

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **28 APRIL 2021**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **ALEXANDER STAMATOPOULOS**
 ATTACHMENTS: **1. LOCALITY PLAN**
2. PROPOSED PLANS
3. SUPPORTING LETTER

DA NO.	:	110/00829/20
APPLICANT	:	M AND S ROBBINS
LOCATION	:	185 ESPLANADE, SOUTH BRIGHTON
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL ZONE CENTRAL WEST POLICY AREA 3
NATURE OF DEVELOPMENT	:	MERIT
PROPOSAL	:	THREE STOREY RESIDENTIAL FLAT BUILDING INCLUDING UNDERCROFT GARAGE COMPRISING TWO DWELLINGS
EXISTING USE	:	RESIDENTIAL
REFERRALS	:	NIL
CATEGORY	:	ONE
RECOMMENDATION	:	CONSENT

Background

DA 110/00802/16 for a three storey residential flat building containing three dwellings plus common undercroft parking, swimming pool, residential lift, balconies and retaining walls was refused by the Panel in 2017 and appealed in the Environment Resources and Development Court. The Court upheld Council's decision.

DA 110/00863/17 for a three storey residential flat building containing three dwellings plus common parking, residential lift, balconies and associated retaining walls was granted development plan consent by the Panel on 23/05/18. This application, whilst very similar to the previous application, had been amended to address the reasons for the refusal in the appeal findings. Those being to reduce the heights of the retaining walls, redesign the basement garage and reduce the floor area of the apartments while increasing the side and rear boundary setbacks. The previous application was a Category 3 form of development due to the height of the retaining walls, but with the reduced height of the retaining walls the application was considered to be a Category 1 form of development. The amendments also remove a swimming pool that was proposed in front of the ground floor apartment.

DA 110/00561/18 to vary the above by constructing an extension above the eastern parapet to allow a lift service area was refused by the Panel for reasons that it incorporated features that exacerbate the bulk of the building when viewed from the adjoining land and detract from the built form of the building and compromise its visual interest.

1. Site and Locality

The subject site is located on the northern corner of the Esplanade and Shoreham Road and currently contains a single storey detached dwelling. It is surrounded by a variety of dwelling types ranging from one to three storeys.

The surrounding locality comprises substantial buildings along the Esplanade, as anticipated by the Residential Zone Central West Policy Area 3. East of the subject site comprises the Residential Zone, which contains a range of single and two storey built form, as anticipated in that Zone.

Along the Esplanade the majority of dwellings are two storey, some with under croft garages. A recent development on the northern adjoining site comprises a two storey residential flat building containing two side by side dwellings plus under croft garages. Behind the Esplanade there are a range of dwelling styles with an equal mix of single and two storey dwellings.

The adjacent dwelling to east is a two storey dwelling, however, the upper storey comprises only a single room that has been added to maximise views of the ocean with the windows all directed to the west to allow for views over the subject site.

Refer to Attachment 1

2. Proposed Development

The development comprises the construction of a three storey residential flat building containing two side by side dwellings. Dwelling 1 (northern most dwelling) will have an under croft garage with access from the Esplanade and two living levels above. Dwelling 2 will comprise three levels above ground with a small retreat and roof deck on the upper most level. An attached at ground garage is to the rear of the dwelling accessed from Shoreham Road.

Retaining walls will be confined to the western portion of the site and as shown on the civil plan and advised by the applicant will not be higher than 1 metre.

Refer to Attachment 2 and 3

3. Public Consultation

Council has sought a legal opinion regarding the number of storeys and hence categorisation pursuant to the Procedural Section in the Residential Zone of the City of Holdfast Bay Development Plan consolidated 2 June 2016.

The following is an excerpt from the Residential Zone, Public Notification section of the Development Plan:

Category 1

Development where it is located within the **Central West Policy Area 3 or Institution Policy Area 4** (except within the **Minda Incorporated Brighton Campus**) or **South West Policy Area 7** and is 3 storeys or less in height, above natural ground level, comprising one or a combination of the following:

- (a) detached dwelling
- (b) group dwelling
- (c) residential flat building
- (d) semi-detached dwelling
- (e) row dwelling.

The legal opinion is that the development is 3 storeys and subsequently Category 1.

4. Development Data**Proposed development**

	Proposed	Development Plan	Complies
Site areas	Approximately 306m ² /dwelling	200m ² /dwelling	Yes
Site coverage	D1 is 63.5%, D2 is approximately 65%, Total is approximately 64.5% of total site.	Maximum 50% of site	No
Private open space	D1 approximately 27% including front balconies, D2 approximately 33% including roof deck, front terrace and balconies.	Minimum 20% of site	Yes
Storeys above ground level	3	Maximum 3	Yes
External wall height	D1 varies from approximately 7m to 8m, D2 varies from approximately 8m to 9.4m at maximum.	Maximum 10.5m	Yes
Western front setback	Approximately 5m to 5.6m	6m	No
Northern side setback	Ground level approximately 1m, Second level varies from 1.7m to 2.3m	Ground level min 1m, First and second floor levels 3m	No
Southern secondary side setback	Ground level varies from approximately 1m to 3.3m, Second level varies from approximately 1.5m to 2m, Third level is 3.3m	Ground level 1m, second and third levels 3m	No for second level.
Eastern rear setback	D1 is approximately 3m at ground level and approximately 4.6m at first level, D2 is nil metres at ground level, approximately 3.4m at first level and approximately 6.4m at second level	Ground level min 1m, First and second levels min 3m	Yes for D1. No for D2 at ground level however existing garage is approximately 600mm from rear boundary
Car parking	D1 5 spaces D2 2 spaces	Minimum 2 spaces per dwelling + 0.25 visitor spaces per dwelling	Yes for D1 No visitor space for D2

