

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **22 JULY 2020**
 SUBJECT: **COUNCIL ASSESSMENT PANEL REPORT**
 AUTHOR: **CRAIG WATSON**
TEAM LEADER DEVELOPMENT ASSESSMENT

ATTACHMENTS: **1. LOCALITY PLAN**
2. SUBMITTED PLANS
3. REPRESENTATION
4. APPLICANT'S RESPONSE TO REPRESENTATION
5. PHOTOS FROM ADJOINING PROPERTY

HEARING OF REPRESENTORS **LOUIE ZAGOTSIS**
 HEARING OF APPLICANT **PETER GOODEN ON BEHALF OF APPLICANT**

DA NO.	:	110/00110/20
APPLICANT	:	LYNETTE WILLOUGHBY
LOCATION	:	9/19 PIER STREET, GLENELG
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL
NATURE OF DEVELOPMENT:		MERIT
PROPOSAL	:	ROOF MOUNTED AIR-CONDITIONING UNIT
EXISTING USE	:	RESIDENTIAL FLAT DWELLING
REFERRALS	:	NIL
CATEGORY	:	THREE
REPRESENTATIONS	:	THREE
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT

1. Site and Locality

The subject site comprises one of 10 dwellings within a single storey residential flat complex on a hammerhead shaped land with access from Pier Street. The site is located to the west of Moseley Street. The subject dwelling is adjacent to properties at 17 and 17A Pier Street, 4 Giles Avenue and units 8 and 10 within the residential flat complex.

The locality comprises a mix of single and two storey detached dwellings and residential flat buildings. The site is not within a Heritage Conservation Area and no heritage listed buildings are on adjoining properties.

Refer to Attachment 1

2. Background and Development Assessment Process

Following a complaint it was found that the air-conditioning unit had been erected without development approval. In response to a formal Notice the owner submitted an application for its retrospective approval.

3. Proposed Development

The air-conditioning unit measures 840mm wide and 880mm high and is presently attached to the western face of the hipped roof below roof ridge and sited 7 metres from the southern property boundary. As part of the application it is proposed to relocate the unit 4 metres north so that it is 11 metres from the southern boundary.

Refer to Attachment 2

4. Public Consultation

The application was subject to a category 3 public notification. Three representations were received. One signed by two unit owners at 19 Pier Street do not object to the development. The other representation is from the owners of the western adjoining property at 17 Pier Street. Their concerns relate to the air-conditioning units unsightly appearance, visual impact on rear private open space, blowing of hot air onto garden and noise. The relocation a further 4 metres north will not overcome their concerns.

Refer to Attachment 3

The applicant has responded to the representation.

Refer to Attachment 4

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

Design and Appearance	
4. Structures located on the roofs of buildings to house plant and equipment should form an integral part of the building design in relation to external finishes, shaping and colours.	While technically applicable to all buildings this is generally given more importance for large scale developments, which may have larger roof mounted service equipment.
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).	Complies. No significant shading impact on windows.
14. Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.	There is no impact on the wider locality however there is some visual impact on one adjoining property. The proposed relocation will afford some impact reduction by tree screening.
Energy Efficiency	
1. Development should provide for efficient solar access to buildings and open space all year around.	Complies. No significant shading impacts on windows or private open space.
2. Buildings should be sited and designed: (a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings (b) so that open spaces associated with the main activity areas face north for exposure to winter sun (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.	Complies.
Orderly and Sustainable Development	
1. Development should not prejudice the development of a zone for its intended purpose.	Complies.

Residential Development													
<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>	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> <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>	Complies.												
<p>21. Residential development (other than where located on a boundary) should be setback from side and rear boundaries in accordance with the following parameters:</p> <table border="1" data-bbox="140 1137 861 1848"> <thead> <tr> <th>Parameter</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Side walls with a height up to (and including) 3 metres at any point above the natural ground level.</td> <td>1 metre</td> </tr> <tr> <td>Side walls with a height exceeding 3 metres and up to (and including) 6 metres at any point above the natural ground.</td> <td>1.5 metres plus an additional 500mm for every metre in height above 4 metres.</td> </tr> <tr> <td>Side walls greater than 6 metres at any point above the natural ground level</td> <td>2.5 metres plus the increase in wall height above 6 metres</td> </tr> <tr> <td>Rear boundary setback for single storey buildings with a wall height 3 metres or less above natural ground level</td> <td>4 metres</td> </tr> <tr> <td>Rear boundary setback for a building of two or more storeys with a wall height more than 3 metres above natural ground level</td> <td>6 metres</td> </tr> </tbody> </table>	Parameter	Value	Side walls with a height up to (and including) 3 metres at any point above the natural ground level.	1 metre	Side walls with a height exceeding 3 metres and up to (and including) 6 metres at any point above the natural ground.	1.5 metres plus an additional 500mm for every metre in height above 4 metres.	Side walls greater than 6 metres at any point above the natural ground level	2.5 metres plus the increase in wall height above 6 metres	Rear boundary setback for single storey buildings with a wall height 3 metres or less above natural ground level	4 metres	Rear boundary setback for a building of two or more storeys with a wall height more than 3 metres above natural ground level	6 metres	Has no associated wall however is setback 2.5 metres from western boundary and 7.7 metres from northern boundary.
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<p>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.</p>	The proposed relocated position is sufficiently distant from adjacent habitable rooms to reasonably diminish noise impact.												

