

ITEM NO: 5.4  
REPORT NUMBER: 237/21

TO:	<b>COUNCIL ASSESSMENT PANEL</b>
DATE:	<b>28 JULY 2021</b>
SUBJECT:	<b>COUNCIL ASSESSMENT REPORT</b>
AUTHOR:	<b>ALEXANDER STAMATOPOULOS – DEVELOPMENT OFFICER</b>
ATTACHMENTS:	<b>1. LOCALITY PLAN</b> <b>2. PROPOSAL PLANS</b> <b>3. REPRESENTATIONS</b> <b>4. RESPONSE TO REPRESENTATIONS</b> <b>5. REFERRAL LETTER FROM THE DEPARTMENT OF INFRASTRUCTURE AND TRANSPORT</b>
HEARING OF REPRESENTORS	<b>K NOORLANDER</b>

---

DA NO.	:	110/00128/21
APPLICANT	:	GREENWAY ARCHITECTS
LOCATION	:	379 BRIGHTON ROAD, HOVE
DEVELOPMENT PLAN	:	CONSOLIDATED 26 NOVEMBER 2020
ZONE AND POLICY AREA	:	NEIGHBOURHOOD CENTRE ZONE
NATURE OF DEVELOPMENT:	:	MERIT
PROPOSAL	:	THE CONSTRUCTION OF A TWO STOREY MEDICAL CLINIC WITH WALLS LOCATED ON THE NORTHERN SIDE BOUNDARY, GROUND FLOOR OFFICE AND ON GRADE CAR PARKING
REFERRALS	:	DEPARTMENT FOR INFRASTRUCTURE AND TRANSPORT
CATEGORY	:	CATEGORY TWO
REPRESENTATIONS	:	TWO
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT

## 1. Background

The application was lodged on the 23 February 2021. The relevant Development Plan is the City of Holdfast Bay Development Plan consolidated on 26 November 2020. The application was subject to a merit assessment and was a category 2 development where two representations were lodged. The site was previously used as an office associated with an electrical business which also used the rear outbuilding for storage. The application was referred to the Department of Infrastructure and Transport where no objections were raised subject to conditions.

## 2. Subject Site and Locality

The subject site is situated in the Neighbourhood Centre Zone at 379 Brighton Road Hove. The immediate locality contains a diverse range of land uses as the properties to the north, south and east of the site are located in the same zone as the subject site. The subject land backs onto the Residential Zone to the west which is characterised by residential dwellings.

The streetscape of Brighton Road is typical of that of a major arterial road. The streetscape consists of a mixture of land uses comprising of commercial land uses and also a few examples of long standing residential land uses. Directly to the north of the site is a spray painting business, to the

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

west is a two storey residential flat building and to the south a single storey residential flat building containing 5 dwellings.

### 3. Proposed Development

The application proposes the construction of a two storey medical clinic with walls located on the northern side boundary, ground floor office and on grade car parking. The ground level of the proposal contains 18 parking spaces, a plant and bin area and a lobby with stairs and a lift which leads to the upper level consulting rooms. An office use is also proposed beneath which is not associated with the medical centre and will operate as an independent land use.

The upper level of the building will accommodate consulting rooms in the form of a medical clinic. The land use will be comprised of seven consulting rooms, amenities, a reception and waiting area, IT room and a staff room. The structure itself contains a two storey built form with a flat roof and walls located on the northern side boundary. Access will be via a crossover from Brighton Road located in the centre of the allotment which leads into a driveway servicing the 18 parking spaces on either side.

### 4. Public Consultation

The proposed development underwent Category 2 public notification. Two representations were received as shown below:

- F Saad of 5/381 Brighton Road Hove; and
- K Noorlander of 4/381 Brighton Road Hove.

A summary of the concerns raised by the representors is shown below:

- Lack of landscaping across the site;
- Inadequate amount of on-site parking;
- Impacts of overshadowing; and
- Potential for overlooking from the upper level windows.

The applicant provided a response to the representations as shown in attachment 4.

