

DEVELOPMENT NO.:	21025191
APPLICANT:	Hayden Doak
ADDRESS:	5 SEAVIEW TCE BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Two storey detached dwelling with associated garage located on the southern boundary and swimming pool, verandah, retaining walls and fencing at the rear
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:	29 Aug 2021
RELEVANT AUTHORITY:	Assessment panel
PLANNING & DESIGN CODE VERSION:	12 August 2021 2021.11
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Dean Spasic Development Officer - Planning,

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 proposed development is for the construction of a two storey detached dwelling with rear verandah, swimming pool, retaining and fencing.

BACKGROUND:

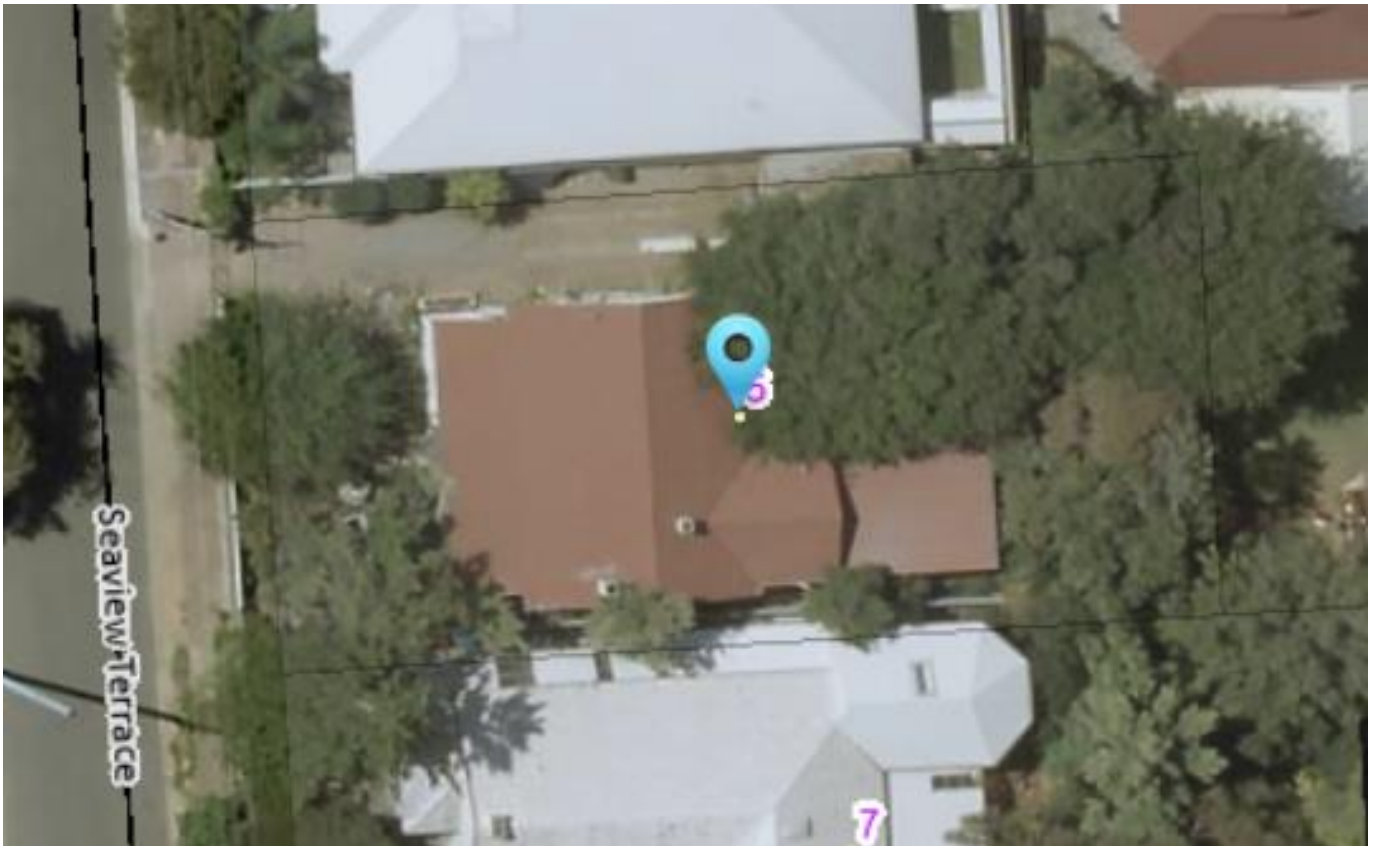
An application was lodged under the Development Act 1993 (110/00587/20) on the 7 August 2020 and was initially refused consent by the Council Assessment Panel on the 28 April 2021. An appeal was lodged through the Environment, Resources and Development (ERD) Court, with the Panel supporting a compromise at the meeting held on 23 June 2021. A third party applied to the ERD Court to be a joinder to the appeal and was successful. The Applicant and third party failed to reach a compromise through the appeal process. The Applicant then decided to lodge a new application to have the proposal assessed under the Design Code.

