

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **28 AUGUST 2019**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **A STAMATOPOULOS**
DEVELOPMENT OFFICER - PLANNING

ATTACHMENTS: **1. LOCALITY MAP**
2. PROPOSAL PLANS
3. REPRESENTATIONS

HEARING OF REPRESENTORS: **P MEAKINS**
 HEARING OF APPLICANT: **LONGRIDGE GROUP**

DA NO.	:	110/00159/19
APPLICANT	:	LONGRIDGE GROUP
LOCATION	:	12 ROWE STREET, SOUTH BRIGHTON
DEVELOPMENT PLAN	:	CONSOLIDATED 2 JUNE 2016
ZONE AND POLICY AREA	:	RESIDENTIAL ZONE
NATURE OF DEVELOPMENT:		MERIT
PROPOSAL	:	SINGLE STOREY DETACHED DWELLING WITH ASSOCIATED RETAINING WALLS LOCATED ON EASTERN AND SOUTHERN SIDE BOUNDARIES
REFERRALS	:	NIL
CATEGORY	:	THREE
REPRESENTATIONS	:	TWO
RECOMMENDATION	:	DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS

1. Background

An application was lodged to Council on 28 February 2019 to construct a single-storey detached dwelling and associated retaining walls located on the eastern and western side boundaries. The application was subject to Category 3 public notification according to Schedule 9 of the Development Regulations as the retaining walls exceeded one metre height and are not captured as either a Category 1 or 2 development. Two representations were received from the adjoining neighbour to the west of the subject land.

2. Site and Locality

The subject site contains a rectangular-shaped allotment with a primary frontage of 15.24m and a depth of 45.72m. The subject land contains a substantial slope down from south to north of approximately 3m. The immediate locality is characterised by single-storey dwellings located on large allotments with the exclusion of a recent two storey dwelling constructed to the west of the subject land.

Refer to Attachment 1

3. Proposed Development

The applicant proposes to construct a single storey dwelling and associated retaining walls. As the site contains a substantial slope fill will be placed to the rear of the site to raise the ground level and as a result, retaining walls to the western and eastern side of the allotment will be erected. The northwestern corner of the dwelling is stepped down by 600mm.

Refer to Attachment 2

4. Development Data

DEVELOPMENT DATA		
Aspect	Proposed	Compliance
Site Coverage	249m ² or 49%	<u>Complies</u>
Private Open Space	204m ² or 29%	<u>Complies</u>
Primary Setback - Dwelling - Garage	6.1m 7.4m	<u>Complies</u>
Side Setbacks	900mm	<u>Reasonably Complies</u>
Rear Setback	15m	<u>Complies</u>
Wall Heights - Lower Level	3m and 3.3m	<u>Reasonably Complies</u>

5. Public Consultation

The proposed development was subject to Category 3 public notification, two representations were received. A summary of the representations is shown below:

P Meakins of 10 Rowe Street, South Brighton

- The finished floor level of the dwelling is excessive as there is no step in the dwelling;
- The amount of fill is excessive and will cause disruption to the locality;
- The high floor level will result in overlooking into the representors property; and
- The height of the retaining walls will be unsightly.

R and A Brennan of 14 Rowe Street, South Brighton

- The dwelling will obscure views of the ocean; and
- Amenity of the representors dwelling will be diminished;

Refer to Attachment 3

As a result of the representations and feedback from Council, the applicant amended the floor levels of the dwelling by dropping the level of the entire dwelling by 200mm and stepping the northwestern corner of the dwelling by a further 600mm to reduce visual impacts to the neighbouring western property. In turn, this will reduce the height of the retaining walls along a portion of the western boundary to a maximum height of 1m.

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	
<p>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.</p> <p>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):</p> <p>(a) increase dwelling numbers on allotments that have dual road frontages</p>	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

Development outside of the policy areas will comprise: (Cont)			
1. The following forms of development are envisaged in the zone:		Complies	
<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. 			
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	7 metres	Two storeys	Complies
East of Brighton Road or Tapleys Hill Road	3.5 metres	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.	

