

DEVELOPMENT NO.:	23006863
APPLICANT:	Clint Girardi
ADDRESS:	7 MARINE PDE SEACLIFF SA 5049
NATURE OF DEVELOPMENT:	Two storey detached dwelling garage wall located on the southern side boundary
ZONING INFORMATION:	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>Airport Building Heights (Regulated)</li> <li>Affordable Housing</li> <li>Character Area</li> <li>Prescribed Wells Area</li> <li>Regulated and Significant Tree</li> <li>Stormwater Management</li> <li>Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>Minimum Frontage (Minimum frontage for a detached dwelling is 12m; semi-detached dwelling is 12m; row dwelling is 12m; group dwelling is 12m; residential flat building is 12m)</li> <li>Minimum Site Area (Minimum site area for a detached dwelling is 450 sqm; semi-detached dwelling is 400 sqm; row dwelling is 350 sqm; group dwelling is 350 sqm; residential flat building is 350 sqm)</li> <li>Maximum Building Height (Levels) (Maximum building height is 1 level)</li> </ul>
LODGEMENT DATE:	17 Mar 2023
RELEVANT AUTHORITY:	Council Assessment Panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	2023.4
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 2:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 3:	Response to Representations

**DETAILED DESCRIPTION OF PROPOSAL:**

The application is for the construction of a two storey detached dwelling with a wall located on the southern side boundary. The lower level of the dwelling contains a double garage, store, laundry, living area, three bedrooms, bathroom and roofed outdoor terrace. The upper level contains a front balcony with 1m high balustrading that returns to the north, open living areas, water closet and a master bedroom with an ensuite. Access will be via a 5m wide crossover. Landscaping is proposed to the front, rear and northern side of the dwelling.

The façade of the dwelling contains a variety of materials including rendered walling, a feature stone/tiled vertical pillar, newtechwood castellated vertical cladding, hardies oblique vertical cladding and a colourbond panel lift door. The dwelling contains sheet roofing with a 20 degree pitch that sits behind the front and side parapet walls. The site slopes up from west to east and will be subject to fill which will be supported by 950mm maximum height retaining walls on the northern side boundary.

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

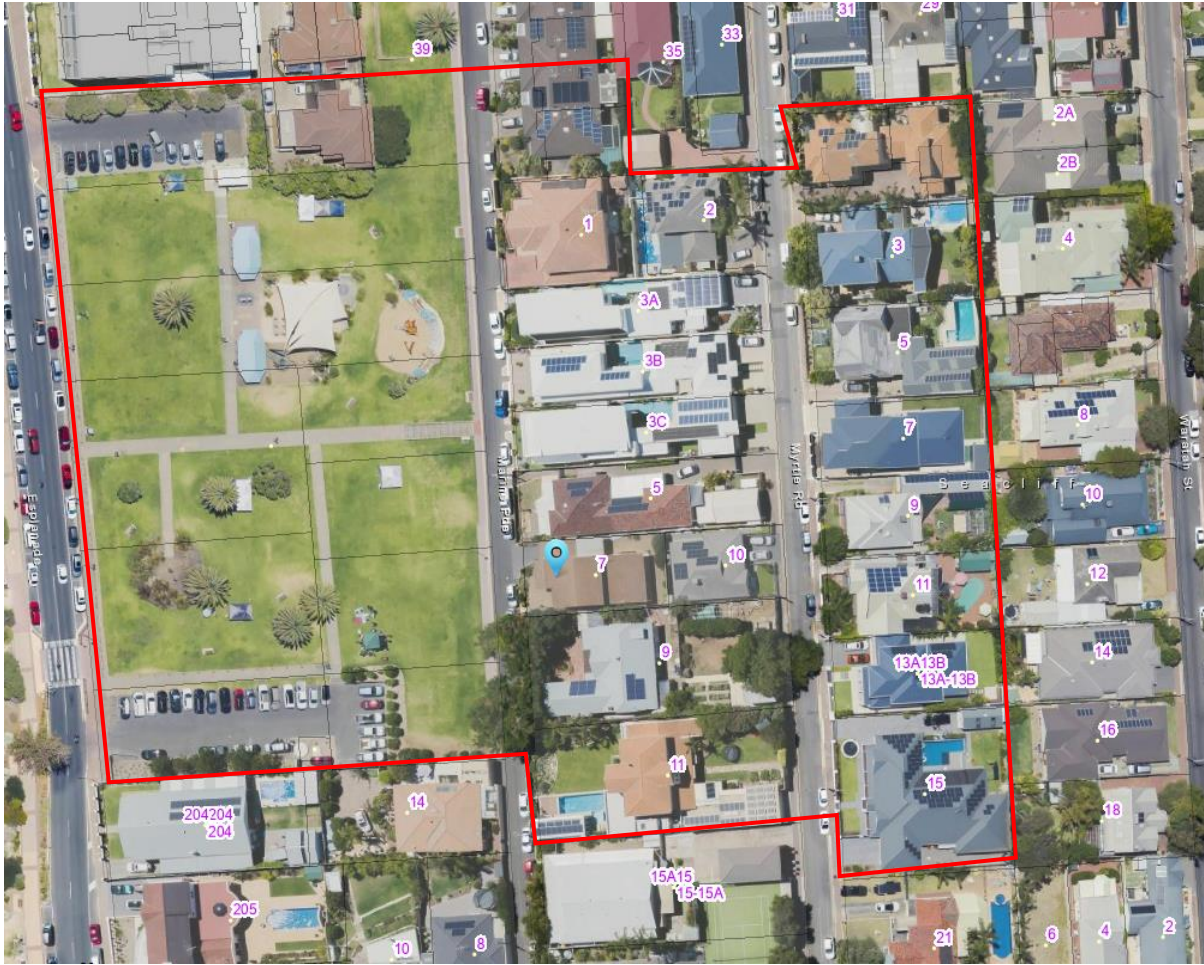
**Location reference:** 7 MARINE PDE SEACLIFF SA 5049

