

DEVELOPMENT NO.:	21009515
APPLICANT:	Debbie Hibbert
ADDRESS:	37 THOMAS ST SEACLIFF PARK SA 5049
NATURE OF DEVELOPMENT:	Three-level dwelling with semi-undercroft double garage with front and rear upper-level balconies and wall located on the eastern side boundary
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • General Neighbourhood Overlays: <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy
LODGEMENT DATE:	24 Jun 2021
RELEVANT AUTHORITY:	Assessment panel
PLANNING & DESIGN CODE VERSION:	2021.7
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Alexander Stamatopoulos Development Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1: Relevant P&D Code Policies
ATTACHMENT 1: Application Documents**ATTACHMENT 2: Representations****ATTACHMENT 3: Response to Representations**

DETAILED DESCRIPTION OF PROPOSAL:

The application is for the construction of a three-level detached dwelling with a garage wall located on the eastern side boundary.

The dwelling contains a semi-undercroft double garage, four bedrooms, living areas, laundry, study, upper-level balconies and an alfresco to the rear. Landscaping is proposed to the front and rear with small and tall shrubs, ground cover and tree plantings.

The site will gain access via a 3.2m wide crossover located centrally of the site which will not clash with any street infrastructure.

SUBJECT LAND & LOCALITY:**Site Description:**

Location reference: 37 THOMAS ST SEACLIFF PARK SA 5049

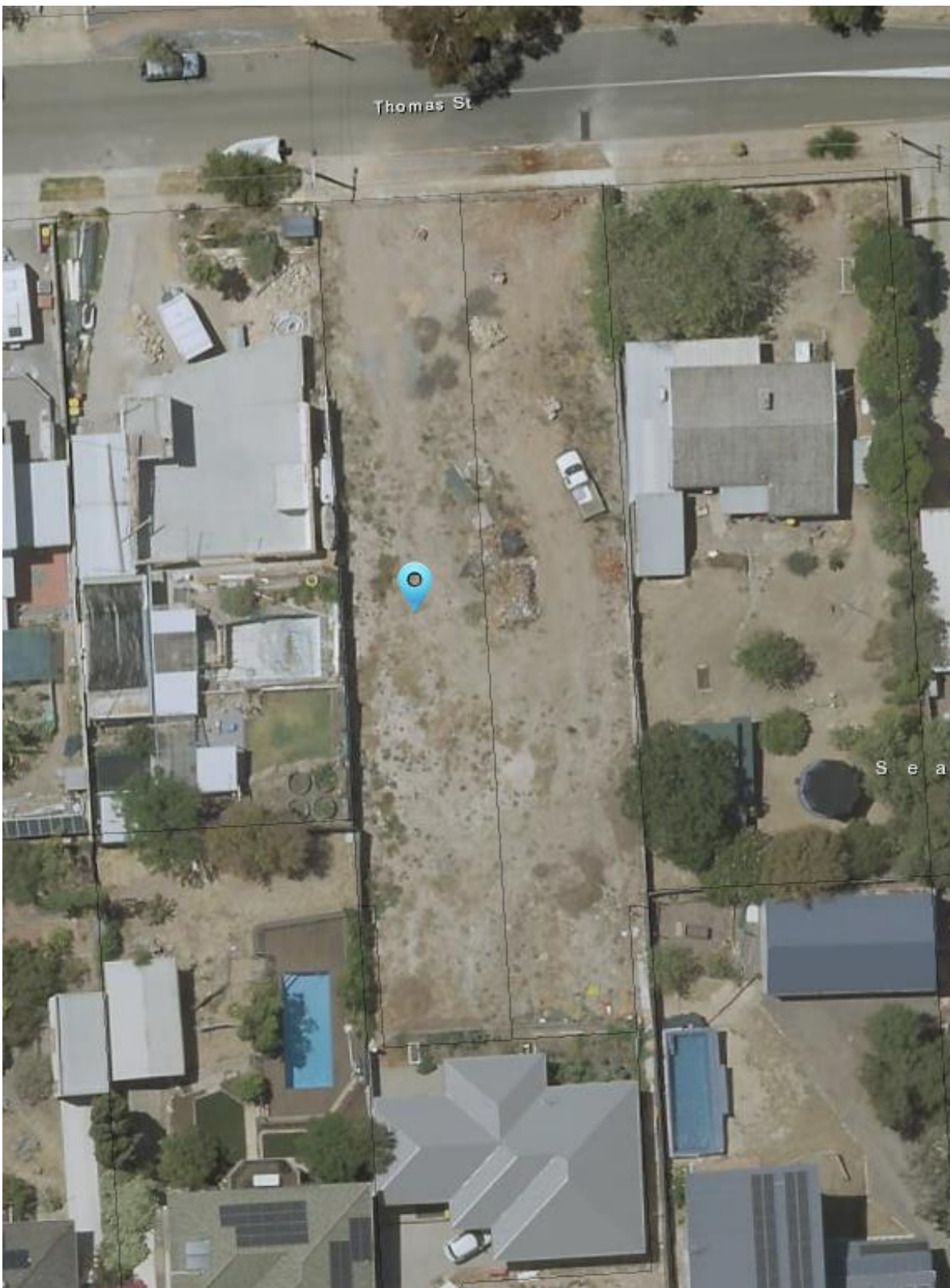
Title ref.: CT 6248/659 **Plan Parcel:** D125591 AL371 **Council:** CITY OF HOLDFAST BAY

