipated maximum of 9m. The *wall height* of the dwelling is measured from the top of the footings as defined in the code. The height of the dwelling is 7.15m from the ground level footing. This exceeds the 7m maximum by 150mm, a minor variance.

The quantitative measures are a guide to satisfy the relevant performance outcome. PO 4.1 for building height is shown below:

PO 4.1

Buildings contribute to a low-rise suburban character.

Low Rise is defined as:

In relation to development, means up to and including 2 building levels.

While the undercroft is not entirely under the existing natural ground level the scale of the building will assimilate well with the existing built form in the locality. Attachments 1.8 and 1.13 of this report show streetscape context of the dwelling and its relationship to the dwellings that adjoin. PO 4.1 is considered to be satisfied.

Upper-Level Setbacks and Overshadowing

Both the northern and upper-level side setbacks do not comply with the quantitative requirements of DPF 8.1. PO 8.1 is the performance outcome which is set to be achieved. See below:

PO 8.1

Building walls are set back from side boundaries to provide:

- a) separation between dwellings in a way that contributes to a suburban character and
- b) access to natural light and ventilation for neighbours.

The northern upper-level setback contains a shortfall of 760mm. a setback of 1.44m is proposed where 2.2m is anticipated. Given the orientation of the northern wall, the impacts are considered to be minor. The northern wall will not result in overshadowing and the separation to the northern dwelling is suitable given the limited width of the site.

The policy demands a greater setback for south-facing walls given the potential for increased overshadowing. The southern upper level of the dwelling is setback 1.88m where a setback of 3.26m is anticipated. This results in a shortfall of 1.41m. From a numerical perspective, this is a notable variance. The applicant provided overshadowing diagrams that show the impacts of the proposed setback and also what would be a compliant setback (attachments 1.9 and 1.10). The plan also shows the rooms of the recently approved two storey dwelling to the south that will be overshadowed

The floor plan of the approved two-storey dwelling to the south is shown on the overshadowing diagrams. The northern rooms affected by the shadows are the garage, butlers pantry, laundry, passage way and a bathroom. The relevant assessment provisions relating to overshadowing are shown below

PO 3.1

Overshadowing of habitable room windows of adjacent residential land uses in:

- a. *neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- b. *other zones is managed to enable access to direct winter sunlight.*

DTS/DPF 3.1

North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.

PO 3.2

Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:

- a. *a neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b. *other zones is managed to enable access to direct winter sunlight.*

DTS/DPF 3.2

Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:

- a. *for ground level private open space, the smaller of the following:*
 - i. *half the existing ground level open space*
 - or
 - ii. *35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)*

- b. for ground level communal open space, at least half of the existing ground level open space.

The overshadowing to the built form of the dwelling will not impact any habitable rooms. The definition of a habitable room is as following:

Habitable Room

Means any room used for domestic purposes other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, stair, dedicated corridor/hallway, lobby, clothes drying room or other space of a specialised nature occupied neither frequently nor for extended periods.

PO 3.1 only relates to overshadowing of habitable room windows. As the rooms located on the northern side of the lower level southern dwelling are not habitable, PO/DPF 3.1 is not applicable. Below is a side elevation of the northern side of the neighbouring dwelling. A window and door associated with the dwelling passageway will be impacted by the shadows cast.



Above: Northern elevation of the southern neighbouring dwelling

The rear private open space of the southern neighbouring dwelling will maintain 2 hours of continual sunlight between the hours of 9am and 3am. Therefore PO 3.2 is satisfied. The front alfresco area of the neighbouring dwelling does not fall within the definition of private open space as it is not screened from public view.

Private open space is defined as:

Means a private outdoor area associated with a dwelling that:

- (a) is for the exclusive use of the occupants of that dwelling*
- (b) has a minimum dimension of 2.0m for ground level areas and 1.8m for balconies*
- (c) is screened from public view by a building, fence, wall or other similar structure with a minimum height of 1.8m above ground level and a maximum transparency of 20%.*

Private open space may include verandahs, alfrescos, balconies, terraces, decks where not enclosed on all sides. Private open space does not include areas used for bin storage, laundry drying, rainwater tanks, utilities, driveways or vehicle parking areas.

While it is noted that shadows will be cast over the southern dwelling, the impacts to areas of amenity are negligible. The shadows cast will not impact habitable rooms of the neighbouring dwelling, rather a passageway. It is also important to consider that even with compliant setbacks, there would be little change to the areas of shadow cast.

The majority of the private open space will be subject to natural light throughout the day. Therefore the abovementioned performance outcomes relating to side setbacks and overshadowing are considered to be satisfied.

Front Yard Landscaping

The front yard contains a numerical shortfall with respect to soft landscaping. This is a common occurrence for dwellings that contain undercroft garaging. This results from the majority of the front being consumed by the driveway leaving only the sides for landscaping to be established in garden beds. The applicant was advised of the shortfall. In response to the percentage shortfall, three small trees are to be planted on the northern landscaping bed and two medium trees on the southern bed along with ground covers. This can be seen on the landscape plan (attachment 1.7). It is also accurately reflected on the 3D renders (attachments 1.13 to 1.15). The inclusion of the tree surplus is a suitable trade-off for the percentage shortfall in the front yard.

CONCLUSION

The application seeks to construct a dwelling that will assimilate well with the existing built form of the locality. It is noted that components of the dwelling do not align with some assessment provisions of the Planning and Design Code. However, the impacts of the shortfalls are not considered to unreasonably impact the adjoining properties. The dwelling will contain an appropriate appearance to the streetscape without being overly dominant.

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 22020714, by Lares Homes 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. 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).

5. That all upstairs windows, other than facing the street, 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 fixed shut and be installed prior to occupation of the dwelling.

OFFICER MAKING RECOMMENDATION

Name: Alexander Stamatopoulos

Title: Development Planner

Date: 06/10/2022