

DEVELOPMENT NO.:	21039035
APPLICANT:	Alan Cooper
ADDRESS:	43A MARLBOROUGH ST BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Three storey detached dwelling
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:	20 Dec 2021
RELEVANT AUTHORITY:	Assessment panel
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Dean Spasic Development Officer - Planning,

CONTENTS:

ATTACHMENT A: Compromise report and plans	ATTACHMENT 3: Zoning Map
ATTACHMENT B: Decision Notification Form	ATTACHMENT 4: Representation Map
ATTACHMENT C: Refused Plans	ATTACHMENT 5: Representations
ATTACHMENT D: Previous CAP Report	ATTACHMENT 6: Response to Representations
APPENDIX 1: Relevant P&D Code Policies	ATTACHMENT 7: Prescribed Body Responses
ATTACHMENT 1: Application Documents	ATTACHMENT 8: Internal Referral Advice
ATTACHMENT 2: Subject Land Map	ATTACHMENT 9: Applicants Responses

Background

On the 24 August 2022, the Council Assessment Panel resolved to Refuse the proposed development for the following reasons:

- Does not sufficiently meet General Neighbourhood General Policy Desired Outcome (DO 1) of low rise suburban character of up to 2 levels.
- Exceeds maximum building levels and height anticipated for the zone (DTS 4.1)
- Exceeds wall heights from natural ground level (DTS 7.1)
- Does not sufficiently mitigate visual mass when viewed from adjoining allotments or public space (PO 20.3).

Following the refusal, the applicant lodged an appeal in the Environment, Resources and Development Court.

Compromise Plans

The applicant has submitted a set of compromise plans with the following amendments to the design:

- Re-designed driveway and drop in garage finished floor level, which reduces the total building height by 450mm;
- Increase in ground level wall setback from western side boundary from 1 to 1.36 metres;
- Improvement to visual privacy by way of screening up to 1.8 metres in height along part of the western side elevation of the rear balcony/terrace;
- Improved landscaping design, resulting in additional plantings, including a vertical garden along the western boundary; and
- Some changes to the render texture and colour to the western façade.

Assessment of Amendments

Building Height, Levels and Scale

The decrease in building height by 450mm, now results in a building that sits lower than the two adjacent two storey dwellings, this improves the built form appearance in terms of scale. It is noted that the building remains three storey, therefore does not meet the definition of low-rise (*up to and including 2 levels*).



The overall reduction in the building height does reflect a positive improvement in the design, in that when viewing the building from the streetscape, its overall height sits lower than the neighbouring two storey dwellings, thus heavily reducing the visual interpretation relative to the number of storeys. That being, although it is three storeys, it will sit lower than neighbouring two storey buildings.

Wall Heights

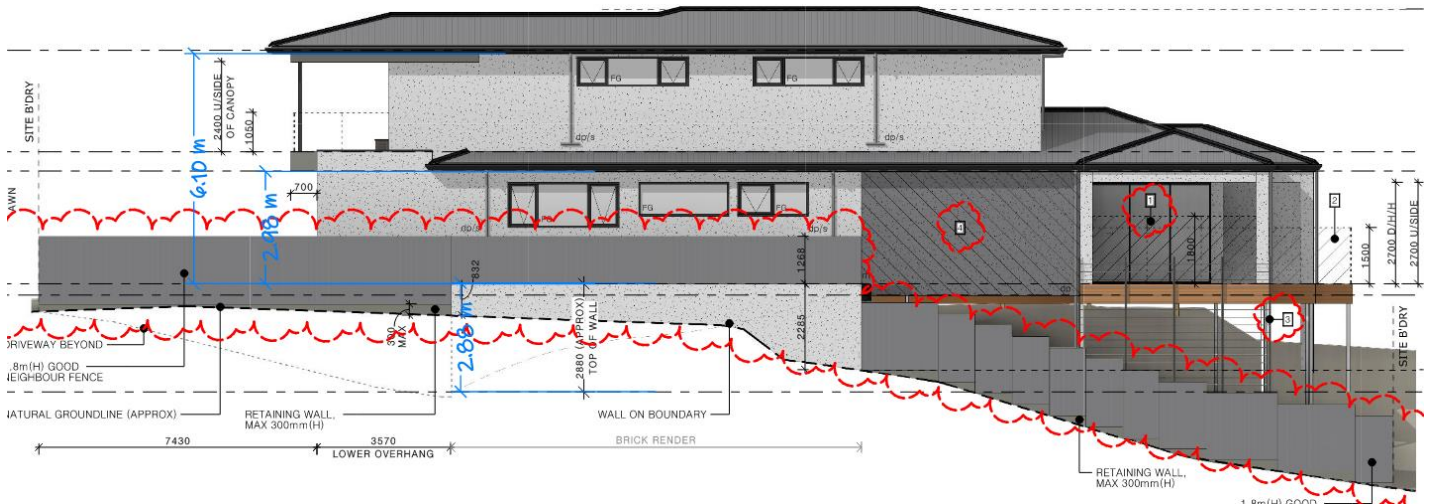
Where walls are not on the boundary, the wall heights, relative to the footings, satisfy DTS 4.1 (whereby a 'wall height' is defined as *the height of a wall measured from the top of its footing*).