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
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: <div style="text-align: center;"> <p style="text-align: center;">$x \leq 1.5 \text{ metres}$</p> </div>	Complies, the maximum vertical distance between the proposed lower floor level and lowest site level is 1m.
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, the north western corner of the allotment has been stepped down to reduce visual impacts.

Residential Development (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> <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>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> <table border="0" style="width: 100%;"> <tr> <td style="width: 40%;">Up to 2 metres</td> <td style="width: 60%;">The same setback as one of the adjacent buildings, as illustrated below:</td> </tr> <tr> <td>Greater than 2 metres</td> <td>At least the average setback of the adjacent buildings.</td> </tr> </table>	Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:	Greater than 2 metres	At least the average setback of the adjacent buildings.	Setback of new building	Complies
Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:					
Greater than 2 metres	At least the average setback of the adjacent buildings.					
<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>		Complies				

Residential Development (Cont)		
<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>		
Parameter	Value	
Side walls with a height up to (and including) 3 metres at any point above the natural ground level	1 metre	Complies
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	Reasonably complies – the portion of dwelling that is stepped contains a 3.5m high wall this is 900mm from the side boundary as opposed to 1.4m
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	Not applicable
Rear boundary setback for single storey buildings with a wall height 3 metres or less above natural ground level	4 metres	Complies
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	Not applicable
<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>		
Parameter	Value	
Site with an area less than or equal to 300 square metres	60 per cent	Complies
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) convenient storage of household waste and recycling receptacles</p>		
Complies		

Residential Development (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> <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>	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> <p>Site area of dwelling - 250 square metres or greater.</p> <p>Minimum area of private open space - 20 per cent of site area.</p> <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>	Complies
<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>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.</p>	Complies
<p>41. Where development is greater than single storey (excluding the Minda Incorporated Brighton Campus):</p> <p>(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</p> <p>(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</p>	<p>Complies</p> <p>Complies</p>

(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
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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.

Visual Impacts

The representor raised concerns regarding the amount of fill proposed on the site when the application was initially lodged. Council concurred with the views of the representor as the floor level of the dwelling was not appropriate given the substantial slope of the land. When the application was lodged, little regard was given to the sloping nature of the land. The amended plans submitted show a total drop in the floor level of the dwelling by 200mm along with a 600mm step in the northwestern corner of the dwelling where bedroom one and the laundry is proposed.

The neighbouring dwelling to the east of the subject land is located substantially higher than the subject site and therefore will not be subject to adverse visual impacts. As this is the case, the sea views from the neighbouring northern land will not be compromised.

The neighbouring dwelling to the west of the subject land contains a ground level and floor levels that are lower than the proposed. From a visual perspective, the retaining walls and fencing along with the appearance of the dwelling must be taken into consideration. As the northwestern corner of the dwelling has been stepped by 800 mm, this has resulted in the proposed retaining wall heights being reduced to a maximum of one metre.

The stepping of the dwelling has resulted in an extended wall height of the dwelling wall which sits 3.5m from natural ground level and is setback 900mm from the boundary. The anticipated setback of a 3.5m high wall is 1.4m. Despite this, impacts to the adjoining neighbour as considered to be minor as the 600mm variance is not considered to be detrimental as the wall is adjacent to the side of the neighbouring dwelling where impacts of amenity are considered to be low.

The figure overleaf shows the proposed dwelling and its proximity to dwellings that adjoin.



Figure 1: Site plan of dwelling superimpose on aerial image.

Overlooking

The representor located at 10 Rowe Street provided a site works plan which shows the difference in levels of both houses. 10 Rowe Street contains a step in the entire rear section of the dwelling where the level reduces from 99.00 to 97.457, a total of 1.543m (Refer Attachment 3.4). While the northwestern corner of the proposed dwelling is stepped, the northeastern corner remains at a constant level of 99.00.