**Title ref.:** CT 6220/594 **Plan Parcel:** C21751 FL742 **Council:** CITY OF HOLDFAST BAY

The subject site is located in the Established Neighbourhood Zone and contains a frontage of 14.32m and a depth of 30.35 resulting in a site area of approximately 438sqm. The site currently hosts a two-storey detached dwelling which is elevated from the road level. The front yard contains a retaining wall and low lying landscaping. There is a mature tree located in the front yard of the southern adjoining allotment, 9 Marine Parade, which is within 10m of subject dwelling and is therefore exempt from planning controls.

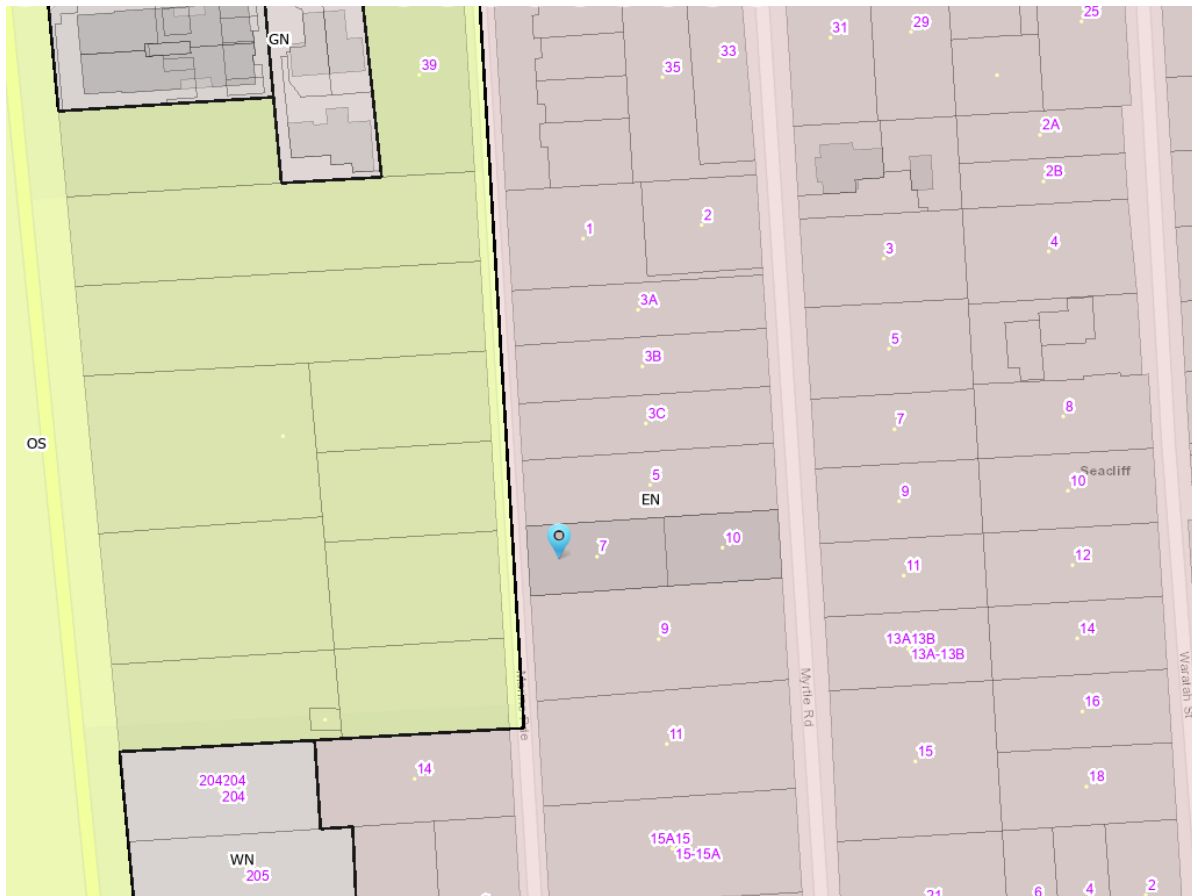


**Above:** Existing dwelling on the subject site



**Above:** Aerial showing locality highlighted in red

**Below:** Zoning map of the locality



### **Zone Legend**

**WN:** Waterfront Neighbourhood Zone

**EN:** Established Neighbourhood Zone

**GN:** General Neighbourhood Zone

**OS:** Open Space Zone

The subject site is located on the western fringe of the Established Neighbourhood Zone which abuts the Open Space Zone (shaded yellow) that comprises John Miller Reserve and also the Waterfront Neighbourhood Zone (shaded grey) to the south.

The locality is characterised primarily by detached double storey dwellings and single storey detached dwellings, other dwelling forms are present within the locality such as single storey residential flat buildings. Dwelling styles within the locality are varied, with examples of modern architectural designs and less modern dwellings.

