

TO: **COUNCIL ASSESSMENT PANEL**
 DATE: **23 OCTOBER 2019**
 SUBJECT: **COUNCIL ASSESSMENT REPORT**
 AUTHOR: **DEAN SPASIC**
DEVELOPMENT OFFICER PLANNING

ATTACHMENTS: **1. LOCALITY PLAN**
2. PROPOSED PLANS
3. STATEMENT OF REPRESENTATIONS
4. APPLICANT'S REPLY TO REPRESENTATIONS

HEARING OF REPRESENTORS: **NAME SUPPRESSED AND ADRIAN BRESCHI**
 HEARING OF APPLICANT: **PLANIT FIRST**

DA NO.	:	<u>110/00535/19</u>
APPLICANT	:	<u>PLANIT FIRST</u>
LOCATION	:	<u>12 LAMINGTON AVENUE, SEACLIFF PARK</u>
DEVELOPMENT PLAN	:	<u>CONSOLIDATED 2 JUNE 2016</u>
ZONE AND POLICY AREA	:	<u>RESIDENTIAL</u>
NATURE OF DEVELOPMENT	:	<u>MERIT</u>
PROPOSAL	:	<u>TWO STOREY DETACHED DWELLING WITH GARAGE WALL LOCATED ON THE SOUTH-WESTERN SIDE BOUNDARY</u>
EXISTING USE	:	<u>DETACHED DWELLING</u>
REFERRALS	:	<u>NIL</u>
CATEGORY	:	<u>TWO</u>
REPRESENTATIONS RECEIVED	:	<u>ONE</u>
RECOMMENDATION	:	<u>DEVELOPMENT PLAN CONSENT SUBJECT TO CONDITIONS</u>

1. Site and Locality

The subject site is located on the south-western corner of Lamington Avenue and Don Avenue, some 120 metres east of Brighton Road and within a prescribed Residential Code area.

The locality comprises predominately older single storey housing stock, however infill development is found within the surrounding locality. Being in a prescribed Residential Code area means that the locality is likely to be redeveloped over time with newer housing stock of single and two storey buildings with varying architectural forms.

2. Proposed Development

The proposal comprises the construction of a two storey detached dwelling with freestanding garage located on the south-western side boundary.

Assessment Table

	Proposed	Development Plan	Summary
Site areas	555 square metres (existing)	Minimum 400 square metres	N/A
Site coverage	52 percent	Maximum 50 percent of the site area	Does not comply 2% shortfall
Private open space	27 percent	Minimum 20 percent	Complies
Primary street setback	4.4 to 5.5 metres	Consistent with the setbacks of neighbouring buildings	Does not comply Neighbouring building setback 9.8 metres
North-western secondary street setback	2 metres at the ground level	Ground level wall setback a minimum of 2 metres	Complies
	4 metres at the upper level wall	Upper level wall setback a minimum of 4 metres	Complies
South-eastern side setback	1.5 metres at the ground level	Ground level setback 1 metre	Complies
	4 metres at the upper level	Upper level setback minimum of 2.5 metres	Complies
South-western rear boundary setback	Dwelling wall at ground level setback 6.9 metres	Ground level wall minimum setback of 4 metres	Complies
	Dwelling wall at upper level setback 10.7 metres	Upper level wall minimum setback of 6 metres	Complies
	Garage wall located on the boundary with a height of 3.4 metres over a length of 9 metres	Garage wall can be located on a side or rear boundary with a wall height up to 3 metres and a length of up to 8 metres	Does not comply

3. Public Consultation

The development is assigned as Category 2, as prescribed by the Procedural Matters within the Residential Zone of the Holdfast Bay (City) development Plan. A total of one representation was received, and summarised as follows:

Name Suppressed and Adrian Breschi of 10B Lamington Avenue, Seacliff Park:

- The proposed upper storey balcony of the building will look directly into the private open space and habitable bedrooms of 10B Lamington Avenue

Applicant's reply to Statements of Representations:

Joe Vallelonga of Vallco Design has prepared a written reply addressing the concerns raised by the Representors. A summary of his reply is as follows:

- As the balcony has a frontage to the street, it is considered that the proposal satisfies visual privacy provisions;
- As a compromise, the applicant is prepared to install obscure blinds, which can be used to provide screening when in use however when lifted ensure the occupants achieve views to the sea and hills;

- The property at 10B Lamington Avenue appears to have been redeveloped resulting in two allotments from one allotment, retaining the existing dwelling. Prior to the redevelopment, the rear yard of 10 Lamington Avenue would have been behind the dwelling to the north of the site. As a consequence of the redevelopment of that site, what was the front yard is now used as their primary outdoor space. There appears however to be private open space available to the north of 10B Lamington Avenue. The applicant should not be penalised as a result of a redevelopment of a nearby site whereby consideration should have been placed into the potential for future overlooking from new dwellings nearby.