### 5. Development Plan Provisions

The proposed development is considered to meet the intent of the majority of relevant Objectives and Principles of the Holdfast Bay (City) Development Plan. The following tables contain a detailed assessment of the proposal against the provisions of the Development Plan:

#### HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT – NEIGHBOURHOOD CENTRE ZONE– OBJECTIVES AND PRINCIPLES OF DEVELOPMENT CONTROL

<b>Objectives</b>	
1. A centre providing a range of shopping, community, business, and recreational facilities for the surrounding neighbourhood.	Complies
2. A centre that provides the main focus of business and community life outside a district centre, and provides for the more frequent and regularly recurring needs of a community.	Complies
4. Development that contributes to the desired character of the zone.	Complies

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

<b>Desired Character</b>	
The zone seeks to accommodate a variety of uses, including supermarkets, shops, consulting rooms, offices, restaurants, cafes and hotels.	Complies
A significant proportion of the zone shares an interface with residential areas. Activity in the zone will take account of adjacent residential development and development will use appropriate means of screening the activity of the centre from adjacent residential areas wherever possible.	
<b>Principles of Development Control</b>	
1. The following forms of development are envisaged in the zone: <ul style="list-style-type: none"><li>• bank</li><li>• child care facility</li><li>• consulting room</li><li>• dwelling in conjunction with non-residential land use</li><li>• library</li><li>• health centre</li><li>• office</li><li>• petrol filling station</li><li>• place of worship</li><li>• playing field</li><li>• pre-school</li><li>• primary school</li><li>• recreation area</li><li>• restaurant</li><li>• shop</li><li>• supermarket</li></ul>	Complies
2. Development listed as non-complying is generally inappropriate.	Complies
5. Development should not be undertaken unless it is consistent with the desired character for the zone.	Complies
8. Vehicle parking should be provided in accordance with the rates set out in Table HoB/1 - Off Street Vehicle Parking Requirements or Table HoB/1A - Off Street Vehicle Parking Requirements for Designated Areas (whichever applies).	Complies

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

<b>Design and Appearance Objectives</b>	
1. Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.	Complies
2. Roads, open spaces, paths, buildings and land uses laid out and linked so that they are easy to understand and navigate.	Complies
<b>Design and Appearance Principles of Development Control</b>	
1. Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following: <ul style="list-style-type: none"><li>(a) building height, mass and proportion</li><li>(b) external materials, patterns, colours and decorative elements</li><li>(c) roof form and pitch</li><li>(d) façade articulation and detailing</li><li>(e) verandas, eaves, parapets and window screens.</li></ul>	Complies

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

<b>Design and Appearance Principles of Development Control (Cont)</b>	
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.	Complies
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
5. Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.	Complies
<b>Overshadowing</b> 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).	See summary of assessment
<b>Visual Privacy</b> 11. Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as: (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
<b>Outdoor Storage and Service Areas</b> 21. Outdoor storage, loading and service areas should be: (a) screened from public view by a combination of built form, solid fencing and/or landscaping (b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles (c) sited away from sensitive land uses.	Complies
<b>Building Setbacks from Road Boundaries</b> 22. Except in areas where a new character is desired, the setback of development from public roads should be: (a) screened from public view by a combination of built form, solid fencing and/or landscaping (b) conveniently located and designed to enable the manoeuvring of service and delivery vehicles (c) sited away from sensitive land uses.	Complies
<b>Interface Between Land Uses Objectives</b>	
1 Development located and designed to prevent adverse impact and conflict between land uses.	Complies
2 Protect community health and amenity and support the operation of all desired land uses.	Complies

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

<b>Interface Between Land Uses Principles of Development Control</b>	
1. Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following: (a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants (b) noise (c) vibration (d) electrical interference (e) light spill (f) glare (g) hours of operation (h) traffic impacts.	Complies
2. Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.	Complies
3. Development adjacent to a <b>Residential Zone</b> should be designed to minimise overlooking and overshadowing of nearby residential properties.	Complies
6. Non-residential development on land abutting a residential zone should be designed to minimise noise impacts to achieve adequate levels of compatibility between existing and proposed uses.	Complies
<b>Transportation and Access Objectives</b>	
2. Development that: (a) provides safe and efficient movement for all transport modes (b) ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles (c) provides off-street parking (d) is appropriately located so that it supports and makes best use of existing transport facilities and networks (e) provides convenient and safe access to public transport stops.	Complies
<b>Transportation and Access Principles of Development Control</b>	
25. Driveways on arterial roads that serve more than one dwelling should be designed to cater for the simultaneous two-way movements of the largest vehicles expected to enter and exit the site.	Complies
26. On-site parking and manoeuvring areas servicing development abutting arterial roads should be designed to enable all vehicles to enter and exit the site in a forward direction.	Complies
28. Development should have direct access from an all-weather public road.	Complies
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
34. Development with access from arterial roads or roads as shown on Overlay Maps – Transport should be sited to avoid the need for vehicles to reverse onto or from the road.	Complies