The locality is substantially enhanced by Angus Neil Reserve directly to the west and the coastal reserve further west again. The reserve is well maintained and coastal views are possible from Marine Parade over low lying reserve furniture.

East of the subject land along Myrtle Parade the visual amenity of the locality becomes mixed. The western edge of Myrtle Parade is dominated by substantial outbuildings and garages, the street effectively acts as a laneway access to dwellings fronting Marine Parade. The eastern edge of Myrtle Parade is characterised by single and double storey dwellings with floor levels generally elevated above the street level.



The amenity of the locality is high, positive elements of the locality include open front yards, low permeable fencing, the proximity to the coast and high quality views of the ocean and Angus Neil reserve.



**Above:** Two-storey dwelling located at 9 Myrtle Road



**Above:** Two-storey dwelling located at 3 Myrtle Road

**Below:** Two-storey dwelling located at 2 Myrtle Road







**Above:** Two-storey dwelling located at 1 Myrtle Road

**Below:** Two-storey dwelling located at 11 Marine Parade Seacliff







**Above:** Dwellings to the north of the subject land fronting Marine Parade

**Below:** Two-storey dwelling located at 13 Myrtle Road Seacliff





### CONSENT TYPE REQUIRED:

Planning Consent

### CATEGORY OF DEVELOPMENT:

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

### PUBLIC NOTIFICATION

- **REASON**  
The development exceeds the maximum building height specified in Established Neighbourhood Zone DTS/DPF 4.1
- **LIST OF REPRESENTATIONS**