The subject land contains a rectangular-shaped allotment with a frontage of 9.47m and a depth of 62.05m resulting in an area of approximately 587sqm. The site has been subject to a land division where two allotments have been created from one. Prior to subdivision the allotment contained a single storey detached dwelling which has now been demolished. The site slopes up from street level to the rear of the allotment.

Below is a photo of the vacant site



Below is an aerial of the site



The locality is residential in nature and is primarily comprised of two storey detached dwellings on the southern side of Thomas Street and single storey detached dwellings on the northern side. There are few examples of infill development in the locality where land has been divided to create two allotments from one. The density of the locality is low. Gilbertson gully is located opposite the subject land.

The primary setback pattern along the southern side of Thomas Street is reasonably consistent as new dwellings contain setbacks that are sympathetic to the existing established pattern. The locality contains a sloping topography where newly constructed dwellings are stepped or are built sympathetic to the slope of the land in order to mitigate the need for substantial retaining walls. The site is adjoined the vacant land to the east, a three-level dwelling to the west and single storey dwelling to the south.

The aerial of the locality is shown below highlighted in yellow.



CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:** New housing
 Dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 Code Assessed - Performance Assessed
- **REASON**
 P&D Code

PUBLIC NOTIFICATION

- **REASON**
 The height of the wall located on the eastern side boundary exceeds 3m from the top of the footings

• **LIST OF REPRESENTATIONS**

- P Koukourou of 13 Palmer Avenue Myrtle Bank (owner of 38 and 38A Arthur Street Seacliff Park)
- G Keen of 35 Thomas Street Seacliff Park

The representor Map is shown below



• **SUMMARY**

- The scale and bulk of the dwelling is very severe and offensive. The dwelling height should be reduced by 1.5m
- Privacy will be compromised as overlooking will occur from the front and rear balconies into 35 Thomas Street.
- The eastern sunlight into 35 Thomas Street will be reduced.

The applicant provided a response to the representation which is shown in attachment 3.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

Land Use - General Neighbourhood Zone Assessment Provisions

Desired Outcome	
DO 1	Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Use and Intensity	
PO 1.1 Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.	DTS/DPF 1.1 Development comprises one or more of the following: (a) Ancillary accommodation (b) Community facility (c) Consulting room (d) Dwelling (e) Educational establishment (f) Office (g) Place of Worship (h) Pre-school (i) Recreation area (j) Residential flat building (k) Retirement facility (l) Shop (m) Student accommodation (n) Supported accommodation

The General Neighbourhood Zone anticipates residential land uses with the exception for small scale non-residential land uses. The proposed detached dwelling achieves the desired outcome for the zone as a dwelling is listed in DPF 1.1 as an anticipated land use therefore satisfying PO 1.1.

Building Height - General Neighbourhood Zone Assessment Provisions

Building Height	
PO 4.1	DTS/DPF 4.1
Buildings contribute to a low-rise suburban character.	Building height (excluding garages, carports and outbuildings) no greater than: <ul style="list-style-type: none"> (a) 2 building levels and 9m and (b) wall height that is no greater than 7m except in the case of a gable end.