The new application is very similar to the compromise plan, which the Panel supported. The most notable changes being the boundary wall height and design and the introduction of a screen adjacent to the southern boundary to minimise overlooking from the terrace.

SUBJECT LAND & LOCALITY:

Site Description:

The subject site is a rectangular shaped allotment on an east to west axis with a frontage of 17.52 metres and a depth of 36.67 metres, with a total site area of 642 square metres. The site has a frontage to Seaview Terrace and the rear of the site has a downward slope. The site currently contains a single storey detached dwelling.



Location reference: 5 SEAVIEW TCE BRIGHTON SA 5048

Title ref.: CT 5836/806 **Plan Parcel:** F41503 AL603 **Council:** CITY OF HOLDFAST BAY

Locality

The locality for the purpose of this assessment has been determined to be within 60 metres of the subject site, which is consistent with the properties notified during the public notification process.

The locality comprises a mix of older and newer housing stock, predominately detached dwellings, however there are a number of group dwellings to the east of the site. There is a mix of one and two storey dwellings

 Subject Site

 Representor



CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
New housing
Swimming pool, spa pool or associated safety features: Code Assessed - Performance Assessed
Verandah: Code Assessed - Performance Assessed
Detached dwelling: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

- **REASON**
P&D Code

PUBLIC NOTIFICATION

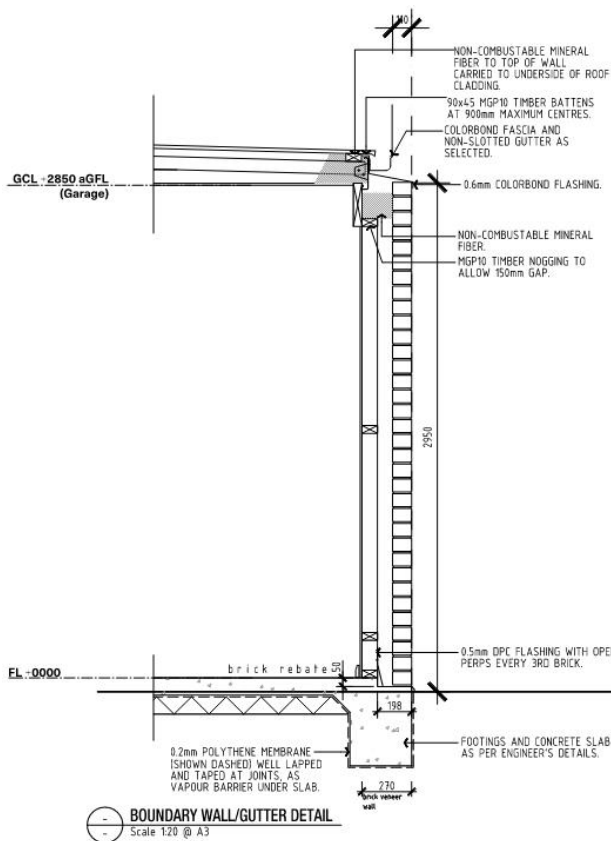
- **REASON**
Retaining and fencing on boundary

● LIST OF REPRESENTATIONS

- Di and Jim Roennfeldt of 35 Marlborough Street expressed concern with the staircase window not shown as obscured. A condition of consent is included requiring all side and rear upstairs windows to be obscured to a height of 1.5 metres;
- Professor N Naffine of 7 Seaview Terrace, expressed a number of concerns including garage height on southern boundary, fencing and retaining, visual privacy, height, bulk and scale and the siting of the pool pump.

● SUMMARY

- In response to the representations, the applicant submitted a set of plans seeking to alleviate the concerns raised by the neighbour. This included a garage wall detail which demonstrates that the wall height is not more than 3 metres on the boundary, with the flat roof comprising any remaining height and the introduction of a screen adjacent to the southern elevation of the terrace, in order to mitigate overlooking concerns immediately south, as per the images below:



○ IMAGE OF PERFORATED SCREEN

The garage wall detail has addressed the neighbours concern, which was to achieve a wall height that satisfies the Design Code, acknowledging that the front and rear parapets were minor shortcomings.