4. Development Plan Provisions

HOLDFAST BAY (CITY) DEVELOPMENT PLAN




General Section – Design and Appearance	
Objectives	
1 Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.	Complies
Principles of Development Controls	
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"> (a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandahs, eaves, parapets and window screens. 	Complies
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: <ul style="list-style-type: none"> (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
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.	Complies
5 Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.	Complies
6 Balconies should: <ul style="list-style-type: none"> (a) be integrated with the overall form and detail of the building and make a positive contribution to the external and external amenity of residential buildings (b) be sited adjacent to the main living areas, such as the living room, dining room or kitchen to extend the dwelling's living space (c) include balustrade detailing that enables line of sight to the street (d) be recessed where wind would otherwise make the space unusable (e) have a minimum dimension of 2 metres for upper level balconies or terraces. 	Complies

General Section – Design and Appearance (Cont)	
Objectives	
<p>Overshadowing</p> <p>10 The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:</p> <ul style="list-style-type: none"> (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
<p>Visual Privacy</p> <p>11 Development should minimise direct overlooking of habitable rooms and private open spaces of dwellings through measures such as:</p> <ul style="list-style-type: none"> (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
<p>12 Permanently fixed external screening devices should be designed and coloured to complement the associated building's external materials and finishes.</p>	Complies
<p>Relationship to the Street and Public Realm</p> <p>13 Buildings (other than ancillary buildings or group dwellings) should be designed so that their main façade faces the primary street frontage of the land on which they are situated.</p>	Complies
<p>14 Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.</p>	Complies
<p>15 Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.</p>	Complies
<p>16 Building design should emphasize pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.</p>	Complies
General Section – Landscaping, Fences and Walls	
Objectives	Assessment
<p>1 The amenity of land and development enhanced with appropriate planting and other landscaping works, using locally indigenous plant species where possible.</p>	Complies
<p>2 Functional fences and walls that enhance the attractiveness of development.</p>	Complies

General Section – Landscaping, Fences and Walls (Cont)	
Principles of Development Controls	Assessment
<p>1 Development should incorporate open space and landscaping and minimise hard paved surfaces in order to:</p> <ul style="list-style-type: none"> (a) complement built form and reduce the visual impact of larger buildings (eg taller and broader plantings against taller and bulkier building components) (b) enhance the appearance of road frontages (c) screen service yards, loading areas and outdoor storage areas (d) minimise maintenance and watering requirements (e) enhance and define outdoor spaces, including car parking areas (f) maximise shade and shelter (g) assist in climate control within and around buildings (h) minimise heat absorption and reflection (i) maintain privacy (j) maximise stormwater re-use (k) complement existing vegetation, including native vegetation (l) contribute to the viability of ecosystems and species (m) promote water and biodiversity conservation (n) establish buffers to adjacent development and areas. 	Complies
<p>2 Landscaping should:</p> <ul style="list-style-type: none"> (a) include mature vegetation, the planting of locally indigenous species where appropriate and species tolerant of salt-laden winds near the coast (b) be oriented towards the street frontage (c) result in the appropriate clearance from powerlines and other infrastructure being maintained. 	Complies
<p>3 Landscaping should not:</p> <ul style="list-style-type: none"> (a) unreasonably restrict solar access to adjoining development (b) cause damage to buildings, paths and other landscaping from root invasion, soil disturbance or plant overcrowding (c) introduce pest plants (d) increase the risk of bushfire (e) remove opportunities for passive surveillance (f) increase leaf fall in watercourses (g) increase the risk of weed invasion (h) obscure driver sight lines (i) create a hazard for train or tram drivers by obscuring sight lines at crossovers. 	Complies
<p>4 Existing substantial vegetation should be retained and incorporated within landscaping of new development where practicable.</p>	Reasonably complies
<p>5 Fences and walls, including retaining walls, should:</p> <ul style="list-style-type: none"> (a) not result in damage to neighbouring trees (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street (e) assist in highlighting building entrances (f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites (g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security (h) without adversely affecting the visual amenity or access to sunlight of adjoining land be constructed of non-flammable materials. 	Complies
<p>6 Retaining walls should be constructed as a stepped series of low walls, incorporate landscaping to soften the appearance of the retaining wall and use locally indigenous plant species where possible.</p>	Complies.