Concerns of overlooking from the living room sliding doors and landing to the pergola were raised from the representor as the height of the natural ground level is substantially higher. To gain a clear perspective of potential impacts of overlooking, the rear elevations of both dwellings are represented overleaf.

The figure is configured to scale, and it represents how the proposed dwelling will sit in relation to the established dwelling located at 10 Rowe Street, South Brighton.

The figure illustrates:

- The floor levels of the proposed dwelling;
- The floor level of 10 Rowe Street, South Brighton;
- The quantitative difference between the floor levels;
- The colourbond fence located on top of the proposed retaining walls; and
- A line of sight from a person looking west at 1.7m from the highest level on the site.

Figure 2: Scaled depiction of the rear elevations of 12 and 10 Rowe Street.

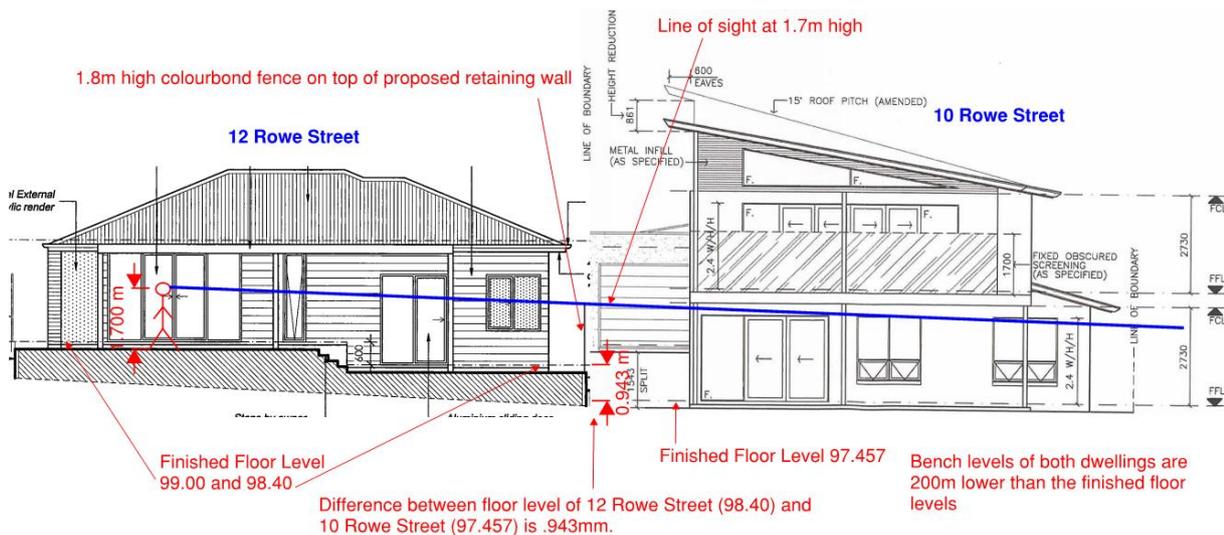


Figure 2 shows that the sightlines from the highest level of the site will be restricted by the colourbond fence located on top of the retaining wall. Although the difference between the living room landing ground level and the top of the colourbond fence is only 1.2m, it is set back 7m from the fence reducing views downward into the private open space. A small portion of the westernmost part of private open space may be visible; however, the majority of the rear yard will not be exposed minimising impacts of overlooking.

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 Development Assessment Panel resolves to grant Development Plan Consent to Development Application 110/00159/19 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 construction shall take place between 7am and 7pm Monday to Saturday and not on Sundays or public holidays. All such work shall be undertaken in such a manner so as not to, in the reasonable opinion of Council, cause any nuisance or annoyance to any of the occupiers of buildings within the locality. Any work outside of these hours requires the written approval of Council.
3. That storm water from the 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.

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.