Residential Development	
43. External noise and artificial light intrusion into bedrooms should be minimised by separating or shielding these rooms from: (a) active communal recreation areas, parking areas and vehicle access ways (b) service equipment areas and fixed noise sources on the same or adjacent sites.	Complies. Reasonably distant from nearest bedrooms.
Siting and Visibility	
2. Buildings should be sited in unobtrusive locations and, in particular, should: (a) be grouped together (b) where possible be located in such a way as to be screened by existing vegetation when viewed from public roads as shown on <i>Overlay Maps - Transport</i> .	The unit is not viewed from a public place and will be partially screened by existing vegetation.
5. The nature of external surface materials of buildings should not detract from the visual character and amenity of the landscape.	While the unit and associated pipework has a poor appearance its relocation to the north will result in some tree screening.
8. Development should be screened through the establishment of landscaping using locally indigenous plant species: (a) around buildings and earthworks to provide a visual screen as well as shade in summer, and protection from prevailing winds (b) along allotment boundaries to provide permanent screening of buildings and structures when viewed from adjoining properties and public roads (c) along the verges of new roads and access tracks to provide screening and minimise erosion.	The unit's relocation to the north will provide for some screening by existing trees.

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

RESIDENTIAL ZONE

Objectives	
3. Development that contributes to the desired character of the zone.	
Desired Character	
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. The zone's primarily suburban character outside of the policy areas is defined by detached dwellings on individual allotments. Infill development in these suburban areas will contribute to the city's housing diversity through development opportunities that (in order of preference):	
(a) increase dwelling numbers on allotments that have dual road frontages	No impact.
(b) provide low scale dwellings at the rear of large allotments with street frontages wide enough to accommodate appropriate sited and sized driveway access and landscaping	Complies. The unit is of small dimensions and will not increase overall built form scale.
(c) semi-detached dwellings, where site considerations permit.	Not applicable.
Development outside of the policy areas will comprise:	
<ul style="list-style-type: none"> Single storey in areas east of Brighton Road, and up to two storeys in areas west of Brighton Road. 	Theoretically there could be larger built form on the site which might have greater impacts upon adjoining properties.

Desired Character (Cont)	
<ul style="list-style-type: none"> Buildings both domestic and contemporary in design and character to support and reinforce the essentially suburban character through typical domestic design forms, low front fencing and landscaping. 	Roof mounted air-conditioners are not uncommon within the suburban area.
<ul style="list-style-type: none"> Landscaping that will help define the public realm and private property boundaries, and substantial landscaped front yards that will contribute to the locality, with the retention of mature trees. 	Tree planting has been established on the adjoining western property, which will provide some screening from most positions in the rear yard of that property.
<ul style="list-style-type: none"> 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. 	No impact.
<ul style="list-style-type: none"> Vehicle garaging that will be set back clearly behind the immediately adjacent part of the front building facade. 	Not applicable.
<ul style="list-style-type: none"> Development that will enhance and protect streetscape character by minimising driveway access points and width of crossovers and driveways. 	Not applicable.
<ul style="list-style-type: none"> Undercroft car parking that will also be avoided on flat sites and sites that slope down from the street level. 	Not applicable.
<ul style="list-style-type: none"> Buildings that will be stepped and articulated at the front elevation to achieve visual relief and architectural interest as viewed from the street. 	Not applicable.
<ul style="list-style-type: none"> 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. 	No impact on the façade.
<ul style="list-style-type: none"> architectural design and detailing that responds to localised character by way of fenestration, doorways, windows, eaves and roof forms. 	No significant impact to roof form.
<ul style="list-style-type: none"> setbacks and be orientated to minimise impacts of the privacy of neighbouring residents. 	No impact.
Principles of Development Control	
<p>1. The following forms of development are envisaged in the zone:</p> <ul style="list-style-type: none"> affordable housing domestic outbuilding in association with a dwelling domestic structure dwelling dwelling addition small scale non-residential use that serves the local community, for example: <ul style="list-style-type: none"> child care facility health and welfare service open space primary and secondary school recreation area supported accommodation. 	Complies – domestic structure.
<p>2. Development listed as non-complying is generally inappropriate.</p>	The development is not non-complying.
<p>6. Development should not be undertaken unless it is consistent with the desired character for the zone.</p>	Complies.

5. Summary of Assessment

The air-conditioning unit will have no impact upon the streetscape or public environment. Its impact is restricted primarily to the adjoining western property at 17 Pier Street. The unit is adjacent to the private open space on that site. Within the rear yard of 17 Pier Street is an alfresco and small pool immediately to the rear of the dwelling, a free standing gazebo adjoining the eastern boundary and some perimeter landscaping. The unit in its existing location can be readily viewed from the alfresco and pool area (see attachment 5). The representation from the owners of that property concern appearance, hot air exhaust and noise, although it is suspected the main concern relates to the visual impact.

To reduce impacts the applicant is prepared to move the unit 4 metres northward (as part of this application) where it will be partially screened by existing trees. Although some of these trees are deciduous it will be more fully screened during summer periods when the outdoor area is expected to be more fully utilised. The new location will also increase the distance to the rear bedrooms and living area in the adjacent dwelling (approximately 11 to 12 metres) to reasonably reduce noise impacts.

There are not many Development Plan policies specifically relating to air-conditioning units. Roof mounted air-conditioning units and other appliances such as satellite dishes are not uncommon. Satellite dishes with a circumference of up to 2.6 metres or aerials up to 2 metres may be erected as of right. Given the paucity of specific development plan provisions it is considered the air-conditioning unit, particularly if relocated as proposed is reasonable.

The development is not seriously at variance with the Development Plan and there are insufficient reasons for its refusal.

6. 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 110/00110/20 subject to the following conditions:**
 1. **That the design and siting of the air-conditioning unit shall be as shown on the amended plans (showing its location 11 metres from the southern boundary) submitted to and approved by Council unless varied by any subsequent conditions imposed herein.**