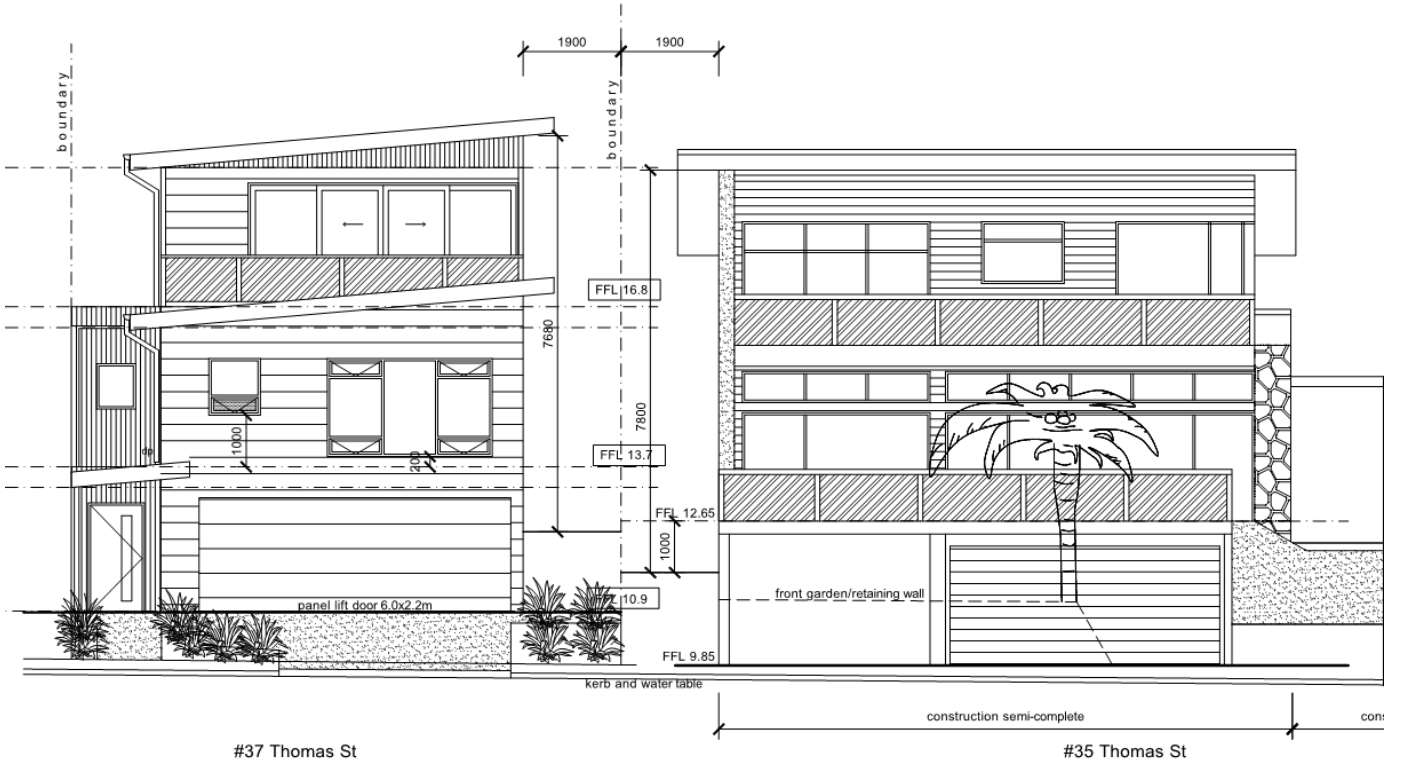
The Zone anticipates two storey building heights with maximum wall heights of 7m and overall total heights of 9m. The dwelling contains 3 levels with a garage that is partially below the natural ground level. The wall height at its highest point will be 7.68m from natural ground level.

While a variance is noted, the dwelling will not be out of character with the existing built form along the southern side of Thomas Street.

The three level dwelling located at 35 Thomas Street Seacliff Park, is of a similar scale to the proposal and is designed to maximise views to the north.



Below is an elevation of the streetscape comparing both dwellings



#37 Thomas St
A three-level dwelling located at 33 Thomas Street Seacliff Park shown below



The above dwellings are examples of designs that take advantage of the sloping nature of the locality. While three level dwellings have been constructed, the overall wall heights from natural ground level are not considered to be unreasonable. This is due to the lower levels having been cut into the ground level which substantially reduces the overall wall heights from natural ground level. Typically, a three-storey dwelling would contain wall heights ranging between 8.5m to 9m, where the dwelling contains a 7.68m high wall at its highest.

