

DEVELOPMENT NO.:	22020714
APPLICANT:	Lares Homes
ADDRESS:	26 KINGSTON CR KINGSTON PARK SA 5049
NATURE OF DEVELOPMENT:	<b>Appeal Report</b> - 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:	<b>Zones:</b> <ul style="list-style-type: none"> <li>• General Neighbourhood</li> </ul> <b>Overlays:</b> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul>
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

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#### CONTENTS:

ATTACHMENT 1:	Amended plans
ATTACHMENT 2:	Letter of support provided by URPS
ATTACHMENT 3:	Initial application attachments

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#### Background

At its meeting held on 26 October 2022, the Council Assessment Panel resolved to refuse development application Number 22020714 for a two level detached dwelling with walls located on the southern side boundary, undercroft garage and associated retaining walls up to 1.1m in height at 26 Kingston Crescent Kingston Park.

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. *That Development Application Number 22020714 to construct a two storey detached dwelling with walls located on the southern side boundary, undercroft garage and associated retaining walls up to 1.1m in height at 26 Kingston Crescent Kingston Park be refused consent on the basis that is contrary to the following Planning and Design Code provisions:*
  1. *Inadequate soft landscaping in the front yard of the dwelling, at odds with General Neighbourhood Zone PO 22.1 (a), (b), (c) and (d) and Design in Urban Areas DO 1 (d).*
  2. *Bulk and scale of the dwelling and excessive wall development resulting in undue impacts to the south, at odds with General Neighbourhood Zone PO 4.1 and 8.1.*

Since the application was refused, the applicant has lodged an appeal in the ERD Court against that refusal. In an attempt to seek a compromise, the applicant has made alterations to the original plans to address the reasons for refusal.

### **Plan Amendments**

Amended plans were provided which show the following amendments:

- The upper-level southern setback has been increased to 2m.
- The solid walling to the southern elevation of the projecting first-level balcony has been reduced.
- Front landscaping has been increased from 12% to 25%.
- 3D shadow diagrams have been provided which demonstrate that the proposal will not overshadow the roof of the adjacent dwelling.

### **Soft Landscaping**

Additional landscaping beds are located adjacent to the driveway, primary boundary and the northern staircase. When the application was initially lodged it complied with the overall percentage of soft landscaping required by the policy. 21% soft landscaping was proposed where the policy anticipated 20%. With the inclusion of the increased soft landscaping located at the front of the property, the total area is increased to 23.8%.

The reason for refusal was specifically in reference to the soft landscaping in front of the dwelling. Initially, the plans contained a front landscaping total of 12% where the policy anticipated 30%. Front landscaping has been increased to 25%. This results in a 5% shortfall (4sqm). The percentage shortfall from DPF 22.1 (b) is considered to be negligible and will be offset by the 3 small and 2 medium trees located in the front yard.

The area of soft landscaping forward of the dwelling has been increased appropriately when considering the context of the central entrance driveway. The increased provision in landscaping is considered to appease the concerns raised by the panel and address Design in Urban Areas PO 22.1 (a), (b), (c) and (d) and DO 1 (d).

## Bulk and Scale

The southern upper-level setback has been increased from 1.88m to 2m and the southern wall associated with the upper-level balcony has been altered to decrease the solid wall element. The building height has remained as existing however 3D shadow diagrams have been produced to depict greater insight into the impacts of overshadowing.

The 3D diagrams show that the shadows will not be cast over the roof area of the southern adjoining dwelling. Therefore, any future solar panels that may be installed on the neighbouring roof will contain access to sunlight during the winter solstice. As discussed in the initial report to the Panel, there will be no overshadowing to habitable rooms of the southern adjoining dwelling. The building is also separated in a manner consistent with the existing suburban character. While it is noted that there is a numerical setback shortfall, when viewed from the streetscape there is uniformity of side setbacks. PO 8.1 is therefore considered to be satisfied.

The overall building height of the dwelling remains as existing. The *building height* from the lowest point of natural ground level is 8.43m, well under the anticipated maximum of 9m anticipated by DPF 4.1 (a). The *wall height* of the dwelling is measured from the top of the footings as defined in the code. The wall height of the dwelling is 7.15m from the ground-level footing. This exceeds the 7m maximum sort be DPF 4.1 (b) by 150mm, a minor variance.

PO 8.1 anticipates buildings to contribute to a low-rise suburban character. Low rise is defined as 2 building levels. The dwelling contains two building levels above natural ground level and only exceeds the numerical wall height policy by 150mm. When considering this along with the 3D imagery that shows the negligible impact of shadowing places the application in a position to satisfy PO 8.1.

## RECOMMENDATION

### Planning Consent

It is recommended that the Council Assessment Panel advise the Environment, Resources and Development Court in the matter of Case Number ERD-22-000156 that it supports Application ID 22020714 as amended subject to the conditions below:

### 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. That all upstairs windows, other than facing the street, shall have minimum windowsill 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:** 14/11/2022