Last approved development 110/00863/17

	Proposed	Development Plan	Complies
Site area	Total 612 square metres; Exclusive site area for D1, 437 square metres; Exclusive site area for D2, 270 square metres; Exclusive site area for D3, 270 square metres; Average site area per dwelling 325 square metres	Where residential flat is proposed, a minimum average site area of 200 square metres per dwelling	Yes
Site coverage	43 percent of the site area	Maximum 50 percent of the site area	Yes

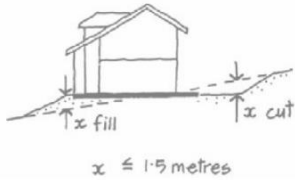
	Proposed	Development Plan	Complies
Private open space	Ground level dwelling (D1) 68 square metres (15 percent of the site area); Above ground level dwelling (D2 & D3) 30 square metres per dwelling + 28 square metres of communal outdoor space	Minimum 20 percent of the site area for ground level dwellings; Minimum 15 square metres for above ground level dwellings	No (however when counting outdoor space forward of building, outdoor area exceeds 20 percent of the exclusive site area); Yes
Storeys above natural ground level	3	Maximum 3	Yes
External wall height above natural ground level	10.09 metres	Maximum 10.5 metres	Yes
Western front setback	6m	6m	Yes
Northern side setback	Ground, first and second floor level varies between 3m & 4.2m	Ground level min 1m; First floor level min3m; Second floor level min 3m	Yes
Southern secondary side setback	Ground, first and second floor level 3m	Ground level min 1m; First floor level min3m; Second floor level min 3m	Yes
Eastern rear setback	Ground, first and second floor level, varies between 3m & 6m	Ground level min 1m; First floor level min3m; Second floor level min 3m	Yes
Car parking	8 spaces	Minimum 2 spaces per dwelling + 0.25 visitor spaces per dwelling therefore 6.75 spaces	Yes

5. Development Plan Provisions

The proposed development is considered to satisfy the provisions of the Holdfast Bay (City) Development Plan. A detailed assessment of the proposal against the provisions of the Development Plan is provided in the Appendices to this report:

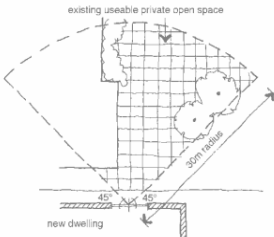
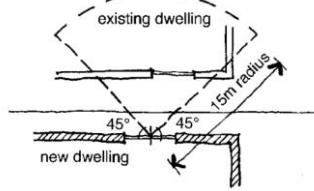
Design and Appearance - Objectives	
1. Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.	Complies
Design and Appearance - Principles of Development Controls	
1. Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following: (a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandahs, eaves, parapets and window screens.	Generally complies. The two street elevations are reasonable articulated, the northern and eastern elevations have a more solid form however the height of most of the building is significantly lower than the maximum.

Design and Appearance - Principles of Development Controls (Cont)	
<p>2. Where a building is sited on or close to a side boundary, the side boundary wall should be sited and limited in length and height to minimise:</p> <ul style="list-style-type: none"> (a) the visual impact of the building as viewed from adjoining properties (b) overshadowing of adjoining properties and allow adequate sun light to neighbouring buildings. 	Complies. The garage boundary wall is of reasonable proportions and satisfactory given the existing built form on both the subject and adjoining properties.
<p>3. The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties or drivers.</p>	Complies
<p>5. Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.</p>	Will have impact on views but considered in context with built form in the locality and comparison with the last approved development is not considered unreasonable.
<p>6. Balconies should:</p> <ul style="list-style-type: none"> (a) be integrated with the overall form and detail of the building and make a positive contribution to the external and external amenity of residential buildings (b) be sited adjacent to the main living areas, such as the living room, dining room or kitchen to extend the dwelling's living space (c) include balustrade detailing that enables line of sight to the street (d) be recessed where wind would otherwise make the space unusable (e) have a minimum dimension of 2 metres for upper level balconies or terraces 	Complies
<p>10. The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</p> <ul style="list-style-type: none"> (a) windows of habitable rooms (b) upper-level private balconies that provide the primary open space area for a dwelling (c) solar collectors (such as solar hot water systems and photovoltaic cells). 	Complies
<p>11. Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as:</p> <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. 	Complies
<p>13. Buildings (other than ancillary buildings or group dwellings) should be designed so that their main façade faces the primary street frontage of the land on which they are situated.</p>	Complies
<p>14. Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.</p>	Complies