When taking into consideration the sloping nature of the site and existing built form in the locality, the wall and total height of the dwelling is considered to be appropriate.

Setbacks, Design & Appearance - General Neighbourhood Zone Assessment Provisions

Primary Street Setback	
<p>PO 5.1</p> <p>Buildings are setback from <u>primary.street</u> boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape.</p>	<p>DTS/DPF 5.1</p> <p>The <u>building.line</u> of a building set back from the <u>primary.street</u> boundary:</p> <ul style="list-style-type: none"> (a) no more than 1m in front of the average setback to the <u>building.line</u> of existing buildings on adjoining sites which face the same <u>primary.street</u> (including those buildings that would adjoin the <u>site</u> if not separated by a public road or a vacant allotment) (b) where there is only one existing building on adjoining sites which face the same <u>primary.street</u> (including those that would adjoin if not separated by a public road or a vacant allotment), no more than 1m in front of the setback to the <u>building.line</u> of that building or (c) not less than 5m where no building exists on an adjoining <u>site</u> with the same <u>primary.street</u> frontage.

The adjoining property to the west of the site contains a primary setback of 8.9m and there is a vacant site to the east. DPF 5.1 (b) anticipates dwellings to be setback no more than 1m in front of the building line of the adjoining dwellings primary setback. The primary setback of the dwelling proposed is 8.85m and therefore satisfies the policy.

Side boundary setback	
<p>PO 8.1</p> <p>Building walls are set back from side boundaries to provide:</p> <p>(a) separation between dwellings in a way that contributes to a suburban character and</p> <p>(b) access to natural light and ventilation for neighbours.</p>	<p>DTS/DPF 8.1</p> <p>Other than walls located on a side boundary, building walls are set back from side boundaries:</p> <p>(a) at least 900mm where the wall height is up to 3m</p> <p>(b) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m and</p> <p>(c) at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.</p>
Rear boundary setback	
<p>PO 9.1</p> <p>Dwelling walls are set back from rear boundaries to provide:</p> <p>(a) separation between dwellings in a way that contributes to a suburban character</p> <p>(b) access to natural light and ventilation for neighbours</p> <p>(c) private open space</p> <p>(d) space for landscaping and vegetation.</p>	<p>DTS/DPF 9.1</p> <p>Dwelling walls are set back from the rear boundary at least:</p> <p>(a) if the size of the site is less than 301m²—</p> <p>(i) 3m in relation to the ground floor of the dwelling</p> <p>(ii) 5m in relation to any other building level of the dwelling</p> <p>(b) if the size of the site is 301m² or more—</p> <p>(i) 4m in relation to the ground floor of the dwelling</p> <p>(ii) 6m in relation to any other building level of the dwelling.</p>

The rear setback is well in excess of 4m to the lower level and 6m to the upper and is satisfactory allowing for ample private open space areas.

The dwelling contains a continual vertical wall where a side setback of 1.9m is proposed to the western side boundary and 1.75m to the eastern side across all levels. The wall at its highest point contains a height of 2.4m and therefore requires a side setback of 2.4m/

Whilst this doesn't meet the requirement of DPF 8.1, it is acknowledged that the depth of the upper storey is relatively shallow. The front part of the upper level comprises the front balcony which contains open sides. Behind the balcony is where the solid wall commences which contains a depth of 14.5m. Considering the depth of the allotment is in excess of 62m, 14.5m of solid upper-level walling is considered to be a negligible portion. Further, the ground level increases in height toward the rear of the allotment resulting in the wall height gradually decreasing.

Therefore, the 500mm setback shortfall is considered reasonable in this instance.

Performance Outcome		Deemed-to-Satisfy Criteria / Designated Performance Feature	
Overshadowing			
PO 3.1	Overshadowing of habitable room windows of adjacent residential land uses in: a. a neighbourhood-type zone is minimised to maintain access to direct winter sunlight b. other zones is managed to enable access to direct winter sunlight.	DTS/DPF 3.1	North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.
PO 3.2	Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in: a. a neighbourhood type zone is minimised to maintain access to direct winter sunlight b. other zones is managed to enable access to direct winter sunlight.	DTS/DPF 3.2	Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following: a. for ground level private open space, the smaller of the following: i. half the existing ground level open space or ii. 35m ² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m) b. for ground level communal open space, at least half of the existing ground level open space.

