

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **24 JULY 2019**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **A STAMATOPOULOS**
DEVELOPMENT OFFICER - PLANNING

ATTACHMENTS: **1. LOCALITY MAP**
2. PROPOSAL PLANS
3. SUPPORTING PLANNING STATEMENT

HEARING OF REPRESENTORS: **NOT APPLICABLE**
 HEARING OF APPLICANT: **NOT APPLICABLE**

DA NO.	:	<u>110/00953/18</u>
APPLICANT	:	<u>FINESSE BUILT</u>
LOCATION	:	<u>35 PATAWALONGA FRONTAGE, GLENELG NORTH</u>
DEVELOPMENT PLAN	:	<u>CONSOLIDATED 2 JUNE 2016</u>
ZONE AND POLICY AREA	:	<u>RESIDENTIAL ZONE</u>
NATURE OF DEVELOPMENT:		<u>MERIT</u>
PROPOSAL	:	<u>TWO, TWO STOREY DETACHED DWELLINGS WITH THE GARAGE WALL OF RESIDENCE TWO LOCATED ON NORTHERN SIDE BOUNDARY AND A SWIMMING POOL AT THE REAR OF RESIDENCE ONE</u>
REFERRALS	:	<u>NIL</u>
CATEGORY	:	<u>TWO</u>
REPRESENTATIONS	:	<u>NIL</u>
RECOMMENDATION	:	<u>DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS</u>

1. Background

An application was lodged to council on 29 November 2018 to construct two, two storey detached dwellings with the garage wall of residence two located on northern side boundary and a swimming pool at the rear of residence one. The application was subject to Category two public notification subject to the Procedural Matters Residential Zone of the Holdfast Bay Development. No representations were received. An associated land division application is at Agenda Item 5.2.

2. Site and Locality

The subject site is located on Patawalonga Frontage having a frontage facing east adjacent to the Patawalonga Lake. The property and surrounding locality are located in the Residential Zone. A predominance of single dwellings characterises the immediate locality to the west of the site in the form of residential flat buildings and detached dwellings. The built form along Patawalonga Frontage is generally two storeys in height comprising a mix of detached dwellings and residential flat buildings. Low and medium density dwellings are found in the immediate locality.

Refer to Attachment 1

3. Proposed Development

The applicant proposes to construct two conventional two-storey dwellings. Garages are integrated into the dwelling with the garage wall of residence two being located on the northern side boundary resulting in the lower façade spanning from boundary to boundary. The façade of the dwellings resembles a modern style of architecture characterised by vertical and horizontal components, a rendered finish, cantilevered upper storeys and a variety of colours and materials. The garages contain a timber style cladding which conceals the garage doors. The front door of residence one is to the side of the dwelling and is not visible from the street. A swimming pool is located in the rear yard of residence one.

Refer to Attachment 2

4. Development Data

DEVELOPMENT DATA RESIDENCE 1			
Aspect	Proposed	Development Plan	Compliance
Site Coverage	60%	<u>50%</u>	<u>10% shortfall</u>
Private Open Space	22%	<u>20%</u>	<u>Complies</u>
Primary Setback - Dwelling - Garage	6.7m & 7.8m 7.8m	<u>6.1m</u> <u>adjoining setback of</u> <u>northern property</u>	<u>Complies</u>
Side Setbacks - Lower Level - Upper Level - Garage	.600mm & 1m 1.8m to 4.2m 1m	<u>1m</u> <u>3.5m</u> <u>On boundary or 1m</u>	<u>400mm shortfall to one component of wall</u> <u>Majority of setbacks are short of 3.5m</u> <u>Complies</u>
Rear Setback - Lower Level - Upper Level	10m 17m	<u>4m</u> <u>6m</u>	<u>Complies</u>
Total Wall Height	7m	<u>7m</u>	<u>Complies</u>
DEVELOPMENT DATA RESIDENCE 2			
Aspect	Proposed	Development Plan	Compliance
Site Coverage	60%	<u>50%</u>	<u>10% shortfall</u>
Private Open Space	28%	<u>20%</u>	<u>Complies</u>
Primary Setback - Dwelling - Garage	6.8m & 8.5m 8.5m	<u>6.1m</u> <u>adjoining setback of</u> <u>northern property</u>	<u>Complies</u>
Side Setbacks - Lower Level - Upper Level - Garage	.900mm & 1m 1.8m to 3.6m On Boundary	<u>1m</u> <u>3.5m</u> <u>On boundary or 1m</u>	<u>Complies (Minor 100mm shortfall)</u> <u>Majority of setbacks are short of 3.5m</u> <u>Complies (length and height appropriate)</u>
Rear Setback - Lower Level - Upper Level	11m 17m	<u>4m</u> <u>6m</u>	<u>Complies</u>
Total Wall Height	7m	<u>7m</u>	<u>Complies</u>

5. Public Consultation

The application was subject to Category 2 public notification pursuant to the Procedural Matters Residential Zone of the Holdfast Bay Development. No representations were received during the consultation period.