The neighbour remains concerned with the location of the pool pump, notwithstanding the applicant's demonstration of appropriate sound attenuation.

The proposed screen to the southern boundary has been acknowledged by the neighbour, however they would ultimately prefer that the building floor levels were dropped at the rear in order to reduce the overall build-up of land and requirement for retaining and screening. It is noteworthy that the existing dwelling has a finished floor level of 100.56, which is 260mm higher than the proposed dwelling floor level (100.30).

PLANNING ASSESSMENT

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

Land Use

The proposed dwelling, verandah, swimming pool, retaining and fencing is consistent with the kind of development envisaged in the General Neighbourhood Zone.

Building Height

The Zone accommodates building heights up to 2 levels and a total building height of 9 metres from the natural ground level. The proposal comprises a two storey building, with a total height of 8.56 metres between the top of the roof and adjacent natural ground level.

Setbacks, Design & Appearance

The proposed building is setback 4 metres to the primary street boundary at the closest point. The average setback of the adjacent dwellings is 5.3 metres, therefore the Design Code allows for a setback as close as 4.3 metres. The 300mm variance in this instance is considered reasonable given it refers to balcony, which is 4.4 metres wide and does not extend across the entire building façade.

The garage wall is located on the southern side boundary with a maximum height of 3 metres above the footing, which satisfies the Design Code. It is noted however, that the front and rear parapets are setback only 110mm from the boundary and are 3.6 metres high. However the actual impact from a pair of 350mm wide 3.6 metre high parapets are negligible.

The ground level walls are setback 1 metre + from the side boundaries and 8.4 metres from the rear boundary, which satisfies the Design Code.

The upper level walls are 5.9 metres above the footing and setback 3.7 metres to the southern boundary (a minimum setback of 2.8 metres is required) and setback 2.6 metres to the northern boundary (a minimum setback of 1.86 metres is required). The rear wall is setback 11.7 metres (a minimum setback of 6 metres is required).

The building design, scale and general appearance fits within the parameters of the Design Code, which do not seek a specific architectural appearance, rather the Code seeks simple features such as front windows, articulation and controls regarding building height and number of levels, all of which the proposal satisfies.

Site Coverage

Site coverage amounts to 51 percent of the site area, which is under the maximum allowance of 60 percent.

Private Open Space

Private open space amounts to 175 square metres, which is above the minimum requirement of 60 square metres.

Pool Equipment

The applicant has demonstrated the intent to install a commercial grade pool equipment enclosure to which the specifications refer to it reducing the noise levels by 80 percent. On the basis of a typical pump being installed, which is within the range of 50 to 70 decibels, the enclosure will reduce the noise to the range of 10 to 20 decibels, which is the equivalent to a person breathing (barely audible) to a whisper or rustling leaves. The standard pool equipment condition seeks a maximum of 45 decibels when measured at the boundary fence, which this development will achieve,