The orientation of the dwelling will result in negligible impacts in overshadowing to the adjoining dwelling. Shadows will be cast during the early morning over a lower-level window located on the adjoining allotment. This window is associated with a bathroom which is not considered to be a habitable room. The remainder of the dwelling will be subject to light capture to the north-facing windows which will not be affected by the proposed dwelling.

Site Coverage	
PO 3.1	DTS/DPF 3.1
Building footprints allow sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.	The development does not result in site coverage exceeding 60%.

The proposal will have a site coverage of 33% of the allotment.

Boundary Walls	
<p>PO 7.1</p> <p>Dwelling boundary walls are limited in height and length to manage visual and overshadowing impacts on adjoining properties.</p>	<p>DTS/DPF 7.1</p> <p>Except where the dwelling is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:</p> <ul style="list-style-type: none"> (a) side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height (b) side boundary walls do not: <ul style="list-style-type: none"> (i) exceed 3m in height from the top of footings (ii) exceed 11.5m in length (iii) when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary (iv) encroach within 3m of any other existing or proposed boundary walls on the subject land.

The proposed garage wall located on the boundary contains a height that varies from 2.1m to 3.65m and spans 8.59m in length. The height of the wall varies due to the topography of the land. The height of the wall measured at 3.65m is for a small section with remaining heights closer to 3m as anticipated by the policy. The wall will not result in unreasonable visual or overshadowing impacts to the eastern adjoining allotment.

General Development Policies – Design in Urban Areas Assessment Provisions

Residential Development – Low Rise	
External appearance	
<p>PO 20.1</p> <p>Garaging is designed to not detract from the streetscape or appearance of a <u>dwelling</u>.</p>	<p>DTS/DPF 20.1</p> <p>Garages and carports facing a street:</p> <ul style="list-style-type: none"> (a) are situated so that no part of the garage or carport will be in front of any part of the <u>building line</u> of the <u>dwelling</u> (b) are set back at least 5.5m from the boundary of the <u>primary street</u> (c) have a garage door / opening width not exceeding 7m (d) have a garage door / opening width not exceeding 50% of the <u>site</u> frontage unless the <u>dwelling</u> has two or more building levels at the <u>building line</u> fronting the same public street.
<p>PO 20.2</p> <p><u>Dwelling</u> elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.</p>	<p>DTS/DPF 20.2</p> <p>Each <u>dwelling</u> includes at least 3 of the following design features within the building elevation facing a <u>primary street</u>, and at least 2 of the following design features within the building elevation facing any other public road (other than a laneway) or a common driveway:</p> <ul style="list-style-type: none"> (a) a minimum of 30% of the building wall is set back an additional 300mm from the <u>building line</u> (b) a porch or portico projects at least 1m from the building wall (c) a balcony projects from the building wall (d) a verandah projects at least 1m from the building wall (e) eaves of a minimum 400mm width extend along the width of the front elevation (f) a minimum 30% of the width of the upper level projects forward from the lower level <u>primary building line</u> by at least 300mm (g) a minimum of two different materials or finishes are incorporated on the walls of the front building elevation, with a maximum of 80% of the building elevation in a single material or finish.

The proposed garage width of the dwelling is 6m which equates to 63% of the frontage, exceeding the anticipated maximum by 13%. Although a numerical shortfall is noted the two levels building levels above garage are considered to detract from its dominance mitigating impacts to the streetscape amenity. The façade of the dwelling contains design features (a), (f) and (g) as listed in DPF and therefore satisfies PO 20.2.

Landscaping											
<p>PO 22.1</p> <p>Soft landscaping is incorporated into development to:</p> <ul style="list-style-type: none"> (a) minimise heat absorption and reflection (b) contribute shade and shelter (c) provide for stormwater infiltration and biodiversity (d) enhance the appearance of land and streetscapes. 	<p>DTS/DPF 22.1</p> <p>Residential development incorporates soft landscaping with a minimum dimension of 700mm provided in accordance with (a) and (b):</p> <ul style="list-style-type: none"> (a) a total area as determined by the following table: <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="background-color: #2c3e50; color: white;">. Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</th> <th style="background-color: #2c3e50; color: white;">Minimum percentage of site</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><150</td> <td style="text-align: center;">10%</td> </tr> <tr> <td style="text-align: center;">150-200</td> <td style="text-align: center;">15%</td> </tr> <tr> <td style="text-align: center;">>200-450</td> <td style="text-align: center;">20%</td> </tr> <tr> <td style="text-align: center;">>450</td> <td style="text-align: center;">25%</td> </tr> </tbody> </table> <ul style="list-style-type: none"> (b) at least 30% of any land between the primary street boundary and the primary building line. 	. Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site	<150	10%	150-200	15%	>200-450	20%	>450	25%
. Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site										
<150	10%										
150-200	15%										
>200-450	20%										
>450	25%										

