

TO: **COUNCIL ASSESSMENT PANEL**  
 DATE: **22 MAY 2019**  
 SUBJECT: **DEVELOPMENT ASSESSMENT REPORT**  
 AUTHOR: **CRAIG WATSON**  
**TEAM LEADER DEVELOPMENT ASSESSMENT**

ATTACHMENTS: **1. LOCALITY PLAN**  
**2. SUBMITTED PLANS**  
**3. REPRESENTATION**  
**4. APPLICANT'S RESPONSE TO REPRESENTATION**

HEARING OF REPRESENTORS **DR DEBRA PANIZZON**  
 HEARING OF APPLICANT **BOJAN LOVERIC**

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DA NO.	:	110/00196/19
APPLICANT	:	B AND K LOVRIC
LOCATION	:	34 PENZANCE STREET, GLENELG
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL
NATURE OF DEVELOPMENT:		MERIT
PROPOSAL	:	TO VARY DA 110/00857/17 (ALTERATIONS AND ADDITIONS TO DWELLING COMPRISING WALL AND VERANDAH ON NORTHERN BOUNDARY) BY REPLACING THE BOUNDARY WALL WITH A GABLE WALL
EXISTING USE	:	DETACHED DWELLING
REFERRALS	:	NIL
CATEGORY	:	TWO
REPRESENTATIONS	:	ONE
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT WITH CONDITIONS

## 1. Site and Locality

The subject site is on the north eastern corner of Penzance Street and an unnamed public lane which adjoins the sites southern and eastern boundaries. The site has a frontage to Penzance Street of 9.14 metres and a total area of 360.7m<sup>2</sup>. It comprises a single storey detached dwelling fronting Penzance Street with garage at the rear of the site. It is one of several narrow frontage cottages that face this portion of Penzance Street all with rear access from the lane.

## 2. Background

DA 110/00182/14 to construct a single storey dwelling addition to side of existing dwelling comprising a 3.1 metre high wall located on the northern side boundary over a length of 7.3 metres was granted development approval on 4/06/14. No representations were received. That approval has now lapsed.

DA 110/00857/17 for alterations and additions to dwelling comprising wall and verandah on the northern boundary and garage adjacent the northern and eastern boundaries was granted development plan consent on 4/12/17. No representations were received. The boundary wall length of the addition was slightly longer than that previously approved at 7.44 metres. At the building assessment stage the rear garage was deleted and the amended plans were granted development approval on 21/03/18. The footings have been constructed constituting substantial commencement so the approval is still valid.

### 3. Proposed Development

This application seeks to vary 110/00857/17 by replacing the boundary wall of the addition with a gable wall. Its length will remain the same at 7.44 metres, however its height will increase from approximately 3 metres above ground to 3.5 metres at the roof apex.

### 4. Public Consultation

The application was subject to a Category 2 public notification. One representation from the adjoining owner of 32 Penzance Street was received. Concerns comprise the reduction in natural light to south facing kitchen and family/dining room windows.

*Refer to Attachment 3*

The applicant has responded to the representation.

*Refer to Attachment 4*

## 5. HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – RESIDENTIAL – COUNCIL WIDE – PRINCIPLES OF DEVELOPMENT CONTROL

Design and Appearance	
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: (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.	The wall length is less than prescribed criteria and no longer than that previously approved. The height is in part higher than that prescribed but will not overshadow the neighbouring property. See summary of assessment.
3. The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties or drivers.	Complies – red brick wall on boundary.
5. Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.	Complies.
10. The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of: (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).	The development will not overshadow or impact direct light to windows in the neighbouring dwelling. It may have some impact on reflected light to those windows.