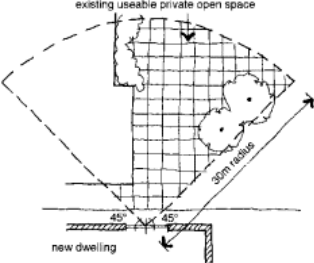
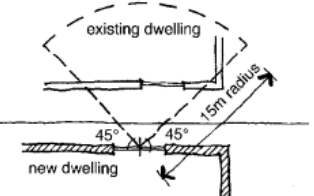
General Section – Residential Development	
Objectives	Assessment
1 Safe, convenient, pleasant and healthy-living environments that meet the full range of needs and preferences of the community.	Complies
2 A diverse range of dwelling types and sizes available to cater for changing demographics, particularly smaller household sizes and supported accommodation.	Complies
3 Medium and high density residential development in areas close to activity centres, public and community transport and public open spaces.	Complies
4 The revitalisation of residential areas to support the viability of community services and infrastructure.	Complies
5 Affordable housing, student housing and housing for aged persons provided in appropriate locations.	Complies
6 Increased affordable housing opportunities through land division and the conversion of buildings to a residential use.	Complies
1 Residential allotments and sites should maximise solar orientation and have the area and dimensions to accommodate: <ul style="list-style-type: none"> (a) the siting and construction of a dwelling and associated ancillary outbuildings (b) the provision of landscaping and private open space (c) convenient and safe vehicle, pedestrian and cycling access and parking (d) water sensitive design systems that enable the storage, treatment and reuse of stormwater. 	Complies
3 Residential allotments should be of varying sizes to encourage housing diversity.	Complies
Design and Appearance 4 Dwellings and accommodation at ground floor level should contribute to the character of the locality and create active, safe streets by incorporating one or more of the following: <ul style="list-style-type: none"> (a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for occupants (b) individual entries for ground floor accommodation (c) opportunities to overlook adjacent public space. 	
5 Residential development should be designed to ensure living rooms have an external outlook.	Complies
6 Entries to dwellings should be clearly visible from the streets that they front to enable visitors to identify a specific dwelling easily.	Complies
Overshadowing 10 The design and location of buildings should ensure that direct winter sunlight is available to adjacent dwellings, with particular consideration given to: <ul style="list-style-type: none"> (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. 	Complies
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.	Complies

General Section – Residential Development (Cont)						Assessment
Objectives						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: <ul style="list-style-type: none"> (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.						Complies
Garages, Carports and Outbuildings 13 Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complement the associated dwelling.						
14 Garages and carports facing the street should not dominate the streetscape and should be designed in accordance with the following: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> 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. 						Complies
17 Garages, carports and outbuildings should be designed within the following parameters:						Does not comply. Garage wall on Boundary has a height of 3.4 metres.
Parameter	Total floor area (maximum)	Wall height above natural ground level	Wall length	Maximum height	Setback from any existing structure on the site located on the same boundary	
Within 3 metres of a side or rear boundary	Sites 600 square metres or more: 60 square metres Sites 400-600 square metres: 40 square metres Sites less than 400 square metres: 30 square metres	3 metres	9 metres	4.5 metres	n/a	
On a side or rear boundary	Sites 600 square metres or more: 60 square metres Sites 400-600 square metres: 40 square metres Sites less than 400 square metres: 30 square metres	3 metres	8 metres, provided the total length of all existing and proposed boundary walls does not exceed 30 per cent of the total common boundary length	4.5 metres	6 metres	