The site contains 54% soft landscaping which is well in excess of the 25% anticipated minimum. A medium tree is proposed to be located in the rear yard consistent with Urban Tree Canopy Overlay DPF 1.1 shown below.

DTS/DPF 1.1

Tree planting is provided in accordance with the following:

Site size per dwelling (m ²)	Tree size* and number required per dwelling
<450	1 small tree
450-800	1 medium tree or 2 small trees
>800	1 large tree or 2 medium trees or 4 small trees

Overlooking / Visual Privacy (low rise buildings)	
<p>PO 10.1</p> <p>Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.</p>	<p>DTS/DPF 10.1</p> <p>Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:</p> <ul style="list-style-type: none"> (a) are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm (b) have sill heights greater than or equal to 1.5m above finished floor level (c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.
<p>PO 10.2</p> <p>Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.</p>	<p>DTS/DPF 10.2</p> <p>One of the following is satisfied:</p> <ul style="list-style-type: none"> (a) the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony or terrace or (b) all sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency / openings fixed to a minimum height of: <ul style="list-style-type: none"> (i) 1.5m above finished floor level where the balcony is located at least 15 metres from the nearest habitable window of a dwelling on adjacent land or (ii) 1.7m above finished floor level in all other cases

The upper level contains a front facing roof garden/balcony that contains 1.2m high balustrades to all sides. The sides of the balcony return 6.5m to the south which is considered to be a substantial depth. Overlooking from the balcony to the west is not considered to result in a breach of visual privacy. The balcony is located adjacent to the side and front of the western adjoining dwelling (35 Thomas Street) where there are no east-facing windows associated with habitable rooms on the eastern façade. Views into the private open space of 35 Thomas Street will be oblique and therefore the low balustrading is considered appropriate. Views from the balcony to the north and east will be over the front yards and roofing of existing dwellings resulting in no unreasonable overlooking.

A living room window directly south of the balcony located on the western elevation contains clear glass which will also not result in any unreasonable overlooking. The remainder of the upper-level windows to both sides of the dwelling contain sill heights in excess of 1.5m in height or obscured glazing to any glass lower. The balcony to the rear of the dwelling contains 1.5m high screening to all sides. The application satisfies PO 10.1 and 10.2.

Traffic Impact, Access and Parking**General Development Policies – Design in Urban Areas Assessment Provisions**

<p>PO 23.3</p> <p>Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, domestic waste collection, landscaped street frontages and on-street parking.</p>	<p>DTS/DPF 23.3</p> <p>Driveways and access points satisfy (a) or (b):</p> <p>(a) sites with a frontage to a public road of 10m or less, have a width between 3.0 and 3.2 metres measured at the property boundary and are the only access point provided on the site.</p> <p>(b) sites with a frontage to a public road greater than 10m:</p> <p>(i) have a maximum width of 5m measured at the property boundary and are the only access point provided on the site;</p> <p>(ii) have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.</p>
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The existing crossover is proposed is 3.2m and achieves the abovementioned policy.

CONCLUSION

The proposed dwelling achieves the Desired Outcome for the General Neighbourhood Zone and also satisfies a majority of the relevant performance outcomes. The proposed dwelling is suitable for the sloping nature of the site which is consistent with the established built form of the locality. The application does not result in an overdevelopment of the site allowing adequate space for the provision of landscaping and a primary setback that is consistent with the established pattern of the locality.

RECOMMENDATION

Planning consent

It is recommended that the Council Assessment Panel/SCAP resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21009515, by Debbie Hibbert is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

Planning Consent

1. The development granted approval shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

2. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
3. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).
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.
5. That a fixed louvered screen shall be erected on all sides of the first-floor rear balcony to a minimum height of 1.5 metres above finished floor level.

ADVISORY NOTES

General Notes

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

OFFICER MAKING RECOMMENDATION

Name: Alexander Stamatopoulos

Title: Development Planner

Date: 21/12/2021