Design and Appearance - Principles of Development Controls (Cont)	
15. Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.	Complies
16. Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.	Complies
Residential Development - Objectives	
1. Safe, convenient, pleasant and healthy-living environments that meet the full range of needs and references of the community.	Complies
2. A diverse range of dwelling types and sizes available to cater for changing demographics, particularly smaller household sizes and supported accommodation.	Complies
3. Medium and high density residential development in areas close to activity centres, public and community transport and public open spaces.	Complies
4. The revitalisation of residential areas to support the viability of community services and infrastructure.	Complies
Residential Development - Principles of Development Controls	
1. Residential allotments and sites should maximise solar orientation and have the area and dimensions to accommodate: <ul style="list-style-type: none"> (a) the siting and construction of a dwelling and associated ancillary outbuildings (b) the provision of landscaping and private open space (c) convenient and safe vehicle, pedestrian and cycling access and parking (d) water sensitive design systems that enable the storage, treatment and reuse of storm water. 	Complies
3. Residential allotments should be of varying sizes to encourage housing diversity.	Complies
4. Dwellings and accommodation at ground floor level should contribute to the character of the locality and create active, safe streets by incorporating one or more of the following: <ul style="list-style-type: none"> (a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for occupants (b) individual entries for ground floor accommodation (c) opportunities to overlook adjacent public space. 	Complies
5. Residential development should be designed to ensure living rooms have an external outlook.	Complies
6. Entries to dwellings should be clearly visible from the streets that they front to enable visitors to identify a specific dwelling easily.	Complies
8. The vertical distance between any lower floor of a building and the natural ground level should not exceed 1.5 metres at any point to minimise the depth of excavation and/or height of filling of land, as illustrated by the figure below: 	Complies
9. Development on sloping sites should be designed to reduce the bulk and scale of the proposed development and where possible include a split level design that follows the fall of the land.	Complies.

Residential Development - Principles of Development Controls (Cont)							
<p>10. The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to:</p> <ul style="list-style-type: none"> (a) windows of habitable rooms (all rooms excluding bathrooms, laundries and hallways), particularly living areas (b) ground-level private open space (c) upper-level private balconies that provide the primary open space area for any dwelling (d) access to solar energy. 	Complies						
<p>11. Development should ensure that north-facing windows to habitable rooms (all rooms excluding bathrooms, laundries and hallways) of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9 am and 5 pm on the 21 June.</p>	Complies.						
<p>12. Development should ensure that ground-level open space of existing buildings receives direct sunlight for a minimum of two hours between 9 am and 3 pm on 21 June to at least the smaller of the following:</p> <ul style="list-style-type: none"> (a) half of the existing ground-level open space (b) square metres of the existing ground-level open space (with at least one of the area's dimensions measuring 2.5 metres). 	Complies						
<p>23. Side boundary walls in residential areas should be limited in length and height to:</p> <ul style="list-style-type: none"> (a) minimise their visual impact on adjoining properties (b) minimise the overshadowing of adjoining properties. 	Complies – garage wall on eastern boundary is satisfactory.						
<p>27. Carports and garages should be set back from road and building frontages so as to:</p> <ul style="list-style-type: none"> (a) contribute to the desired character of the area (b) not adversely impact on the safety of road users (c) provide safe entry and exit (d) not dominate the appearance of dwellings from the street. 	Complies						
<p>28. Site coverage (the proportion of a site covered by ground floor level buildings and structures including dwelling, garage, carport, verandahs and outbuildings but excluding unroofed pergolas and unroofed balconies) should not exceed the following values:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Parameter</th> <th style="text-align: left;">Value</th> </tr> </thead> <tbody> <tr> <td>Site with an area less than or equal to 300 square metres</td> <td>60 per cent</td> </tr> <tr> <td>Site with an area greater than 300 square metres</td> <td>50 per cent</td> </tr> </tbody> </table>	Parameter	Value	Site with an area less than or equal to 300 square metres	60 per cent	Site with an area greater than 300 square metres	50 per cent	Does not comply – approximately 64%
Parameter	Value						
Site with an area less than or equal to 300 square metres	60 per cent						
Site with an area greater than 300 square metres	50 per cent						
<p>29. Site coverage should ensure sufficient space is provided for:</p> <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles. 	Complies						
<p>30. Site coverage determinations for group dwellings and residential flat building sites should not include common areas such as access ways, driveways and landscaping.</p>	Complies						