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

<b>Transportation and Access Principles of Development Control (Cont)</b>	
40. Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table HoB/1 – Off Street Vehicle Parking Requirements (with resultant numerical figure rounded to the nearest whole number) unless all the following conditions are met: (a) the site is located within the Glenelg Policy Area 2 (b) an agreement is reached between the Council and the applicant for a reduced number of parking spaces (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.	Complies  The policy anticipates 4 parking spaces from the first consulting room and 2 per each addition consulting room.  A total of 7 consulting rooms are proposed which warrants 16 parking spaces. A total of 18 spaces are provided on site therefore providing an additional 2 spaces than required.
41. Development should be consistent with Australian Standard AS: 2890 - Parking facilities.	Complies
42. Vehicle parking areas should be sited and designed in a manner that will: (a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development (b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network (c) not inhibit safe and convenient traffic circulation (d) result in minimal conflict between customer and service vehicles (e) avoid the necessity to use public roads when moving from one part of a parking area to another (f) minimise the number of vehicle access points onto public roads (g) avoid the need for vehicles to reverse onto public roads (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 (i) not dominate the character and appearance of a site when viewed from public roads and spaces (j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas (k) include infrastructure such as underground cabling and connections to power infrastructure that will enable the recharging of electric vehicles.	Complies
<b>Landscaping Fences and Walls Objectives</b>	
1. The amenity of land and development enhanced with appropriate planting and other landscaping works, using locally indigenous plant species where possible.	Does not comply – only a minor amount of the site is landscaped
2. Functional fences and walls that enhance the attractiveness of development.	Complies

**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

<b>Landscaping Fences and Walls Principles of Development Control</b>	
<p>1. Development should incorporate open space and landscaping and minimise hard paved surfaces in order to:</p> <ul style="list-style-type: none"> <li>(a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components)</li> <li>(b) enhance the appearance of road frontages</li> <li>(c) screen service yards, loading areas and outdoor storage areas</li> <li>(d) minimise maintenance and watering requirements</li> <li>(e) enhance and define outdoor spaces, including car parking areas</li> <li>(f) maximise shade and shelter</li> <li>(g) assist in climate control within and around buildings</li> <li>(h) minimise heat absorption and reflection</li> <li>(i) maintain privacy</li> <li>(j) maximise stormwater re-use</li> <li>(k) complement existing vegetation, including native vegetation</li> <li>(l) contribute to the viability of ecosystems and species</li> <li>(m) promote water and biodiversity conservation</li> <li>(n) establish buffers to adjacent development and areas</li> </ul>	Does not comply - while landscaping is provided on the site, the amount of soft to hard surfaces is minimal
<p>2. Landscaping should:</p> <ul style="list-style-type: none"> <li>(a) include mature vegetation, the planting of locally indigenous species where appropriate and species tolerant of salt-laden winds near the coast</li> <li>(b) be oriented towards the street frontage</li> <li>(c) result in the appropriate clearance from powerlines and other infrastructure being maintained.</li> </ul>	Complies
<p>5. Fences and walls, including retaining walls, should:</p> <ul style="list-style-type: none"> <li>(a) not result in damage to neighbouring trees</li> <li>(b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality</li> <li>(c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance</li> <li>(d) incorporate articulation or other detailing where there is a large expanse of wall facing the street</li> <li>(e) assist in highlighting building entrances</li> <li>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</li> <li>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</li> <li>(h) be constructed of non-flammable materials.</li> </ul>	Complies

## **HOLDFAST BAY (CITY) DEVELOPMENT PLAN – ASSESSMENT**

### **6. Summary of Assessment**

The following assessment will focus on the elements of the application that require further planning discussion. There are aspects of the application that comply with the requirements of the Holdfast Bay Development Plan in that the proposed use and parking spaces provided are considered to be suitable and will not unreasonably impact on the amenity of the immediate locality. The discussion below will focus on the overshadowing and the built form components of the application.

ITEM NO: 5.4  
 REPORT NUMBER: 237/21

### Built Form

The built form of the building has been subject to a series of amendments since the application was lodged with the Council. Initially, the building contained a total height of 7m and was setback 3.8m from the southern side boundary and 2.8m from the western rear boundary. The Council raised concerns with the height of the building and associated setbacks and encouraged the applicant to amend the design in order to alleviate impacts of overshadowing to the southern adjoining units.

Amended plans were submitted to the Council showing an amended building height of 6.58m and an increase in setbacks to 4m from the southern boundary and 3m to the western rear boundary. A 4m setback is considered to be appropriate for a 6.5m high structure with a south facing wall. By comparison a dwelling with a south facing wall that is 6.5m in height would warrant a 3.1m upper level setback to comply with the current policies of the Planning and Design Code. The policy anticipates:

*Walls are setback at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.*

While a dwelling is not proposed, the comparison provides context to established planning policies that reference setback requirements for south facing walls and how the proposal relates. The building facade is setback 3m from the primary frontage which is considered to be suitable as there are multiple examples of commercial buildings along Brighton Road which are built to the primary boundary.