General Section – Residential Development (Cont)														
Objectives		Assessment												
<p>Street and Boundary Setbacks</p> <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:</p>		Complies												
<table border="1"> <thead> <tr> <th>Setback difference between buildings on adjacent allotments with frontage to the same primary street</th> <th>Setback of new building</th> </tr> </thead> <tbody> <tr> <td>Up to 2 metres</td> <td>The same setback as one of the adjacent buildings, as illustrated below:</td> </tr> <tr> <td colspan="2" style="text-align: center;">  <p style="text-align: center;"><i>When b > a: 2, setback of new dwelling = a or b</i></p> </td> </tr> <tr> <td>Greater than 2 metres</td> <td>At least the average setback of the adjacent buildings.</td> </tr> </tbody> </table>	Setback difference between buildings on adjacent allotments with frontage to the same primary street	Setback of new building	Up to 2 metres	The same setback as one of the adjacent buildings, as illustrated below:	 <p style="text-align: center;"><i>When b > a: 2, setback of new dwelling = a or b</i></p>		Greater than 2 metres	At least the average setback of the adjacent buildings.		Does not comply.				
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<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												
<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"> <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 500 millimetres 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 500 millimetres 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		Complies
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<p>22 Dwellings and or residential flat buildings on an allotment in the form of a hammerhead/battleaxe configuration should:</p> <p>(a) be setback a minimum of 4 metres from the side boundary to the two storey component of any part of the building</p> <p>(b) contain sufficient area on the allotment for a vehicle to turn around to enable it to egress the allotment in a forward direction</p> <p>(c) enhance the streetscape character by:</p> <ol style="list-style-type: none"> i. ensuring that no fencing is located between the main face of the dwelling and the front property boundary ii. providing additional landscaping and/or deviation of the driveway where a driveway length exceeds 20 metres <p>(d) minimise impact on the amenity of neighbouring properties by locating the driveway:</p> <ol style="list-style-type: none"> i. on the side of the property that is adjacent to an existing neighbouring garage, carport or driveway ii. a minimum of 2 metres from a bedroom window of an existing dwelling on neighbouring land where separated by a fence measuring a minimum of 1.8 metres above the driveway pavement. 		Complies												

General Section – Residential Development (Cont)							
Objectives	Assessment						
23 Side boundary walls in residential areas should be limited in length and height to: <ul style="list-style-type: none"> (a) minimise their visual impact on adjoining properties (b) minimise the overshadowing of adjoining properties. 	Complies						
27 Carports and garages should be set back from road and building frontages so as to: <ul style="list-style-type: none"> (a) contribute to the desired character of the area (b) not adversely impact on the safety of road users (c) provide safe entry and exit (d) not dominate the appearance of dwellings from the street. 	Complies						
Site Coverage 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:	Does not comply Variance 2 percent.						
<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
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						
29 Site coverage should ensure sufficient space is provided for: <ul style="list-style-type: none"> (a) pedestrian and vehicle access and vehicle parking (b) domestic storage (c) outdoor clothes drying (d) rainwater tanks (e) private open space and landscaping (f) convenient storage of household waste and recycling receptacles. 	Complies						
30 Site coverage determinations for group dwellings and residential flat building sites should not include common areas such as access ways, driveways and landscaping.	Complies						
Private Open Space 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: <ul style="list-style-type: none"> (a) to be accessed directly from the habitable rooms of the dwelling (b) to be generally at ground level (other than for residential flat buildings) and 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 (i) to minimise noise and air quality impacts that may arise from traffic, industry or other business activities within the locality (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site. 	Complies						

General Section – Residential Development (Cont)			Assessment
Principles of Development Controls			Assessment
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	Minimum area of private open space	Provisions	
250 square metres or greater	20 per cent of site area	<p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10 square metres or greater.</p> <p>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 1.7 metres and a maximum gradient of 1-in-10.</p>	
Less than 250 square metres	35 square metres	<p>Balconies, roof patios and the like can comprise part of this area provided the area of each is 8 square metres or greater.</p> <p>One part of the space is directly accessible from a lounge room, dining room or living room (excluding a bedroom) and has an area of 16 square metres with a minimum dimension of 4 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
34 Private open space at ground level should be designed to provide a consolidated area of deep soil (an area of natural ground which excludes areas where there is a structure underneath, pools and nonpermeable paved areas) to: <ul style="list-style-type: none"> (a) assist with ease of drainage (b) allow for effective deep planting (c) reduce urban heat loading and improve micro-climatic conditions around sites and buildings. 			Complies
36 Private open space located above ground level should have a minimum dimension of 2 metres and be directly accessible from a habitable room.			Complies
Visual Privacy 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

General Section – Residential Development	
Principles of Development Controls (Cont)	Assessment
<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>(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.</p>	Complies
Zone Section – Residential Zone	
Objectives	Assessment
1 A residential zone comprising a range of dwelling types, including a minimum of 15 per cent affordable housing.	Complies.
2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.	Complies.
3 Development that contributes to the desired character of the zone.	Complies.