Residential Development - Principles of Development Controls (Cont)											
<p>31. Private open space (land available for exclusive use by residents of each dwelling) should be provided for each dwelling (including a dwelling within a residential flat building) and should be sited and designed:</p> <ul style="list-style-type: none"> (a) to be accessed directly from the habitable rooms of the dwelling (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy (c) to take advantage of, but not adversely affect, natural features of the site (d) to minimise overlooking from adjacent buildings (e) to achieve separation from bedroom windows on adjoining sites (f) to have a northerly aspect to provide for comfortable year-round use (g) to not be significantly shaded during winter by the associated dwelling or adjacent development (h) to be shaded in summer (i) to minimise noise and air quality impacts that may arise from traffic, industry or other business activities within the locality (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site. 		Complies									
<p>32. Dwellings and residential flat buildings at ground level should include private open space that conforms to the requirements identified in the following table:</p> <table border="1" data-bbox="183 1041 821 1388"> <thead> <tr> <th>Site area of dwelling</th> <th>Minimum area of private open space</th> <th>Provisions</th> </tr> </thead> <tbody> <tr> <td>250 square metres or greater</td> <td>20 per cent of site area</td> <td>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater. One part of the space should be directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.</td> </tr> <tr> <td>Less than 250 square metres</td> <td>35 square metres</td> <td>Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater. One part of the space is directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.</td> </tr> </tbody> </table>	Site area of dwelling	Minimum area of private open space	Provisions	250 square metres or greater	20 per cent of site area	Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater. One part of the space should be directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.	Less than 250 square metres	35 square metres	Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater. One part of the space is directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.		The combination of balconies, rear yard and roof garden for dwelling 2 is satisfactory.
Site area of dwelling	Minimum area of private open space	Provisions									
250 square metres or greater	20 per cent of site area	Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater. One part of the space should be directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and have an area equal to or greater than 10 per cent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1-in-10.									
Less than 250 square metres	35 square metres	Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater. One part of the space is directly accessible from a kitchen, lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 metres and a maximum gradient of 1-in-10.									
<p>33. Private open space should not include driveways, front yards (except where it is a group dwelling that has no frontage to a public road and the private open space is screened from adjacent dwellings), effluent drainage areas, rubbish bin storage, sites for rainwater tanks and other utility areas and common areas such as parking areas and communal open space.</p>		Complies.									
<p>34. Private open space at ground level should be designed to provide a consolidated area of deep soil (an area of natural ground which excludes areas where there is a structure underneath, pools and non-permeable paved areas) to:</p> <ul style="list-style-type: none"> (a) assist with ease of drainage (b) allow for effective deep planting (c) reduce urban heat loading and improve micro-climatic conditions around sites and buildings. 		Complies									
<p>36. Private open space located above ground level should have a minimum dimension of 2 metres and be directly accessible from a habitable room.</p>		Complies									

Design and Appearance - Principles of Development Controls (Cont)	
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.	Complies
Residential Development - Principles of Development Controls (Cont)	
41. Where development is greater than single storey (excluding the Minda Incorporated Brighton Campus): (a) any upper storey window that directly overlooks the private open space of an adjoining residential property that is within 30 metres from the vertical centre line of the overlooking window and beyond a 45 degree angle from the plane of the wall containing the overlooking window (as illustrated by the figure below) should be glazed in fixed obscure glass or have window sills a minimum of 1.7 metres above the upper floor level:  (b) Any upper storey window that directly overlooks habitable rooms (all rooms excluding bathrooms, laundries and hallways) of residential buildings that are within 15 metres from the vertical centre line of the overlooking window and beyond a 45 degree angle from the plane of the wall containing the overlooking window (as illustrated by the figure below) should be glazed in fixed obscure glass or have window sills a minimum of 1.7 metres above the upper floor level:  (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.	Complies
42. Noise generated by fixed noise sources such as air conditioning units and pool pumps should be located, designed and attenuated to avoid causing potential noise nuisance to adjoining landowners and occupiers.	Insufficient detail provided <i>A condition of development plan consent if approved.</i>
Transport and Access	
8. Development should provide safe and convenient access for all anticipated modes of transport.	Complies
10. Driveway cross-overs affecting pedestrian footpaths should maintain the level of the footpath.	Condition recommended if approved.
11. Driveway crossovers should be separated and the number minimised to optimise the provision of on- street visitor parking (where on-street parking is appropriate).	Complies.

Design and Appearance - Principles of Development Controls (Cont)	
21. On-site secure bicycle parking facilities should be: (a) located in a prominent place (b) located at ground floor level (c) located undercover (d) located where surveillance is possible (e) well lit and well signed (f) close to well used entrances (g) accessible by cycling along a safe, well lit route.	Sufficient on-site space for bike parking.
Residential Development - Principles of Development Controls (Cont)	
23. Driveway crossovers should be: (a) single width and appropriately separated, to preserve and enhance street character, and facilitate opportunities for landscaping, fencing and street tree planting (b) minimised in number so as to optimise the provision of on-street visitor parking (c) placed to avoid relocation of street trees, utility and infrastructure inspection points, poles and equipment (d) a maximum of 30 per cent of the frontage of the site (except in Institution Policy Area 4, South West Policy Area 7 and Seacliff Policy Area 12). (e) located a minimum of 1 metre from property boundaries, existing street trees, stormwater side entry pits and above ground utility and infrastructure equipment and poles. Where trees or infrastructure require deviation in the crossover, the maximum deviation between the garage / carport and the crossover at the boundary is 20 degrees, as illustrated in the following figure:  <p><i>Crossovers should have a 1m clearance to street trees, stobie poles and stormwater side entry pits</i></p>	Complies for dwelling 1, double width for dwelling 2.
24. Paving and driveway surfaces should not constitute more than 50 percent of the area between the front property boundary and the forward most building alignment of a dwelling.	Does not comply.
29. Development should be provided with safe and convenient access which: (a) avoids unreasonable interference with the flow of traffic on adjoining roads (b) provides appropriate separation distances from existing roads or level crossings (c) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision (d) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties	Complies.

