

Minutes of the Council Assessment Panel of the City of Holdfast Bay held in the Kingston Room, Civic Centre, Jetty Road, Brighton, on Wednesday, 27 November 2019 at 7:00 pm.

MEMBERS PRESENT

Presiding Member – J Newman
G Goss
D Bailey
R Clancy
J Gronthos

STAFF IN ATTENDANCE

Manager Development Services – A Marroncelli
Development Officer – D Spasic
Team Leader – Development Administration - A Elliott
Student Placement – Kirsten Falt

1. OPENING

J Newman welcomed the people in the gallery.

2. APOLOGIES

Apologies Received – Nil
Absent – Nil

3. DECLARATION OF INTEREST

Members were reminded to declare their interest before each item.

4. CONFIRMATION OF MINUTES

Motion

271119/00044

That the minutes of the Council Assessment Panel held on 23 October 2019 be taken as read and confirmed.

Moved by G Goss, Seconded by D Bailey

Carried

5. COUNCIL ASSESSMENT MATTERS

5.1 Dechellis Homes, 6 Thomas Street, Seacliff Park (Report No 435/19)

DA NO.	:	110/00448/19
APPLICANT	:	DECHELLIS HOMES
LOCATION	:	6 THOMAS 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 WALL LOCATED ON THE WESTERN SIDE BOUNDARY
REFERRALS	:	NOT APPLICABLE
CATEGORY	:	TWO
REPRESENTATIONS	:	ONE
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS

Motion

271119/00045

Following a detailed assessment of the proposal against the provisions of the Holdfast Bay (City) Development Plan, the Development Assessment Panel considers that the proposed development is seriously at variance with the Development Plan and that Development Application 110/00448/19 be refused Development Plan Consent for the reason that it is contrary to Council Wide Principles 19, Residential Zone Objective 3 and Residential Zone Principle 8. More specifically, the application does not meet the intent of the Development Plan in relation to:

- Insufficient front setback;
- The extent of the upper level; and
- The setback and form of the proposed dwelling.

Moved by D Bailey, Seconded by R Clancy

Carried

6. REPORTS BY OFFICERS

6.1 Nil.

6.2 **Deferred Item - 12 Lamington Avenue Seacliff Park** **DA Nos: 110/00535/19**
(Report No: 436/19)

At the 23 October 2019 meeting, the Council Assessment Panel resolved:

‘That after considering the provisions of the Development Plan and the representations and responses received, the application be deferred to enable the applicant to provide additional information describing how the upper level balcony can be designed to reduce direct overlooking to the private open space of the northern adjacent property whilst enabling distant view in accordance with Principle 41(c)’.

Motion**271119/00046**

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 110/00535/19 comprising the construction of a two storey detached dwelling with freestanding garage located on the south-western side boundary at 12 Lamington Avenue, Seacliff Park.

PLANNING CONDITIONS

1. That the design and siting of all buildings and structures and site works shall be as shown on the plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein, including those prepared by
 - a. Herriot Consulting, File No. C1907-064, Revision A, Sheet 1 dated August 2019;
 - b. Vallco Design, Project No. 461-0519, Sheet A101a, A101b, A102a, A102b, A103, A104a and A104b dated 22/08/2019
2. The visual privacy of 10b Lamington Avenue, Seacliff Park shall be achieved by way of the construction of a fixed louvre screen, as shown on the plan prepared by Vallco Design, Project No 461-0519, Sheet 'Addendum' Revision A referencing screening to the northern elevation of the balcony. The screen shall be established prior to occupation in such a way that prevents a view into the enclosed yard and windows associated with 10b Lamington Avenue, Seacliff Park.
3. That stormwater 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 stormwater 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: Stormwater 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.

4. That landscaping shall be established in the front, side and rear yards comprising trees, shrubs and grasses of semi-mature or 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 south-western and south-eastern elevations shall be designed in such a way that prevents a view into adjacent properties.
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. That 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.
11. That all domestic mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:
 - (a) Noise level not to exceed 52dB(A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.

NOTE: That no synthetic grass is installed on the Council verge in accordance with the City of Holdfast Bay Verge Policy.