<b>Energy Efficiency</b>	
<p>2. Buildings should be sited and designed:</p> <p>(a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings</p> <p>(b) so that open spaces associated with the main activity areas face north for exposure to winter sun</p> <p>(c) to promote energy conservation by maintaining adequate access to winter sunlight to the main ground level of living areas of existing dwellings on adjoining land.</p>	See summary of assessment.
<p>4. Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by:</p> <p>(a) taking into account overshadowing from neighbouring buildings</p> <p>(b) designing roof orientation and pitches to maximise exposure to direct sunlight.</p>	The development would have no impact on any future solar panels on the neighbouring dwelling.
<b>Residential Development</b>	
<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> <p>(a) windows of habitable rooms (all rooms excluding bathrooms, laundries and hallways), particularly living areas</p> <p>(b) ground-level private open space</p> <p>(c) upper-level private balconies that provide the primary open space area for any dwelling</p> <p>(d) access to solar energy.</p>	The south facing neighbours windows do not receive direct light but some reflected light may be impacted. Neighbours rear private open space will not be impacted.
<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>	Affected windows on the adjacent site are south facing.
<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> <p>(a) half of the existing ground-level open space</p> <p>(b) 35 square metres of the existing ground-level open space (with at least one of the area's dimensions measuring 2.5 metres).</p> <p>Development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.</p>	Adjacent private open space will not be affected.
<p>20. Dwelling setbacks from side and rear boundaries should be progressively increased as the height of the building increases to:</p> <p>(a) minimise the visual impact of buildings from adjoining properties</p> <p>(b) minimise the overshadowing of adjoining properties.</p>	Does not comply however there will be limited visual and no direct shading impacts.
<p>23. Side boundary walls in residential areas should be limited in length and height to:</p> <p>(a) minimise their visual impact on adjoining properties</p> <p>(b) minimise the overshadowing of adjoining properties</p>	Complies – no significant visual and no direct shading impacts.

<b>Residential Development (Cont)</b>							
<p>24. Walls associated with a dwelling located on a side boundary should be designed in accordance with the following parameters:</p> <p>(a) a height not exceeding 3 metres above natural ground level            (b) a length not exceeding 8 metres            (c) the wall, when its length is added to the length of any other relevant walls or structures located on that boundary:            (i) will not result in all such relevant walls and structures exceeding a length equal to 45 per cent of the length of the boundary            (ii) will not be within 3 metres of any other relevant wall or structure located along the boundary, except where the side wall is located immediately abutting the wall of an existing or simultaneously constructed building on the adjoining site and is constructed to the same or to a lesser length and height.</p>	Complies with length but not height criteria.						
<p>28. Site coverage (the proportion of a site covered by ground floor level buildings and structures including dwelling, garage, carport, verandas and outbuildings but excluding unroofed pergolas and unroofed balconies) should not exceed the following values:</p> <table border="1"> <thead> <tr> <th>Parameter</th> <th>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><b>Site with an area greater than 300 square metres</b></td> <td><b>50 per cent</b></td> </tr> </tbody> </table>	Parameter	Value	Site with an area less than or equal to 300 square metres	60 per cent	<b>Site with an area greater than 300 square metres</b>	<b>50 per cent</b>	Does not comply – 55% site coverage but no greater than previously approved and portion of that includes covered private open space.
Parameter	Value						
Site with an area less than or equal to 300 square metres	60 per cent						
<b>Site with an area greater than 300 square metres</b>	<b>50 per cent</b>						
<p>29. Site coverage should be limited to ensure sufficient space is provided for:</p> <p>(a) vehicle parking            (b) domestic storage            (c) outdoor clothes drying            (d) a rainwater tank            (e) private open space and landscaping            (f) convenient storage of household waste and recycling receptacles</p>	Complies.						

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

<b>RESIDENTIAL ZONE</b>	
<b>Objectives</b>	
3. Development that contributes to the desired character of the zone.	Complies.
<b>Desired Character</b>	
Development outside of the policy areas will be suburban in nature and evolve in response to progressive infill development of existing individual sites and through consolidation of sites to form larger comprehensive redevelopment opportunities. Infill development outside of the Policy Areas will not compromise the suburban character but will progressively increase dwelling densities through unobtrusive small-scale developments. In this regard, infill development will have a comparable height, mass, scale and setbacks to that of existing dwellings in the relevant locality.	
Development outside of the policy areas will comprise:	
<ul style="list-style-type: none"> <li>Development that will have side and rear building setbacks that incorporate an access path on one side, with on-boundary built form limited in height, length and location to the equivalent of typical open carports or garaging.</li> </ul>	Complies. Similar to other dwellings facing Penzance Street, which have built form on their northern boundaries.
<ul style="list-style-type: none"> <li>Materials and finishes that respond to the character of the immediate locality and utilise brick, stone and rendered finishes to provide visual interest to facades.</li> </ul>	Complies.