The boundary wall is 2.88 metres in height above the top of the footing, as prescribed in DTS 7.1 and comprises a length of 11 metres, which satisfies DTS 7.1 (maximum height of 3 metres and maximum length of 11 metres). Furthermore, the maximum boundary wall height above natural ground level is 2.3 metres, which is the result of the wall being mostly below natural ground level.

The ground level wall is 2.98 metres above the footing, and the upper level wall is 6.1 metres above the footing, therefore satisfying DTS 4.1, which allows a maximum height of 3 and 7 metres.

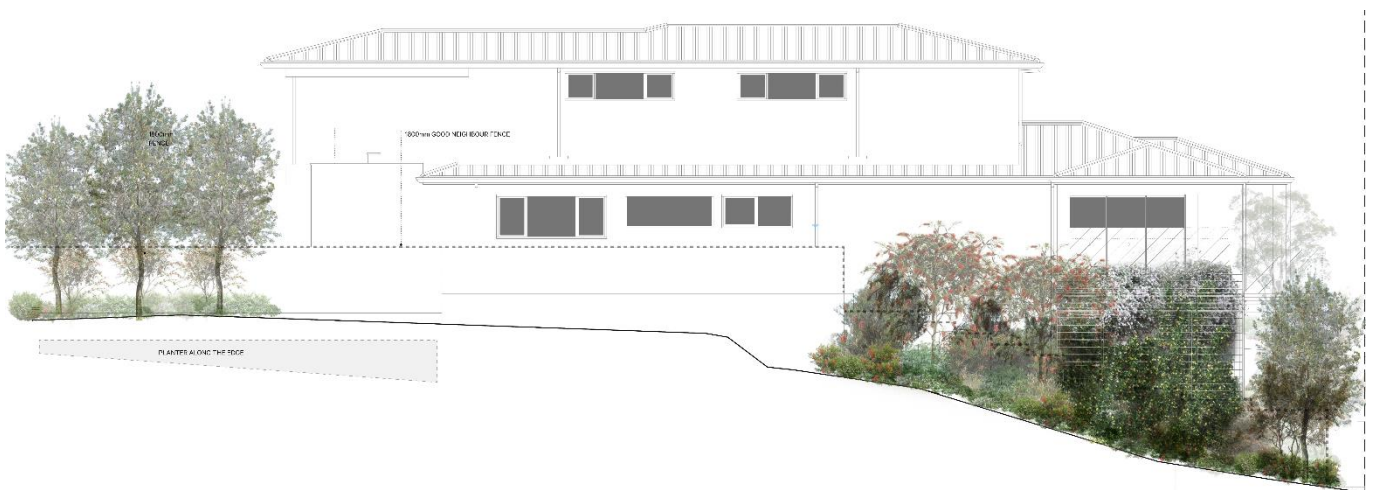
The boundary wall is 2.88 metres in height, relative to the footing.

Refer to highlighted dimensions in blue:



Western Side Boundary Setback

The increase in the ground level western side boundary setback by 360mm along with increased landscaping, including an emphasis on vertical plantings, is also considered a positive adjustment and directly addresses visual mass when viewed from adjoining allotments.



As noted, privacy screening has also been increased along the western elevation of the rear balcony/terrace, which contributes to improving privacy.

CONCLUSION

The proposed amendments are considered to reflect a positive response to the reasons for refusal, whereby the only outstanding design failure relates to the number of storeys, which are considered to be reasonably addressed by way of the fact that the building sits lower than the neighbouring two storey buildings, therefore the proposed building itself is not considered project a size and scale that is typically anticipated for a three storey building, particularly when positioned alongside two storey buildings.

RECOMMENDATION

It is recommended that the Council Assessment Panel advise the Environment, Resources and Development Court in the matter of Case Number ERD-22-000135 ALAN COOPER v CITY OF HOLDFAST BAY ASSESSMENT PANEL, that the Panel supports Application ID 21039035, as amended, subject to the following 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 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.
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 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.
5. The rear balcony shall comprise obscure glass balustrade up to a minimum height of 1.5 metres above the finished floor level on the side and rear elevations, and screening up to 1.8 metres in height above the finished floor level on the western elevation of the rear balcony which sits 300mm from the western side boundary, as referenced on the *Lower A2 Floor Plan*, Sheet C3 and *Left & Right* western side elevation, Sheet C6.
6. 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).

OFFICER MAKING RECOMMENDATION

Name: Dean Spasic

Title: Development Officer - Planning

Date: 06/09/2022