Summary of Representors			
Address of Represantor	Position	Wish to be heard	Concerns
<i>Phillip Brunning and Associates on behalf of Mr Phillip Dempster of 9 Marine Parade Seacliff</i>	<i>Opposes the development</i>	<i>Yes</i>	<ul style="list-style-type: none"> <li>- Primary setback is inadequate</li> <li>- Finished floor level of the dwelling is excessive</li> <li>- Two story built form is excessive</li> <li>- Site coverage is excessive</li> <li>- Southern side upper level is inadequate</li> <li>- Overshadowing to the south is excessive</li> <li>- Garage width is excessive</li> </ul>
<i>Kenneth Smith of 5 Marine Parade Seacliff</i>	<i>Opposes the development</i>	<i>Yes</i>	<ul style="list-style-type: none"> <li>- A lack of visual privacy from the northern side upper level balcony</li> <li>- Primary setback is inadequate</li> <li>- Garage width is excessive</li> <li>- Floor level of the dwellings is excessive</li> <li>- Height of dwelling is excessive</li> <li>- Clarification regarding fencing is sought</li> </ul>
<i>Barry Stark of 3C Marine Parade Seacliff</i>	<i>Opposes the development</i>	<i>No</i>	<ul style="list-style-type: none"> <li>- Primary setback is not adequate</li> <li>- Overlooking from the front balcony will occur to the north</li> <li>- The finished floor level of the dwelling is too high</li> <li>- The garage is dominant</li> <li>- There is a lack of front landscaping</li> </ul>
<i>Winston Haby of 3B Marine Parade Seacliff</i>	<i>Opposes the development</i>	<i>No</i>	<ul style="list-style-type: none"> <li>- The primary setback is not adequate</li> <li>- Overlooking will occur from the front balcony</li> </ul>

See representation map below. The representors are highlighted in red



## • SUMMARY

The applicant engaged URPS to provide a response to the representations raised. Specifically, the response elaborates on the following issues raised:

- Primary setback;
- Building height;
- Site coverage;
- Garage presentation;
- Upper-level setbacks;
- Overshadowing; and
- Overlooking

The response summarises the concerns raised by referencing the relevant assessment provisions of the code.

## AGENCY REFERRALS

Nil

## INTERNAL REFERRALS

Nil



## PLANNING ASSESSMENT

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

### Quantitative Provisions

	Proposed	DPF Requirement	Achieved
<b>Building Height</b>	Two levels	1 Level	No
<b>Boundary Development</b>	6.6m boundary garage wall and 3.7m open-sided verandah (total 10.3m) or 34% of the total boundary  3m height from natural ground level	8m length and 45% of boundary length  3.2m height from lower natural ground level	Partially achieved – Minor variance  Yes
<b>Front Setback</b>	4.74m metres	Average of adjoining 5 Marine – primary setback 5.5m 9 Marine – primary setback 6.2m <u>Quantitative requirement = 5.85m</u>	No
<b>Rear Setback</b>	5m – lower level 7m - upper level	4 metres at ground level and 6 metres at upper level	Yes
<b>Side Setbacks</b>	Ground level northern wall 970mm and 3.83m  Ground level southern wall 2.26m  Upper level northern wall 970mm (balcony), 2m and 3.8m  Upper level southern wall 1.97m, 3.3m and 4.3m	Ground level wall 900mm  Ground level wall 900mm  Upper level northern wall 2.1m  Upper level southern wall 3.3m	Yes  Yes  Minor Variance  No
<b>Site Coverage</b>	53.6%	50%	Minor variance
<b>Private Open Space</b>	127 square metres	60 square metres	Yes
<b>Soft Landscaping</b>	25 percent of the site area	20 percent of the site area	Yes
<b>Front Yard Landscaping</b>	25 percent	30 percent	Minor variance

### Building Height

The relevant assessment provisions relating to building height are shown below:

#### Established Neighbourhood Zone Assessment Provisions

##### PO 4.1

Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings

*DTS/DPF 4.1*

Building height (excluding garages, carports and outbuildings) is no greater than:

a) the following:

Maximum Building Height (Levels)
Maximum building height is 1 level

Character Area Overlay Assessment Provisions

*PO 2.2*

*Development is consistent with the prevailing building and wall heights in the character area.*

**Character Area Statements**

Statement #	Statement		
<b>Character Areas affecting City of Holdfast Bay</b>			
HoBC1	<p><b>Seacliff Character Area Statement (HoB-C1)</b></p> <p>The Character Area Overlay identifies localities that comprise valued character attributes. They can be characterised by a consistent rhythm of allotment patterns, building setting and spacing, landscape or natural features and the scale, proportion and form of buildings and their key elements.</p> <p>These attributes have been identified in the below table. In some cases State and / or Local Heritage Places within the locality contribute to the attributes of a Character Area.</p> <p>The preparation of a Contextual Analysis can assist in determining potential additional attributes of a Character Area where these are not identified in the below table.</p> <table> <tr> <td>Building Height</td><td>Single Storey</td></tr> </table>	Building Height	Single Storey
Building Height	Single Storey		

The application does not comply with the quantitative provisions of both the Established Neighbourhood Zone and the Character area statement where clearly states maximum building height should be one level. The test however is if the relevant Performance Outcomes are satisfied.