Soft Landscaping

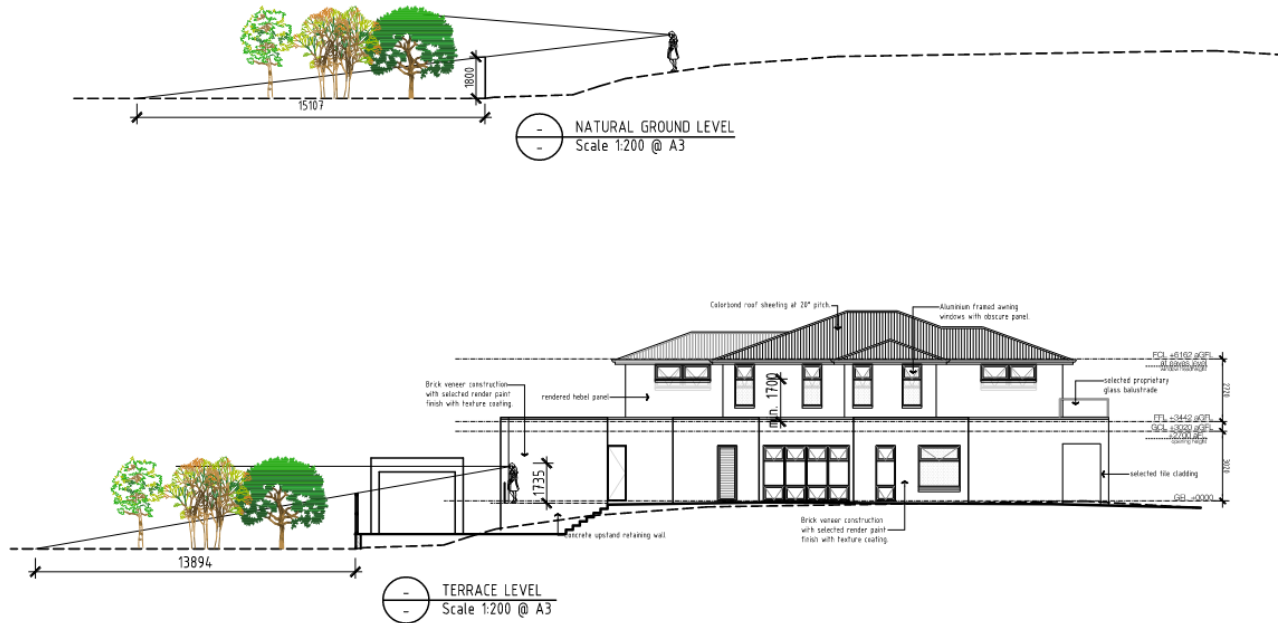
The Design Code outlines the minimum soft landscaping required, relative to site area. The subject site has an area of 677 square metres:

Landscaping											
<p>PO 22.1</p> <p><u>Soft landscaping</u> 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 <u>soft landscaping</u> 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="text-align: center;"><u>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</u></th> <th style="text-align: center;"><u>Minimum percentage of site</u></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 <u>primary street boundary</u> and the <u>primary building line</u>. 	<u>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</u>	<u>Minimum percentage of site</u>	<150	10%	150–200	15%	>200–450	20%	>450	25%
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150–200	15%										
>200–450	20%										
>450	25%										

A total of 129 square metres of soft landscaping is demonstrated within the front, side and rear yards. This equates to 19 percent of the total site area. The 6 percent shortfall in soft landscaping is not ideal, however this reflects the only shortfall when assessed against the Design Code and is not considered to be significantly at variance. It is acknowledged that the applicant has sought to mitigate this by way of incorporating more than 1 of the required trees, as prescribed by the Code. The proposal demonstrates the planting of 7 small to medium trees, which is considered a positive offset of the shortfall in soft landscaping.

Visual Privacy

As per the Line of Sight Plan found in Attachment 1 (and below), the topography of the land is such that there is a drop to the rear of the site, which results in overlooking into neighbouring yards. The proposed development will result in finished levels that are similar to the line of sight currently experienced, hence, on balance visual privacy from ground level will be largely unchanged. The applicant has opted to include a free standing screen adjacent to the southern side elevation of the terrace to prevent any direct views into the southern adjacent property. As per the Line of Sight Plan, the proposal has achieved the Performance Outcome 31.2 objective, which is to minimise impacts on privacy. In comparison with the current extent of overlooking, the proposal has reduced the degree of overlooking.



The photos below show the current view achieved from the existing finished floor level, which is 100.56 (260mm higher than the proposed dwelling floor level (100.30)), and therefore an improvement on the existing situation:



Looking north-east towards the rear corner



Looking east toward the rear boundary



Looking south-east toward the rear corner

Upstairs windows have sill heights or obscured up to 1.5 metres above the finished floor level. A condition of planning consent is included to reinforce this for all side and rear windows.

Regarding the front balcony, the Design Code has the following parameters:

<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
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The adjacent public road has a width of 12.5 metres, however the balcony is located some 18 metres from the nearest habitable room window or private open space area whereby the requirement for screening is not required.

CONCLUSION

The proposed development is considered to reasonably satisfy all relevant Design Code criteria. The only areas in which the proposal fails, are considered to be negligible variances such as a small portion of the front setback and soft landscaping, which is mitigated with the provision of 7 small to medium trees.

RECOMMENDATION

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 21025191, by Hayden Doak is granted Planning Consent subject to the following conditions

CONDITIONS

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. That all upstairs windows on side and rear elevations 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 or as otherwise approved.
3. 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.
4. That landscaping as detailed in the approved plans shall be planted prior to occupation and shall be maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
5. 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).
6. That the associated filter pump must be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.

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: Dean Spasic

Title: Development Officer - Planning,

Date: 08/10/2021