Design and Appearance - Principles of Development Controls (Cont)	
<p>40. Development should provide off-street vehicle parking and specifically marked disabled car parking places to meet anticipated demand in accordance with zone requirements or, if not specified by the zone, <i>Table HoB/1 - Off Street Vehicle Parking Requirements</i> (with resultant numerical figure rounded to the nearest whole number) unless all the following conditions are met:</p> <p>(a) the site is located within the Glenelg Policy Area 2</p> <p>(b) an agreement is reached between the Council and the applicant for a reduced number of parking spaces</p> <p>(c) a financial contribution is paid into the Council Car Parking Fund specified by the Council, in accordance with the gazetted rate per car park.</p>	Complies.
<p>42. Vehicle parking areas should be sited and designed in a manner that will:</p> <p>(a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development</p> <p>(b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network</p> <p>(c) not inhibit safe and convenient traffic circulation</p> <p>(d) result in minimal conflict between customer and service vehicles</p> <p>(e) avoid the necessity to use public roads when moving from one part of a parking area to another</p> <p>(f) minimise the number of vehicle access points onto public roads</p> <p>(g) avoid the need for vehicles to reverse onto public roads</p> <p>(h) where practical, provide the opportunity for shared use of car parking and integration of car parking areas with adjoining development to reduce the total extent of vehicle parking areas and the requirement for access points</p> <p>(i) not dominate the character and appearance of a site when viewed from public roads and spaces</p> <p>(j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas</p> <p>(k) include infrastructure such as underground cabling and connections to power infrastructure that will enable the recharging of electric vehicles.</p>	Generally complies. Reversing movements onto the streets will occur as it does with the majority of dwellings along the Esplanade and side streets.
<p>48. On-site visitor parking spaces for group and multiple dwellings and residential flat buildings should be sited and designed to:</p> <p>(a) not dominate internal site layout</p> <p>(b) be clearly defined as visitor spaces not specifically associated with any particular dwelling</p> <p>(c) be accessible to visitors at all times.</p>	No visitor spaces identified but can be accommodated on driveway for dwelling 1.

Design and Appearance - Principles of Development Controls (Cont)	
<p>52. Undercroft and below ground garaging of vehicles should only occur where envisaged in the relevant zone or policy area or precinct and ensure:</p> <ul style="list-style-type: none"> (a) the overall height and bulk of the undercroft structure does not adversely impact on streetscape character of the locality or the amenity of adjacent properties (b) vehicles can safely enter and exit from the site without compromising pedestrian or cyclist safety or causing conflict with other vehicles (c) the site slopes up from the street (d) driveway gradients provide for safe and functional entry and exit (e) driveways and adjacent walls, fencing and landscaping are designed to provide adequate sightlines from vehicles to pedestrians using the adjacent footpath (f) openings to undercroft areas are integrated with the main building so as to minimise visual impact (g) landscaping, mounding and/or fencing is incorporated to improve its presentation to the street and to adjacent properties (h) the overall streetscape character of the locality is not adversely impaired (e.g. visual impact, building bulk, front setbacks relative to adjacent development) (i) the height of the car park ceiling does not exceed 1 metre above the finished ground level. 	Complies.
<p>54. Semi-basement or undercroft car parking should be suitably integrated with building form.</p>	Complies.

HOLDFAST BAY (CITY) DEVELOPMENT – ASSESSMENT – RESIDENTIAL ZONE AND POLICY AREAS– OBJECTIVES AND PRINCIPLES OF DEVELOPMENT CONTROL