The building incorporates two separate walls constructed on the northern side boundary associated with flights of stairs, a lift shaft and the lower level office. The boundary walls are both single storey and two storey in height and will sit adjacent to an existing commercial property located on the northern adjoining allotment. The forward most wall of the building will be located adjacent to the wall of the neighbouring building and the boundary wall accommodating the lift shaft will be adjacent to the rear of the building which is used for storage. The northern adjoining property accommodates a spray painting business where on-site amenity is considered to be low and visual impacts are considered to be minor.

The Neighbourhood Centre Zone does not contain specific policies relating to heights of buildings or setback requirements therefore the merits of the structure will be assessed taking the relevant Council wide planning policies into consideration. The two storey nature of the building is not considered to be of a scale that is unwarranted in the Zone. The building has been designed in a way where the floor level of the medical practice is located on the upper level allowing for an adequate amount of space on the ground floor to accommodate parking.

The policy anticipates 4 parking spaces from the first consulting room and 2 per each additional consulting room. A total of 7 consulting rooms are proposed which warrants 16 parking spaces. A total of 18 spaces are provided on site therefore providing an additional 2 spaces than required. While there is an excess of parking spaces on the site, the overall scheme lacks provision for landscaping. There are two landscaping areas to the front of the building which will accommodate ground coverings and three mature trees and also a strip adjacent to the southern side boundary.

Overall the scale of the building is considered to be suitable for the site however a consequence of the design is that the upper level contains a substantial depth with a south facing wall which exacerbates impacts of overshadowing which is discussed below.

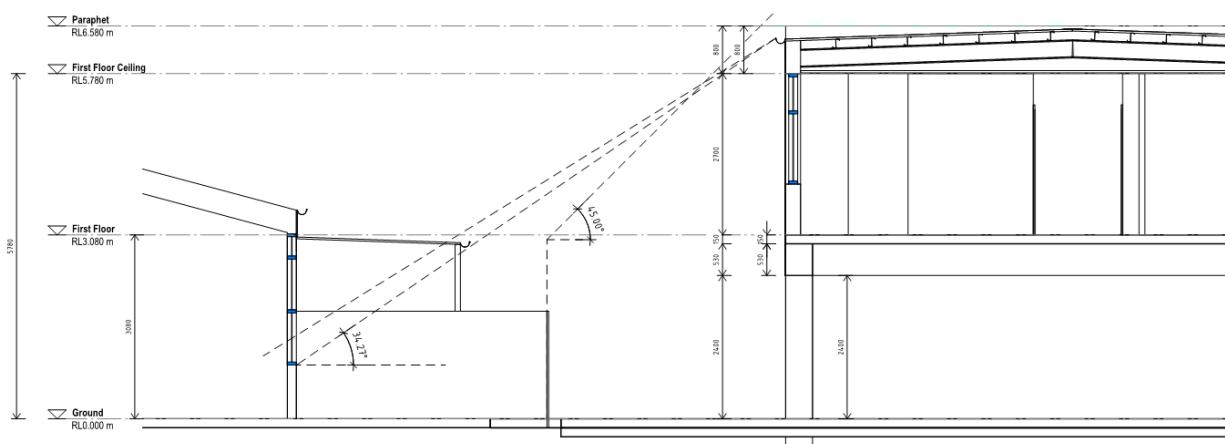
**ITEM NO:** 5.4  
**REPORT NUMBER:** 237/21