PO 4.1 of the Zone references new development contributing to the prevailing character of the neighbourhood and complimenting the height of nearby buildings. PO 2.2 of the Character Area Overlay anticipates development to be consistent with the prevailing building and wall heights in the Character Area. The locality assessment in this report highlights the number of conventional two-storey dwellings in the locality. Both directly to the north of the site fronting Marine Parade and also along Myrtle Road at the rear. It is also worth noting that an existing two-storey dwelling is located on the property.

The streetscape is unique in that it overlooks Angus Neill Reserve with the dwellings elevated above the reserve as the topography of the land slopes up to the west. The established two-storey dwellings contain a strong presence to the streetscape given the openness of the locality having the reserve in front and also the Esplanade further to the west. The subject site is located on the Western Fringe of the Zone where it abuts the Open Space and Waterfront Zone.

When considering the circumstances of the locality the relevant assessment provisions are considered to be satisfied. The dwelling will not introduce a two-storey dwelling to the locality in which it will be foreign. It will rather replace an existing two-storey building which will assimilate well with the established building heights in the locality. PO 4.1 is therefore satisfied.



**Primary Setback**

The assessment provisions relating to primary setbacks are shown below:

*PO 5.1*

*Buildings are set back from primary street boundaries consistent with the existing streetscape.*

*DTS/DPF 5.1*

*The building line of a building is set back from the primary street boundary:*

- a) at least the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin the site if not separated by a public road or a vacant allotment)*

The setback distances below are of the dwellings located on the eastern side of Marine Parade between young and Portland Street which run east-west.

**1 Marine Parade** – 7.2m  
**3A Marine Parade** – 7.7m  
**3B Marine Parade** – 6m  
**3C Marine Parade** – 5.4m  
**5 Marine Parade** – 5.5m  
**7 Marine Parade (subject site)** – 4.7m to 5.4m  
**9 Marine Parade** – 6.2m  
**11 Marine Parade** – 17.3m  
**13 Marine Parade** – 5.4m  
**15 Marine Parade** – 8m

The average setback of the adjoining dwellings is 5.85m. The dwelling contains a primary setback to the building line varying from 4.74 to a front pier with the majority of the building line being setback 5.4m to the family room front wall. The dwelling then steps back to 6.3m to the garage. The balcony does not protrude more than 1.5m past the building line of the dwelling and therefore its numerical setback cannot be considered as the building line.

The existing dwelling located on the allotment contains a primary setback of approximately 4m to the building line and 5m to the garage. The setbacks of the proposed dwelling are greater than that of the existing structure. Further, consideration should be given the depth of the allotment. The newly constructed two-storey dwellings at 3A to 3C Marine Parade contain a depth of 53m and the subject land a depth of 30.53m. It is not pragmatic to expect the subject dwelling to match the primary setback of the dwellings located at 3A to 3C which benefit from containing an allotment that is 20 metres deeper that also contains a secondary frontage to Myrtle Road.

While a numerical setback is noted, the primary setback proposed is suitable for the subject land resulting in little change to the site when considering the existing dwelling located on the allotment. PO 5.1 is satisfied.

**Overshadowing and Southern Side Setback**

The relevant assessment provisions relating to overshadowing are shown below:

*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<sup>2</sup> 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 applicant has supplied sun shadow diagram showing shadows cast during the 9am, 12pm and 3pm of the winter solstice. Refer to attachments 1.10 to 1.12. The 9am plan shows that no additional shadow will be cast over the northern dwelling wall. At 12pm, the majority of the shadow will be cast over the carport and the front driveway with a portion over the private open space to the rear of the carport. 3pm shadows are cast again over the carport and a portion of the private open space at the rear. The private open space of the southern neighbour is vast and will be subject to sunlight throughout all hours of the day during the winter solstice.