RESIDENTIAL ZONE CENTRAL WEST POLICY AREA 3	
Objectives	
1. A policy area primarily accommodating residential Development.	Complies
2. Development designed and located so that the profiles of buildings complement the slope of the land.	Complies
3. Preservation of the amenity and recreation value of the coastline.	Complies
4. Development that contributes to the desired character of the policy area.	Generally complies
<p>Desired Character</p> <p>The policy area covers a significant area fronting the Esplanade extending from Glenelg South through to Seacliff (and including parts of Kingston Park) and accommodates a variety of low to medium-density dwellings. A range of dwelling types up to three storeys in height are envisaged within the policy area.</p> <p>The metropolitan coastline of Adelaide is an important Recreational resource for the community; both for residents who live on the Esplanade and those from the surrounding beach-side suburbs and beyond. The pleasant environment and recreational opportunities afforded by this coastal setting ensure the popularity of these locations for residential development. The policy area will accommodate a greater number of residents over time to capitalise on the pleasant environment provided by the Holdfast Bay coastline, while maintaining the recreation value and amenity of the location for the enjoyment of the wider community.</p> <p>While a variety of housing forms are appropriate in the policy area, future development will avoid the creation of continuous facades fronting the Esplanade and buildings will be built in response to the slope of the land by minimising the amount of cutting and filling of the natural ground profile. Building design will be of a high architectural standard and incorporate features that reduce the bulk of the development and add visual interest, such as variations in height, roof form, colour and materials, the provision of balconies and porticos and facade articulation. Appropriate low scale landscaping comprising species tolerant of salt-laden winds will feature in front yards to help with breaking up hard sealed areas such as pathways and driveways, and to contribute to the high amenity of the Esplanade locality.</p>	
RESIDENTIAL ZONE CENTRAL WEST POLICY AREA 3	
Principles of Development Controls	
1. The following forms of development are envisaged in the policy area: <ul style="list-style-type: none"> • domestic outbuilding in association with a dwelling/residential flat building • domestic structure • dwelling • dwelling/residential flat building addition • residential flat building. 	Complies
2 Development should not be undertaken unless it is consistent with the desired character for the policy area.	Complies

RESIDENTIAL ZONE CENTRAL WEST POLICY AREA 3																								
Principles of Development Controls																								
<p>3 A dwelling and/or residential flat building should have a minimum site area and a minimum frontage to a public road not less than that shown in the following table:</p> <p><small>3 A dwelling and/or residential flat building should have a minimum site area and a minimum frontage to a public road not less than that shown in the following table:</small></p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Site area (square metres)</th> <th>Minimum frontage including a site in the form of a 'hammerhead' or 'battleaxe' configuration (metres)</th> </tr> </thead> <tbody> <tr> <td>Detached</td> <td>300</td> <td>5</td> </tr> <tr> <td>Semi-detached</td> <td>250</td> <td>5</td> </tr> <tr> <td>Group dwelling</td> <td>200</td> <td>5</td> </tr> <tr> <td>Residential flat building</td> <td>200</td> <td>5</td> </tr> <tr> <td>Row dwelling</td> <td>200</td> <td>5</td> </tr> </tbody> </table>			Dwelling type	Site area (square metres)	Minimum frontage including a site in the form of a 'hammerhead' or 'battleaxe' configuration (metres)	Detached	300	5	Semi-detached	250	5	Group dwelling	200	5	Residential flat building	200	5	Row dwelling	200	5	Complies			
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<p>4. Development should not exceed three storeys in height and a vertical wall height at any point, excluding gables, of 10.5 metres above existing natural ground level.</p>			Complies																					
<p>5. Development should be setback the following minimum distances:</p> <table border="1"> <thead> <tr> <th>Building height (storeys)</th> <th>Primary road frontage (metres)</th> <th>Secondary road frontage (metres)</th> <th>Rear boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)</th> <th>Side boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>6</td> <td>2</td> <td>1</td> <td>1</td> </tr> <tr> <td>2</td> <td>6</td> <td>3</td> <td>3</td> <td>3</td> </tr> <tr> <td>3</td> <td>6</td> <td>3</td> <td>3</td> <td>3</td> </tr> </tbody> </table>			Building height (storeys)	Primary road frontage (metres)	Secondary road frontage (metres)	Rear boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)	Side boundary except from a northern boundary as illustrated by 'Figure 3' within Table HoB/2 - Design Principles (metres)	1	6	2	1	1	2	6	3	3	3	3	6	3	3	3	Does not comply in regard to upper northern side setback and primary and secondary street setbacks.	
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2	6	3	3	3																				
3	6	3	3	3																				
<p>6. To allow maximum access to solar energy, the minimum setback of a dwelling and/or residential flat building from its northern boundary, as illustrated by 'Figure 3' within Table HoB/2 - Design Principles, should be 3 metres unless the building does not permit a 3 metre setback (which is the case in respect of a semi-detached, row dwelling and/or residential flat building), in which case, an area of private open space containing a rectangle of 6 metres by 4 metres should be provided immediately adjacent to that northern boundary.</p>			Does not comply.																					
<p>7. Garages and carports should be setback a minimum of 6 metres from the front property boundary or the same distance as the associated dwelling, whichever is the greater distance from the front property boundary.</p>			Complies.																					
<p>8. Up to 15 metres of single storey side walls and/or open sided carports and verandas should only be located on one side boundary of a site, provided that:</p> <p>(a) the gradient of the site is less than 1-in-10 in any direction</p> <p>(b) the setback to the other side boundary is a minimum of 1 metre</p> <p>(c) the height of the wall and/or the open sided carport does not exceed 2.75 metres above the existing ground level of the site on the boundary.</p>			Minor non-compliance with garage wall on rear boundary.																					