<b>RESIDENTIAL ZONE (Cont)</b>			
<b>Principles of Development Control</b>			
6. Development should not be undertaken unless it is consistent with the desired character for the zone.		Complies.	
8. Dwellings and residential flat buildings, except where specified in a particular policy area or precinct, should not exceed the maximum heights shown in the following table:			
<b>Location of the dwelling</b>	<b>Maximum wall height above natural ground level</b>	<b>Maximum height above natural ground level</b>	
<b>West of Brighton Road or Tapleys Hill Road</b>	<i>7 metres</i>	Two storeys	Complies.
East of Brighton Road or Tapleys Hill Road	<i>3.5 metres</i>	One storey, or two storeys if the second storey is incorporated within the roof space and the floor area of the second storey does not exceed 40 percent of the ground floor footprint of the dwelling, including attached garages.	
9. Dwellings and/or residential flat buildings should be setback a minimum of 1 metre from one side boundary to incorporate pedestrian access.		Complies.	

## 6. Summary of Assessment

Approval has been granted for a wall adjoining the northern boundary. This application seeks to vary that approval by constructing a gable wall on the boundary in lieu of the approved wall with lean-to roof resulting in an increased height of approximately 500mm (3.5 metres) at the gable apex.

Its central portion therefore exceeds the recommended maximum height of 3 metres (Residential Development Principle 24(a)). The non-compliance by itself is not necessarily a sufficient reason to refuse the application, instead the impacts need to be assessed. The land owner of the adjoining northern property has concern regarding light impacts to a kitchen window and windows to a family/dining room on the southern side of the dwelling. The family/dining windows comprise side and top panels to a solid door. The family/dining room also has windows to the rear (eastern side). The door with window panels has small roof overhang. The owner advises that sky lights have been fitted to the kitchen and family/dining rooms. The subject windows are approximately 1.2 metres from the side boundary.

While Design and Appearance Principle 2 and Energy Efficiency Principle 2 generally seek adequate natural and winter sunlight to living areas, for the most part the Development Plan is concerned more specifically with maintaining direct sunlight and minimising overshadowing of windows and private open space e.g. Design and Appearance Principle 10, Residential Development Principles 10, 11 and 20. In this respect it is more concerned with maintenance of sunlight to north facing windows and it would be reasonable to anticipate less light to south facing windows. The proposed gable wall is compliant with the latter principles as it will not overshadow or impact direct sunlight to the subject windows or private open space on the neighbouring property. It is considered that the amount of reflected light to the kitchen and family/dining rooms will still be reasonable in the above context and given that:

- The gable wall is highest at its apex but tapers to approximately 3 metres at its western and eastern ends;
- The windows will not line up with its highest part;
- The family/dining room also has access to light on its eastern side;

- Both rooms have some additional access to light through sky lights; and
- The gable wall has the advantage of not requiring a boundary gutter, which would be difficult to maintain by the owner.

The applicant advises they are prepared to paint the wall in a light colour to improve light reflection though it would be best for the applicant and neighbour to agree on this aspect.

Having regard to the above the application is not considered to be seriously at variance or sufficiently at variance with the Development Plan to warrant refusal.

## **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 provisions of the Holdfast Bay (City) Development Plan, the Council Assessment Panel resolves to grant Development Plan Consent, to Development Application 110/00196/19, 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 plans submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**
- 2. That the verandah herein approved shall not be enclosed without the prior consent of Council**
- 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.**