Zone Section – Residential Zone (Cont)	
Objectives	Assessment
<p>Desired character The zone contains the majority of the city’s living areas, which are of predominantly low-density suburban form, but within policy areas include medium-to-high density forms of housing on the coast, along key transport corridors and within Glenelg, as well as coordinated development opportunities within large institutional sites. The zone includes five policy areas, three of which cater for coastal development, one for the City’s residential institutions (including Minda and Masonic Homes) and one for medium density development along the key transit routes of Brighton Road, Anzac Highway, Tapleys Hill Road and along sections of the Seaford railway transit corridor.</p>	
<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> <ul style="list-style-type: none"> (a) increase dwelling numbers on allotments that have dual road frontages (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 (c) semi-detached dwellings, where site considerations permit. 	
<p>Development outside of the policy areas will generally be single storey in height in the areas east of Brighton Road, and up to two storeys in height in the areas west of Brighton Road. Buildings will be 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. Landscaping will help define the public realm and private property boundaries, and substantial landscaped front yards will contribute to the locality, with the retention of mature trees. Development 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. Vehicle garaging will be set back clearly behind the immediately adjacent part of the front building facade. Development will enhance and protect streetscape character by minimising driveway access points and width of crossovers and driveways. Undercroft car parking will also be avoided on flat sites and sites that slope down from the street level. Buildings will be stepped and articulated at the front elevation to achieve visual relief and architectural interest as viewed from the street.</p>	
<p>Residential development outside of the policy areas will utilise 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. Development will also incorporate architectural design and detailing that responds to localised character by way of fenestration, doorways, windows, eaves and roof forms. Development will be setback and orientated to minimise impacts of the privacy of neighbouring residents.</p>	

Zone Section – Residential Zone																				
Principles of Development Control		Assessment																		
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																		
2 Development listed as non-complying is generally inappropriate.		Complies																		
6 Development should not be undertaken unless it is consistent with the desired character for the zone.		Complies																		
Zone Section – Residential Zone (Cont)																				
7 A dwelling should, except where specified in a particular policy area or precinct, have a minimum site area (and in the case of group dwellings and residential flat buildings, an average site area per dwelling) and a minimum frontage to a public road not less than that shown in the following table:		Complies. Existing site																		
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9 Dwellings and/or residential flat buildings should be setback a minimum of 1 metre from one side boundary to incorporate pedestrian access.		Complies																		

6. Summary of Assessment

Zone and Land use

The proposal is considered to adhere to the Desired Character Statement and Residential Zone requirements, which includes infill development to increase dwelling densities of varying housing styles.

Further, when considering that the land is located within a prescribed Residential Code area, the proposed development is considered to be reasonable on balance. The failure to achieve code status was a result of some code failings which included the front of the building being forward of the neighbouring building to the south and the garage wall comprising a length of 9 metres along the south-western boundary in lieu of 8 metres.

Site Coverage

The proposed building covers 52 percent of the site area, which represents a variance of only 2 percent. When considering *as of right development* (i.e. the Code) site coverage could be as high as 60 percent of the site area.

Nonetheless, the proposal is considered to satisfy PDC 29, the provision of sufficient space to accommodate access, storage, clothes drying, rainwater tanks, private open space and waste storage).

Private Open Space

The development results in private open space amounting to 154 square metres, which is 27 percent of the site area, thus satisfying the anticipated minimum of 20 percent as sought by the development plan.

Private open space is accessed via main living rooms and comprises dimensions that are sufficient for their intended use.

Primary Street Setbacks

The building is setback between 4.4 and 5.5 metres from the primary street boundary. The southern adjacent building is setback 9.8 metres. The primary setback therefore reflects a shortfall of 5.4 metres.

When considering the fact the site is located on a street corner, as well as the fact that the street setback pattern overall is fairly diverse (examples of setbacks in the range of 5 metres at 18 and 20 Lamington Avenue), the proposed setback is considered reasonable and reinforces a more suitable setback distance for new development in the future.

Side and Rear Boundary Setbacks

The proposed dwelling satisfies the development plan with respect to side, secondary and rear setbacks. These figures are outlined in the assessment table above.