RESIDENTIAL ZONE CENTRAL WEST POLICY AREA 3 (Cont)	
Principles of Development Controls	
9. To ensure that development does not create a continuous built-form along the Esplanade, the western elevation of any development greater than one storey in height located on the Esplanade should not extend for a distance greater than 90 per cent of the allotment frontage, and in any event, should not create a continuous façade of more than 20 metres in length, as illustrated by 'Figure 2' within Table HoB/2 - Design Principles. Space or spaces used to break up facades of more than 20 metres in length should constitute not less than 10 per cent of the total width of the façade.	Complies
10. Development of two storeys or more should incorporate architectural features that reduce the bulk of the development and add visual interest, including: <ul style="list-style-type: none"> (a) variations in height, roof form, colour and materials (b) the provision of balconies and porticos (c) facade articulation. 	Complies

6. Summary of Assessment

Desired Character

The proposal satisfies the Desired Character of the Residential Zone, Policy Area 3 in that it proposes medium density dwellings in the form of a residential flat building up to three storeys in height, to capitalise on the pleasant environment provided by the Holdfast Bay coastline, whilst maintaining the recreational value and amenity of the location for the enjoyment of the wider community.

While a variety of housing forms are appropriate in the Policy Area, the proposed development will avoid the creation of a continuous façade fronting the Esplanade. The building has been designed in response to the slope of the land by minimising the amount of cutting and filling of the natural ground profile. The proposed building design is of an architectural standard and incorporates features that reduce the bulk of the development whilst adding visual interest such as variations in height, colour and materials, the provision of balconies and façade articulation. Appropriate low scale landscaping comprising species tolerant of salt-laden winds will feature in the front yard to help break up hard sealed areas such as footpaths and driveways.

Site area

The land comprises a total site area 612 square metres. Where a residential flat building is sought, the Development Plan anticipates a minimum average site area of 200 square metres per dwelling, excluding common land. The development with 306m²/dwelling exceeds the minimum requirements for both residential flat buildings and semi-detached dwellings.

Site coverage

The Development Plan requires a maximum 50% site coverage. The development differs from previous development proposals in that it is for dwellings side by side, which results in a larger footprint which exceeds the maximum site coverage (approximately 64% proposed). This is one of the main concerns with the proposal as it also leads to non-compliances with boundary setbacks as discussed elsewhere.

Private open space

Reasonable areas of private open space are provided in the form of balconies and rear ground areas for dwelling 1 and balconies and roof top garden for dwelling 2.

Built Form

The proposed building features architectural features that somewhat reduce the bulk of the development whilst adding visual interest to the street including variations in height, colour and materials, balconies and articulation on the façade as well as side elevations.

Compared with the last approved development the subject building has a slightly more solid form with less articulation on the northern and eastern elevations although other than the roof retreat for dwelling 2 the building is of lower height.

The development will still impact the neighbour to the east as did the last approved development however the reduction in height for a significant portion of the building compared with that approved will assist in minimising view loss.

Building Height

The building has a maximum height of approximately 7.4 metres toward the front of the site and from 7 metres to 9.4 metres towards the rear of the site. This compares reasonably favourably with the last approved development which varied from approximately 8.3 metres at rear to 10 metres at front. Although the height to the top of the roof retreat for dwelling 2 is higher than that previously approved it is still less than the prescribed maximum in the Policy Area.

The building has a maximum height of 10 metres above the natural ground level. The Development Plan prescribes a maximum building height of 10.5 metres. The proposed building has a height that is compatible with that already existing within the locality, as well as being below what is anticipated within the Central West Policy Area 3.

Boundary Setbacks

Setbacks from the Esplanade vary from approximately 5 metres to 5.7 metres to balconies compared with 6 metres for the last approved development. The Development Plan anticipates a minimum primary street setback of 6 metres for this Policy Area. The recently constructed building at 184 Esplanade is setback approximately 6.9 metres to 7.9 metres from the Esplanade.

The building is setback 1.1 metres at ground level and 1.7 metres to 2.3 metres at the first floor from the northern boundary (last approved building was 3 metres at the ground, first and second floor levels). The development plan anticipates a minimum setback of 1 metre at the ground level. Where the first floor level walls are concerned, the building should either achieve a setback of 3 metres to the northern side boundary.

The building is setback from 1 metre to 3 metres at ground, 1.5 metres to 2 metres to balconies at the first level and 3.3 metres to the second level from the southern secondary street boundary. This compares with at least 3 metre setback at all levels for the last approved development. The Development Plan anticipates a minimum setback of 1 metre at the ground level and a minimum setback of 3 metres at the first and second floor levels. The proposal is at variance with the prescribed first level setbacks.

The garage associated with dwelling 2 is on the eastern boundary but will not unreasonably impact the adjoining property given the existing built form on the subject and adjoining properties. At the first floor the building is setback approximately 3 metres to 4.8 metres from the eastern rear boundary. The second level of dwelling 2 is set back approximately 6.5 metres from the eastern boundary. This compares with a 3 metre setback for all levels of the last approved development. The development plan anticipates a minimum setback of 1 metre at the ground level and a minimum setback of 3 metres at the first and second floor levels. The upper most level of dwelling 2 achieve the minimum setbacks anticipated by the Development Plan and favourably compares with the last approved development.