Moved by J Gronthos, Seconded by R Clancy

Carried

6.3 Appeal Item - 541 Brighton Road, South Brighton**DA No: 110/00516/18****(Report No: 437/19)**

On 24 April 2019, the Council Assessment Panel refused the proposal for the following reasons:

General Section Transportation and Access Principle 40, Energy Efficiency 2(b), Design and Appearance Principles 15 and 19, Residential Development Principles 31(i), 44, District Centre Zone Principles 8(a)(b)(c), 9, 14, Brighton and Hove Policy Area 16 Desired Character Statement, Principle 9. Specifically, the proposal incorporates:

- An inadequate amount of off-street car parking.
- Buildings that are designed and sited in a manner that do not take advantage of exposure to winter sun.
- Buildings that are designed and sited creating extensive areas of uninterrupted walling facing areas exposed to public view.
- Buildings that are designed without appropriate use of colours, vertical and horizontal elements, roof overhangs and other design techniques that would otherwise provide visual interest and reduced massing.
- Buildings that are designed without appropriately articulated surfaces to visible walls to include a traditional pattern of wall areas and window spaces.
- The use of materials and colour finishes which do not blend with or complement those used on the predominant long-standing buildings in the locality.
- Insufficient setbacks to enable meaningful landscaping and setback consistency with existing buildings in the locality.
- Insufficient provision of landscaping to provide a buffer between non-residential developments and adjacent residential areas.
- Insufficient building setback to the western property boundary.
- Private open spaces sited with direct exposure to noise and air quality impacts from traffic within the locality.
- Residential buildings sited close to high noise sources (major road) without protection for sensitive and habitable areas through appropriate noise attenuation measures.

The applicant has lodged an appeal with the Environment, Resources and Development Court. A compromise plan has been submitted for the Panel's consideration

J Gronthos declared a perceived conflict of interest and left the meeting at 7.26 pm

Motion**271119/00047**

That the ERD Court be advised that Council accepts the amended plans as a compromise in the Environment, Resources and Development Court appeal matter ERD-19-96 in the matter between MRTD Pty Ltd v City of Holdfast Bay and recommends the following conditions be included:

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 Royal Greenhouse, Job No 497-19, Revision A, Sheets 01 to 16 submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
- 2. All upstairs windows and on the side and rear elevations shall be treated with screening devices to ensure visual privacy is achieved on adjoining properties, details to be provided to Council's satisfaction and installed prior to occupation.**
- 3. That the premises shall be maintained, kept tidy, free of graffiti and in good repair and condition to the reasonable satisfaction of Council at all times.**
- 4. That the premises shall not be used, directly or indirectly, for the purpose now approved until all work has been completed in accordance with the plan approved and the conditions of consent have been complied with, except those conditions that continue to apply.**
- 5. The provision for vehicle crossovers and inverts, and reinstatements of existing crossovers not required by the development, be constructed at the owner's expense.**
- 6. That landscaping shall be established as per the Landscape Plan prepared by Royal Greenhouse, Job No 497-19, Revision A, Sheet 04 which are of 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.**
- 7. That stormwater 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. Furthermore, all stormwater 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. Stormwater 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.**
- 8. 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.**
- 9. Details of the location of airconditioning units to the reasonable satisfaction of Council provided prior to Development Approval being granted.**

10. That all domestic mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:
- (a) Noise level not to exceed 52dB(A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.

DPTI Conditions

- 11. All vehicular access to/from the site shall be gained via Oleander Street only in general accordance with the Wilcot Drafting, Site Plan, Planning (Revision C), dated 12 December 2018, Sheet 11 of 18. No direct vehicular access onto Brighton Road shall be permitted.
- 12. The eastern most crossover on Oleander Street shall comply with AS/NZS 2890.1:2004, Fig. 3.1 'Prohibited Locations of Access Driveways'.
- 13. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of Brighton Road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the owner's expense.

NOTE: That no synthetic grass is installed on the Council verge in accordance with the City of Holdfast Bay Verge Policy.

Moved by D Baily, Seconded by G Goss

Carried

J Gronthos returned to the meeting at 7.40 pm

J Newman declared a perceived conflict of interest and left the meeting at 7.40 pm

D Bailey took the Chair

6.4 Appeal Item - 41-43 Marlborough Street, Brighton DA No: 110/00487/19
(Report No: 438/19)

On the 25 September 2019, the Council Assessment Panel refused the proposal for the following reasons:

General Section Residential Development Principles 2, 10, 12, 20, 21, 22(a), 23 and 24(a), General Section Design and Appearance Principle 2 and Residential Zone Desired Character Statement. More specifically, the proposal displays the following non-compliances:

- Dwelling 1 is visually imposing and overbearing, contrary to seeking unobtrusive small scale development;
- Excessively high walls on boundaries pertaining to Dwelling 1;
- The upper level walls pertaining to Dwelling 1 are too high and too close to boundaries; and
- Insufficient sunlight access to the rear yard of the dwelling to the south.

The applicant has lodged an appeal with the Environment, Resources and Development Court. A compromise plan has been submitted for the Panel's consideration.