The impacts of overshadowing should be considered in context with the southern upper-level setbacks of the dwelling. The policy (Zone DPF 8.1) anticipates a numerical setback of 3.3m for southern upper levels. PO 8.1 is shown below:

*PO 8.1*

*Buildings are set back from side boundaries to provide:*

- a) separation between buildings in a way that complements the established character of the locality*
- b) access to natural light and ventilation for neighbours.*



The upper level southern boundary setback complements the established character in the locality. The approval documents for the recently constructed two-storey dwellings located 3A, 3B and 3C Marine Parade were reviewed and the upper-level southern side setbacks were noted as follows:

**Southern upper-level setbacks**

3A Marine Parade: 2.1m

3B Marine Parade: 2.4m

3C Marine Parade: 2.5m

It is also worth noting that the existing two-storey dwelling located on the subject site contains a southern upper-level setback varying from 1.25m to 1.14m. When considering the established setbacks in the locality PO 18.1(a) is considered to be satisfied as the *separation between buildings complement the established character of the locality*.

PO 8.1(b) references access to natural light and ventilation. The shadowing diagrams show that the majority of shadowing will be over the existing carport, front yard and a portion of the rear private open space areas. The living area wall that contains the numerical shortfall is located adjacent to the carport and front yard of the southern dwelling where impacts are shadowing are negligible. The remainder of the wall behind it is located adjacent to the north-facing windows of the southern dwelling and contains setbacks of 3.3m to 4.3m which satisfies the numerical policy.

When considering the existing setbacks of the current property the context of the proposed setback and how they relate to the southern property PO 8.1(b) is therefore satisfied.

**Visual Privacy**

The upper-level windows on the side and rear contain appropriate privacy measures with any windows below 1.5m from the finished floor level being obscured. A condition is also recommended regarding this.

The relevant assessment provisions relating to visual privacy for balconies are shown below.

*PO 10.2*

*Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.*

*DTS/DPF 10.2*

*One of the following is satisfied:*

- 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:*
  - 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*
    - a. or*
  - ii. 1.7m above finished floor level in all other cases*

The plans have been amended to show a 1.7m high screen along the northern side boundary that rakes down to 1m as it approaches the primary frontage. As a precaution, the Council has placed a condition on consent stating that the entire northern side balcony to be screened. However, it is not uncommon for side windows and balconies located on the side wall close to the street to remain unobscured. Views from these windows are generally over front yards of adjoining dwellings to the street. The subject dwelling would benefit of views over the reserve from the section of balcony where it rakes to 1m high.

### **Earthworks and Sloping Land**

Design in Urban Areas PO/DPF 8.1 that relates to earthworks and sloping land is shown below:

*PO 8.1*

*Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.*

*DTS/DPF 8.1*

*Development does not involve any of the following:*

- a) excavation exceeding a vertical height of 1m*
- b) filling exceeding a vertical height of 1m*
- c) a total combined excavation and filling vertical height of 2m or more.*

The site works plan shows the existing ground levels and finished floor level of the dwelling. The site slopes up from west to east with the front section of the allotment being subject to a dramatic slope which then evens out from the middle of the allotment to the rear. The site will be subject to fill which will result in retaining walls up to 950mm on the sides of the allotment. The majority of fill will be toward the front of the property where the land slopes and will be subsequently retained.

Only the front of the allotment will be subject to fill as the remainder of land behind to the east is flat. The extent of slope on the land does not warrant the dwelling to be stepped down therefore the front filling of the site is not considered to be unreasonable. The earthworks are considered to be rational when considering the quantitative policy anticipates up to 1m of fill. PO 8.1 is satisfied.

### **CONCLUSION**

The application is for the construction of a dwelling that will assimilate well with the existing built form of the locality. It is noted that some components of the dwelling do not align with some assessment provisions of the Planning and Design Code. However, the impacts of the shortfalls are not considered to unreasonably impact the adjoining properties of the character of the locality. The dwelling will contain an appropriate appearance to the streetscape without being overly dominant.

### **RECOMMENDATION**

Planning consent

It is recommended that the Council Assessment Panel 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 23006863, by Clint Girardi is granted Planning Consent subject to the following conditions:

**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. 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).
3. The stormwater disposal system shall cater for a 5 year rainfall event with discharge to the street not to exceed 10 litres per second. Any excess above this flow is to be detained on site.
4. 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.
5. That all upstairs windows, other than facing the street, shall have minimum window sill heights of 1.5 metres above finished floor level, or any glass below 1.5 metres shall be obscure and fixed shut and be installed prior to occupation of the dwelling.
6. That a fixed screen that prevents outward views shall be erected on the northern end of the first-floor balcony to a minimum height of 1.7 metres above finished floor level.

**OFFICER MAKING RECOMMENDATION**

**Name:** Alexander Stamatopoulos

**Title:** Development Planner

**Date:** 26/06/2023