6. Development Plan Provisions

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

RESIDENTIAL ZONE	
Objectives	
1. A residential zone comprising a range of dwelling types, including a minimum of 15% affordable housing.	Complies
3. Development that contributes to the desired character of the zone.	Complies
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	Complies
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. 	Complies
<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. 	Complies
<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. 	Complies
<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. 	Complies
<ul style="list-style-type: none"> Development will be setback and be orientated to minimise impacts of the privacy of neighbouring residents. 	Complies

RESIDENTIAL ZONE (Cont)			
Development outside of the policy areas will comprise:			
1. The following forms of development are envisaged in the zone: <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		
Principles of Development Control			
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:			
Location of the dwelling	Maximum wall height above natural ground level	Maximum height above natural ground level	
West of Brighton Road or Tapleys Hill Road East of Brighton Road or Tapleys Hill Road	7 metres 3.5 metres	Two storeys 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.	Complies
9. Dwellings and/or residential flat buildings should be setback a minimum of 1 metre from one side boundary to incorporate pedestrian access.	Does not comply - Residence 2 is built boundary to boundary		

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

Residential Development	
5. Residential development should be designed to ensure living rooms have an external outlook.	Complies
10. The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to: (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.	Shadow diagrams provided by applicant show that courtyards and north facing windows of the southern units are subject to existing shadowing. See summary of assessment
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.	Shadow diagrams provided by applicant show that courtyards and north facing windows of the southern units are subject to existing shadowing. See summary of assessment
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: (a) half of the existing ground-level open space (b) 35 square metres of the existing ground-level open space (with at least one of the area's dimensions measuring 2.5 metres) Development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.	Shadow diagrams provided by applicant show that courtyards and north facing windows of the southern units are subject to existing shadowing. The shadow diagrams show that the development will not increase the overshadowed area by more than 20 per cent the case where overshadowing already exceeds these requirements. See summary of assessment.
14. Garages and carports facing the street should not dominate the streetscape and should be designed in accordance with the following: (a) have a maximum total width of garage or carport openings of 6 metres or 50 per cent of the dwelling frontage width, whichever is the lesser (b) be located at least 0.5 metres behind the main face of the associated dwelling (c) where it is in the form of an enclosed double carport or garage, be setback at least 8 metres from the primary road frontage and incorporate one of the following: (i) two individual doors with a distance of not less than 300 millimetres between them (ii) double tilt-up doors with moulded door panels having a maximum width of no more than 5 metres (d) be constructed of materials that integrate with those of the associated dwelling, or pre-coloured treated metal.	(a) Does not comply (b) Complies (c) Complies (residence once contains a minor 200mm shortfall)

Residential Development (Cont)														
<p>19. Except where specified in a particular zone, policy area or precinct or Residential High Density Zone, the main face of a building should be set back from the primary road frontage in accordance with the following table: Setback difference between buildings on adjacent allotments with frontage to the same primary street</p> <p>Up to 2 metres</p> <p>Greater than 2 metres</p>	<p>Setback of new building</p> <p>The same setback as one of the adjacent buildings, as illustrated below: At least the average setback of the adjacent buildings.</p>	<p>Complies.</p> <p>The residential flat building to the north contains varied primary setbacks as the primary frontage is angled resulting in numerous quantitative setback figures. The dwellings to the south of the subject site having primary setbacks consistent with the proposed.</p>												
<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 (b) minimise the overshadowing of adjoining properties.</p>		<p>Reasonably complies – the side upper level walls of the dwellings are stepped to alleviate visual bulk however do not satisfy the quantitative setback requirements.</p>												
<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" 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>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	<p>Complies</p> <p>Does not comply</p> <p>Does not comply</p> <p>Complies</p> <p>Complies</p>
Parameter	Value													
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<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 (b) minimise the overshadowing of adjoining properties</p>		<p>Reasonably complies – the side upper level walls of the dwellings are stepped to alleviate visual bulk however do not satisfy the quantitative setback requirements.</p>												