The freestanding garage, located on the south-western rear boundary, comprises a wall height of 3.4 metres over a length of 9 metres on the south-western side boundary. The development plan anticipates a maximum wall height of 3 metres over a maximum length of 8 metres.

The proposed wall therefore is at variance by 400mm with respect to the height and 1 metre with respect to the length. This wall is adjacent to the side wall of the south-western adjacent dwelling, where, according to a realestate.com.au listing, the floor plan shows no habitable room windows facing the subject site, only bathroom windows. The impacts of a 3.4 metre high by 9 metre long

wall on the south-western adjacent property are therefore negligible. This is further highlighted by the fact the south-western adjacent owner/occupier did not submit a statement of representation.

Visual Privacy

The building elevations to the south and west are designed in such a way that overlooking into adjacent properties will not occur. There is a component of the northern balcony on the south-western elevation which is not screened, however when applying the guidelines, it will not overlook the private open space or side and rear windows of the southern adjacent dwelling.

It is noted that a statement of representation was received from the northern adjacent site with respect to the loss of visual privacy. Where a two storey building is proposed on a corner site, there are no provisions available which requires windows or balconies that have an outlook to a road to be obscured.

Further, when considering *as of right development* (i.e. the Code), the provisions allow for balconies to the front and side of dwellings.

Solar Access

The site is orientated on a north-east to south-west axis. In terms of solar access, each of the adjacent properties will have access to sunlight within the range specified in PDC 11 and 12 between 9am and 3pm/5pm during the winter solstice.

All north facing windows to habitable rooms on adjoining allotments received at least 3 hours of direct sunlight over a portion of their surface between 9am and 5pm on the 21 June.

Ground level private open space areas of adjacent buildings achieve a minimum of 2 hours of sunlight between 9am and 3pm on the 21 June to at least half the existing ground level private open space and at least 35 square metres of existing ground level private open space with minimum dimensions of 2.5 metres.

7. Conclusion

Although the proposal fails to satisfy the Development Plan in some respects (primary setback, wall dimensions on the boundary and site coverage), on balance, it presents a kind of development that is envisaged in the Residential Zone and demonstrates sufficient planning merit in the overall design so as to warrant planning consent.

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 110/00535/19 comprising the construction of a two storey detached dwelling with freestanding garage located on the south-western side boundary at 12 Lamington Avenue, Seacliff Park.**

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, including those prepared by
 - a. Herriot Consulting, File No. C1907-064, Revision A, Sheet 1 dated August 2019;
 - b. Vallco Design, Project No. 461-0519, Sheet A101a, A101b, A102a, A102b, A103, A104a and A104b dated 22/08/2019
2. That stormwater from each 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 stormwater 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: Stormwater 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. That landscaping shall be established in the front, side and rear yards comprising trees, shrubs and grasses of semi-mature or fast growing tubestock. All such landscaping shall be established within 3 months of substantial completion of the development and any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
4. That all upstairs windows on the south-western and south-eastern elevations shall be designed in such a way that prevents a view into adjacent properties.
5. 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.
6. That dust emissions from the site shall be controlled by a dust suppressant or by watering (subject to any relevant water restrictions) regularly to the reasonable satisfaction of Council.
7. That the builder shall at all times provide and maintain a waste receptacle to the reasonable satisfaction of Council on the site in which and at all times all builder's waste shall be contained for the duration of the construction period and the receptacle shall be emptied as required.
8. That all hard building materials, waste and litter on site be stored in a manner that secures it on site during the construction works.

9. That no solid or liquid trade wastes be discharged to the stormwater system.
10. That all domestic mechanical plant and equipment, including air conditioners, should be selected, designed, and installed to comply with the following mandatory criteria:
 - (a) Noise level not to exceed 52dB(A) between the hours of 7am and 10pm when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (b) Noise level not to exceed 45dB(A) between the hours of 10pm and 7am when measured and adjusted at the nearest residential zone interface in accordance with the Environment Protection (Noise) Policy 2007*, and
 - (c) Where marked with an * the above noise levels must include a penalty for each characteristic where tonal/modulating/ impulsive/low frequency characteristics are present in accordance with the Environment Protection (Noise) Policy 2007.

NOTE: That no synthetic grass is installed on the Council verge in accordance with the City of Holdfast Bay Verge Policy.