Car parking

The proposal accommodates at least 5 cars for dwelling 1 and two cars for dwelling 2. The Development Plan anticipates a minimum of 2 on-site spaces per dwelling as well as a minimum of 0.25 visitor car parking spaces per dwelling. This equates to a car parking demand of 4.5 spaces overall, which has been adequately achieved.

Vehicle Access

The proposal has been designed with a single width crossover from the Esplanade with a width of 3.5 metres. This meets the Development Plan's requirement of 30% maximum width of the site (20% proposed).

Solar Access

The development plan seeks to ensure that direct winter sunlight is available to the habitable room windows and private open space areas of adjacent properties.

This should be achieved by way of:

- ensuring north facing habitable windows have access to at least 3 hours of direct sunlight over a portion of the surface between 9am and 5pm during the winter solstice; and
- at least half of the private open space areas receive direct sunlight for a minimum of 2 hours between 9am and 3pm during the winter solstice.

At the winters solstice shadows will mainly fall over Shoreham Road with only late afternoon shadowing of the eastern adjoining property.

Visual privacy

The development plan seeks to protect the visual privacy of adjacent properties. The proposal comprises a three storey building to which first and second floor windows on the northern and eastern elevations will be obscured up to 1700mm above the finished upper floor level or otherwise have window sills up to 1700mm above the finished upper floor level. A condition of Development Plan Consent is included to reinforce this requirement.

The windows and balconies on the western and southern elevations have a public outlook therefore there is no requirement to incorporate design elements aimed at achieving visual privacy.

Loss of views

As part of the assessment process, consideration was given to existing views currently enjoyed from adjacent properties and how the proposed building will impact on those views. Regard was given to Supreme Court case law associated with loss of views, including *Hutchens v City of Holdfast Bay* [2007] SASC 238.

The Court ultimately determined that new development should not obliterate an existing view of significance enjoyed by adjacent owner/occupiers. A view of significance in this context is the view of the sea.

An assessment of the proposed building relevant to adjacent building to the east determined that the new building will obstruct the majority of the existing views to the sea, however the extent of the obstruction is not such that would completely obliterate those views, as described in the case law. Adjacent properties, particularly immediately north of the subject site will retain sea views.

Given the context of the development site and the Development Plan provisions that allows for a building height of three storeys and external wall heights up to 10.5 metres, it is unreasonable to suggest that properties immediately east of the subject site will be able to retain a direct westerly view of the coast. Although the subject building is sited closer to the northern boundary, dwelling 1 is considerably lower than the last approved building so views may be improved compared with the last development.

In summary, following the construction of the proposed building, there will remain some views to the sea. The proposed building will not obliterate the existing views to the sea as viewed from adjacent properties. Therefore the design and the amount of views that will be impacted are considered to be within acceptable planning standards.

Summary

The subject development compared with the last approved development exhibits advantages and disadvantages. Due to the side by side built form and larger footprint various components of the building are closer to the northern, western and southern boundaries. The proposed setbacks to those boundaries are also at variance with Development Plan requirements. The northern side boundary setbacks and street boundary setbacks are less than that achieved by the recent development on 184 Esplanade, however are similar to those of other developments facing the Esplanade.

Notwithstanding the lesser boundary setbacks the reduction in building height for most of the building will arguably result in a less visually imposing building compared with that last approved. Given the location of the second level retreat it will not be readily viewed from the northern and western viewing points. Its restriction to dwelling 2 only may also allow further ocean views from the eastern adjacent dwelling compared with the last approved development.

The development meets other Development Plan requirements regarding anticipated form of development, site areas, building height, access and parking provisions and shading and privacy impacts.

The proposed development is considered not to be seriously at variance with the policies in the Development Plan and warrants planning consent.

7. 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 Holdfast Bay (City) Development Plan, the Council Assessment Panel resolves to grant Development Plan Consent to Development Application 110/00829/20 subject to the following conditions:**

PLANNING CONDITIONS

- 1. That the design and siting of all buildings and structures and site works shall be as shown on the amended plans dated 5/02/2021 submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
- 2. That storm water 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 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.

- 3. The stormwater disposal system shall provide detention and/or retention with post development flows from the site in a 100 year ARI event not to exceed pre-development flows for a 5 year ARI event.**

4. All upper level windows on northern and eastern elevations shall have minimum sill heights of 1.7 metres above the associated finished floor level or where windows have sill heights under 1.7 metres above the associated finished floor level, the window is fixed and obscured up to a minimum height of 1.7 metres above the associated finished floor level in such a way as to avoid unreasonable overlooking into adjacent properties to the reasonable satisfaction of Council.
5. That landscaping shall comprise where practicable, trees and shrubs that are indigenous to the local area and are semi mature or of fast growing tube stock. 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. 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.