Motion

271119/00048

That the ERD Court be advised that Council accepts the amended plans as a compromise in the Environment, Resources and Development Court appeal matter ERD-19-169 in the matter between Lares Homes Pty Ltd v City of Holdfast Bay and recommends the following conditions be included:

PLANNING CONDITIONS

1. **That the design and siting of all buildings and structures and site works shall be as shown on the plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein, including those prepared by:**
 - a. **Lares Homes, Job No. LH123, LH126-128, Sheet 1 Amended Plan dated 07/11/2019;**
 - b. **Lares Homes, Job No. LH126-8, Sheet 7, Revision C dated 17.10.2019;**
 - c. **Lares Homes, Job No. LH123, Sheet 2 Amended Plan dated 07/11/2019;**
 - d. **Lares Homes, Job No. LH123, Sheet 3 Amended Plan dated 07/11/2019;**
 - e. **Lares Homes, Job No. LH123, Sheet 4 Amended Plan dated 07/11/2019;**
 - f. **Lares Homes, Job No. LH126, Sheet 2 dated May 19;**
 - g. **Lares Homes, Job No. LH126, Sheet 3 dated May 19;**
 - h. **Lares Homes, Job No. LH126, Sheet 4 dated May 19;**
 - i. **Lares Homes, Job No. LH126, Sheet 5 dated May 19;**
 - j. **Lares Homes, Job No. LH127, Sheet 2 dated May 19;**
 - k. **Lares Homes, Job No. LH127, Sheet 3 dated May 19;**
 - l. **Lares Homes, Job No. LH127, Sheet 4 dated May 19;**

- m. Lares Homes, Job No. LH127, Sheet 5 dated May 19;
 - n. Lares Homes, Job No. LH128, Sheet 2 dated May 19;
 - o. Lares Homes, Job No. LH128, Sheet 3 dated May 19;
 - p. Lares Homes, Job No. LH128, Sheet 4 dated May 19;
 - q. Lares Homes, Job No. LH128, Sheet 5 dated May 19;
2. A revised site works plan to be submitted prior to Development Approval, reflecting the amendments made to Dwelling 1.
 3. That stormwater 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 stormwater 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.

Stormwater 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.

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 to the reasonable satisfaction of Council.
5. Landscaping shall be established as per the plan prepared by Lares Homes, Job No. LH126-8, Sheet 7 Revision C dated 17.10.2019 and comprise 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.
6. All upstairs windows, balconies and terraces above natural ground level to the east, west and south elevations of all dwellings, and northern elevation of Dwelling 1, shall be designed in such a way that prevents a view into adjacent properties, to the reasonable satisfaction of Council.
7. 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.
8. That 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.

9. 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.
10. That all hard building materials, waste and litter on site be stored in a manner that secures it on site during the construction works.
11. That no solid or liquid trade wastes be discharged to the stormwater system.
12. That all domestic mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:
 - (a) Noise level not to exceed 52dB (A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.

NOTE: That no synthetic grass is installed on the Council verge in accordance with the City of Holdfast Bay Verge Policy.

Moved by G Goss, Seconded by J Gronthos

Carried

J Newman returned to the meeting and resumed the Chair at 7.46 pm

6.5 Appeal Item – 6 Shoreham Road, South Brighton **DA No: 110/00493/19**
(Report No: 439/19)

On 23 October 2019, the Council Assessment Panel refused DA 110/00493/19 for the reasons that the application was contrary to:

Residential Development Council wide Principles 17 and 25 and the Residential Zone Desired Future Character Statement.

More specifically the application did not meet the intent of the Development Plan in relation to:

- Excessive wall height;
- Insufficient setback to the secondary road boundary; and
- Materials and finishes that do not response to the established character of the area.

The applicant has lodged an appeal with the Environment, Resources and Development Court. A compromise plan has been submitted for the Panel's consideration.

Motion

271119/00049

That the ERD Court be advised that Council accepts the amended plans as a compromise in the Environment, Resources and Development Court matter between Finesse Built v City of Holdfast Bay ERD 19-192 and recommends the following conditions be included:

PLANNING CONDITIONS

- 1. That the design and siting of all buildings and structures and site works shall be as shown on the plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
- 2. That storm water from the additions 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.

- 1. 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.**
- 2. That the filter pump associated with the pool be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.**
- 3. That all domestic mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:**
 - (a) Noise level not to exceed 52dB(A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and**

- (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and**
- (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.**

NOTE: That no synthetic grass is installed on the Council verge in accordance with the City of Holdfast Bay Verge Policy.

Moved by R Clancy, Seconded by J Gronthos

Carried

7. URGENT BUSINESS – SUBJECT TO THE LEAVE OF THE MEETING

The Panel expressed its gratitude to Rosemary Clancy for her contribution to the Panel over many years of service. It was noted that Rosemary Clancy brought invaluable insight into the discussion on assessment matters before the Panel, having served with distinction and the highest integrity.

8. CLOSURE

The meeting closed at 7.58 pm.

CONFIRMED Wednesday, 22 January 2020

PRESIDING MEMBER