Residential Development (Cont)							
<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:</p> <p>(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>	<p>(a) Complies (b) Complies (c) Complies</p>						
<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>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	<p>Both dwellings exceeds anticipated maximum by 10%</p>
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 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) front, side and rear boundary setbacks that contribute to the desired character of the area (g) <i>convenient storage of household waste and recycling receptacles</i></p>	<p>Complies</p>						
<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> <p>(a) to be accessed directly from the internal living areas of the dwelling (b) generally at ground level 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.</p>	<p>Complies</p>						

Residential Development (Cont)	
32. Dwellings and residential flat buildings at ground level should include private open space that conforms to the requirements identified in the following table:	Complies
Site area of dwelling - 250 square metres or greater.	
Minimum area of private open space - 20 per cent of site area.	
<p>Provisions 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.</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.	Complies
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
41. Where development is greater than single storey (excluding the Minda Incorporated Brighton Campus):	Complies
(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

7. Summary of Assessment

The application complies with a majority of the quantitative objectives and principles of the Holdfast Bay Development Plan. The following assessment will touch on aspects of the application which requires further discussion.

Impacts of Southern Upper Level Walls

Concerns were raised during the assessment concerning the shortfall of the upper-level setbacks of residence one. The group of units to the south contain private open space and northern facing windows that are adjacent to the proposed dwelling.

The relevant overshadowing provisions state as follows:

10 The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to:

- (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.*

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.

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:

- (a) half of the existing ground-level open space*
- (b) 35 square metres of the existing `ground-level open space (with at least one of the area's dimensions measuring 2.5 metres).*

Development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.

The applicant has prepared shadow diagrams that predict the shadow cast by the proposed development. These diagrams also refer to the shadow cast by the existing structures in the locality, including the current fence and 3.1m high wall that sits on the common boundary. The 3.1m high boundary wall is integrated with garage of Unit 1/34 Patawalonga Frontage and will have to be retained if any building work occurs on the subject land.

The shadow cast by each element is differentiated on the shadow plans produced by the applicant. The shadow associated with the proposed dwelling is shown in hatched lines, and the grey shadow is of existing structures in the immediate locality. The shadow diagrams show that at 9 am and 3 pm, the proposal will not increase further shadowing to the private open space or habitable windows of the southern units. At midday, the proposal will only marginally increase shadowing within the rear courtyard area of unit 3 by an insignificant margin. Therefore, the additional sunlight access impacts from this proposal upon the units to the rear are not considered as significant as there will be little additional overshadowing.

From a visual perspective, while the dwelling does not meet the quantitative upper-level setbacks the dwelling walls of residence one are articulated through stepping and varied architectural elements. The southern side wall contains a combination of pitched roofing and parapet walls

including a portion of wall concealed in the lower storey pitched roof. This is considered to be an improvement of the current built form which is comprised of a two storey cream brick residential flat building which contains flat vertical walls and an unappealing visual presence.

Built Form

The proposed dwelling contains a modern built form typical of recent development along Patawalonga Frontage. Residence two is built from boundary to boundary and does not comply with PDC 9 of the Residential Zone which anticipates dwellings to contain a 900mm setback from one side boundary. While this is the case, it is noted that the eastern façade of the unit to the south and the residential flat building to north contain a similar built form in that a setback to the southern upper level is established and the northern wall built to the boundary. From a visual perspective, impacts are not considered to be detrimental in context with the immediate locality. However, it must be noted that residence two does not provide pedestrian access to the side of the dwelling.

A non-compliance regarding the garage widths was noted during the quantitative assessment. The Holdfast Bay Development Plan anticipates garage widths to be no more than 6m wide or 50% of the dwelling width, whichever is the lesser. The Façade of the dwelling spans 8.6m in width; therefore, a compliant garage would contain an opening of 4.3m as opposed to the 5.2m proposed. This is offset by the design of the garages which are concealed as they include the same timber style cladding as the lower level façade. This accompanied with the upper levels that are cantilevered forward of the garage, reduces visual dominance of the garaging as the second level facades dominate the façade of the dwellings.

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 110/00953/18 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 storm water from the dwellings 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 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.
4. That all upstairs windows on the northern, southern and western elevations shall have minimum window sill heights of 1.7 metres above finished floor level, or any glass below 1.7 metres shall be manufactured obscure glass and fixed shut or as otherwise approved by Council. Further details of this requirement shall be provided at Building Rules Assessment stage.
5. That the filter pump associated with the swimming pool be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.