## Overshadowing

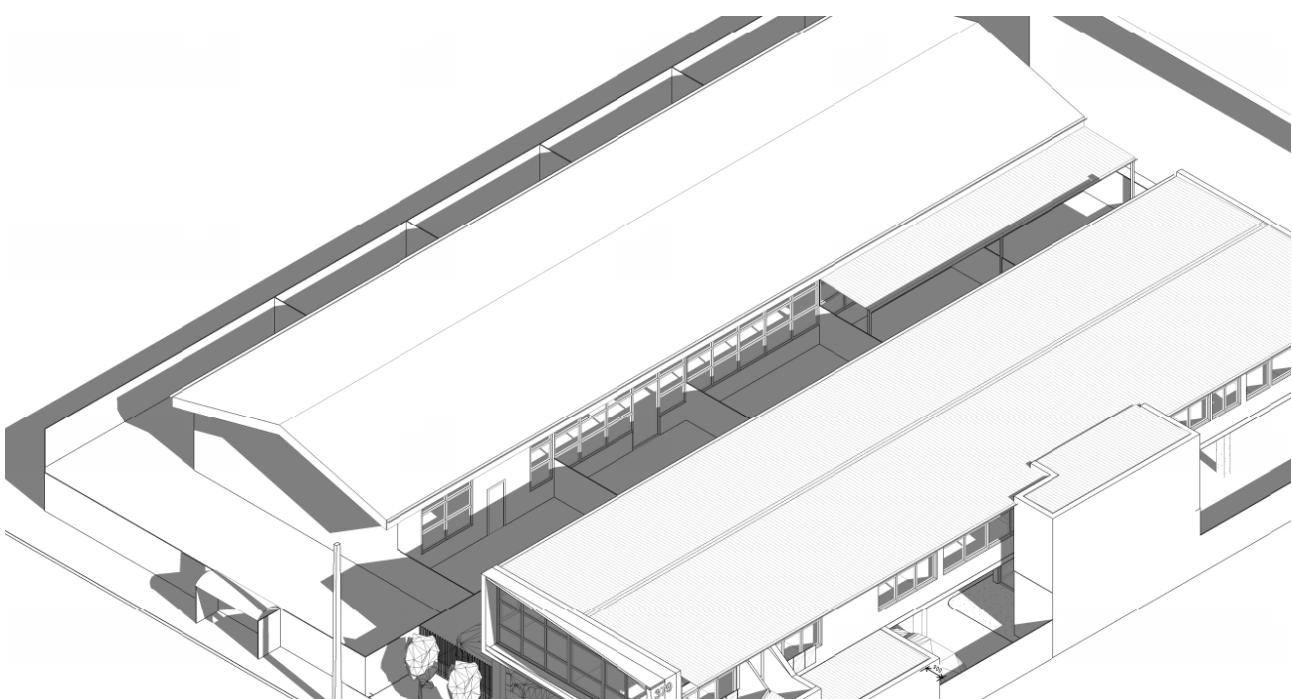
The applicant has prepared 2D and 3D shadow diagrams as well as a section diagram showing the existing shadowing as well as the amount of shadow that will be cast from the proposal. It is important to note that units 5/381 and 4/381 Brighton Road contain rear verandahs that shade their private open space and north facing windows. The remaining units contain unobstructed rear yards.

The existing shadow diagrams provided by the applicant show that a majority of the existing private open space areas of the southern adjoining units are subject to overshadowing from the existing boundary fence. The difference between the existing and proposed shadowing to the private open space areas is near identical/negligible.

The 3D diagram shadow and section diagrams show a good indication of how much of the northern windows will be subject to overshadowing at 12pm where shadows impacts are at their highest. The diagram shows that only a lower portion of the north facing windows will be subject to shadowing



**Section diagram showing shadow line to north facing windows of adjoining units at midday**



ITEM NO: 5.4  
 REPORT NUMBER: 237/21

### **3D diagram showing shadow cast to north facing windows at midday**

The shadow plans provided to the Council show that the north facing windows of the three eastern most units will only have the bottom part of the windows subject to overshadowing at midday. The sun will be able to penetrate the middle and upper parts of the windows allowing sunlight access into the habitable rooms. It was noted however that during 9am and 3pm that the majority of the windows will be subject to shadowing as seen in attachments 2.4 and 2.6. The appropriateness of the shadowing was assessed while having regard to the 4m southern side setback which is considered to be sufficient in relation to the total height of the building.

Principle of Development Control 10 of Council Wide – Design and Appearance anticipates:

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).*

PDC 10 anticipates that the design and location of buildings should *minimise* the overshadowing the windows of habitable rooms and not entirely *eliminate* it. As access to sunlight is available to the majority of the north facing windows during the mid-afternoon and the difference in overshadowing of the private open spaces between existing and proposed is negligible, the proposal is considered to satisfy PDC 10.

## **7. Conclusion**

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal as amended on balance satisfies the relevant provisions of the Development Plan. The proposal is broadly consistent with the desired character of the zone and will not detrimentally impact upon the amenity of the adjoining properties of the locality. Accordingly, the proposal warrants Development Plan Consent subject to conditions.

## **8. 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 110/00128/21 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 upper level windows on the northern and southern elevations of the building shall be treated to 1.7m from the finished floor levels to minimise outward views.**

ITEM NO: 5.4  
REPORT NUMBER: 237/21

3. That the landscaping shall comprise semi mature trees and shrubs. The trees shall have a minimum height of 1500mm and the shrubs a minimum height and breadth of 300mm when planted. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
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.