

DEVELOPMENT NO.:	21032932 – Appeal Item
APPLICANT:	Yuri Bezeruk
ADDRESS:	4 ROWE ST SOUTH BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Construct 2, two storey Houses in battle axe/hammerhead configuration, with retaining walls up to 1.6m and fence on top
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 • Traffic Generating Development • Urban Tree Canopy
LODGEMENT DATE:	10 Feb 2022
RELEVANT AUTHORITY:	Assessment panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	2022.3
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
RECOMMENDING OFFICER:	Michael Gates Development Services (Planning and Building) Lead

DETAILED DESCRIPTION OF PROPOSAL:

This application is for the construction of two, two storey dwellings with associated retaining walls and fences. The dwellings are in the form of a hammerhead design, with the rear dwelling being accessed via driveway that runs along the western side of the site. The dwellings will be constructed with Hebel panel with a render finish, aluminium windows and corrugated colorbond roof. The front dwelling is setback 5 metres from the street and is accessed by a separate driveway.

To accommodate the natural slope of the site, retaining walls are proposed.

There is currently a single storey dwelling on the site that will be demolished to make way for this development.

BACKGROUND:

The application was lodged in February 2022 and was subject to notification, before being determined the Council Assessment Panel at the meeting on 25 May 2022. At the meeting the Panel refused the application for the following reasons:

1. *Does not positively and contextual contribute to the immediate built environment Desired Outcome – Design in Urban Areas (DO1)*
2. *Is a Battle Axe Development, contrary to General Neighbourhood PO 2.3 (vii), PO 8.1 and Design in Urban Areas PO 31.4*

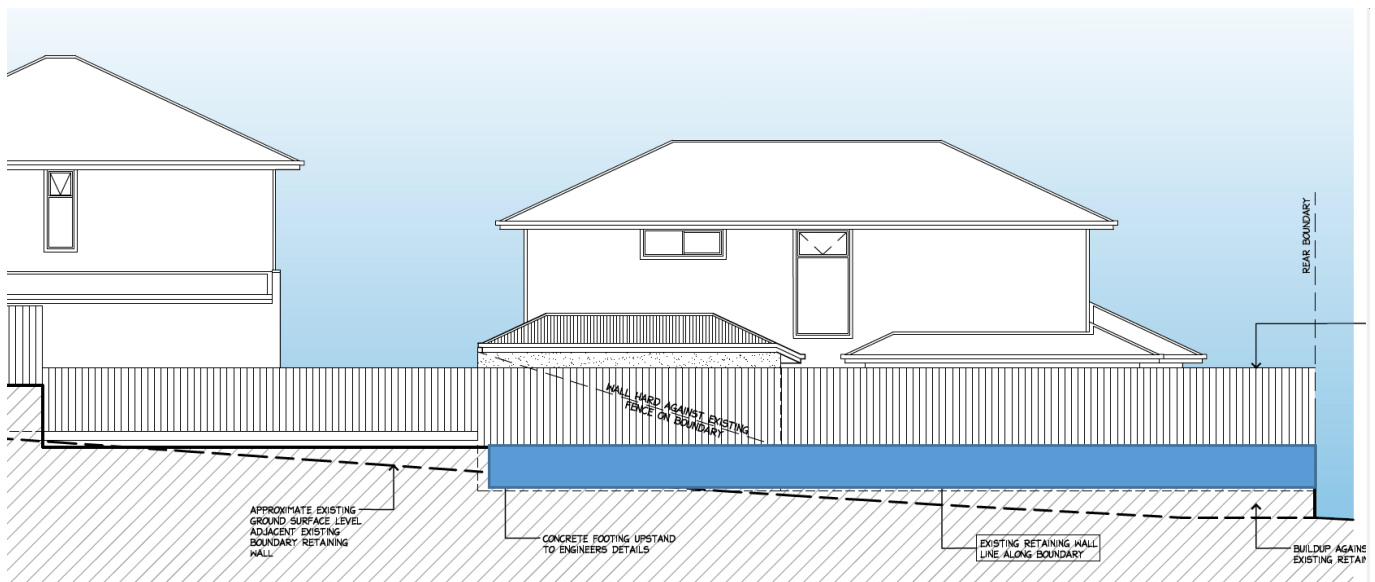
3. Does not meet Design in Urban Areas PO 8.1 – (b) Fill exceeds 1m in height and (c) cut /fill exceeds 2m (approximately 2.3m over allotment).
4. Does not meet Design in Urban Areas 20.3 and 31.2. Does not reduce visual mass (site works and design increases bulk of buildings)
5. Does not meet Landscaping requirements 34.2 (a) or (b)
6. Fence Height will exceed 3m – General Neighbourhood Zone PO/DTS 3.2(b)

PLANNING ASSESSMENT

The applicant has lodged an appeal with the Environment, Resources and Development Court (ERD) and has provided an amended in order to seek a compromise in the appeal matter. The plans have been amended to lower the floor level of the rear dwelling and provide further detail about the landscaping at the front of the property.

The reduced floor level means that the amount of retaining on the site is no greater than a metre in height, and the combined wall and fence is no more than 2.8 metres. The reduction in floor level and retaining is considered to appropriately address reason reasons 1, 3, 4 and 6 for refusal.

The applicant has provided further detail in regards to the level of the retaining wall on the neighbouring property to the east. House 2 will have a floor level approximately 600mm lower than the adjacent property to the east as shown on the plans below. The area shaded in blue represents the existing retaining wall on the eastern boundary that will sit above the proposed floor level of House 2, with the floor level of house 2 at the base of the blue shading.



Reason 2 for refusal was that the development is in the form of a hammerhead development contrary to several Performance Outcomes in the Planning and Design Code. Hammerhead dwellings are a form of development allowed for in the General Neighbourhood Zone given that they are mentioned in the land division section and other multiple policies within the Zone provisions and have assessment pathways. Hammerhead is a form of development that does not have a Deemed to Satisfy pathway, and therefore the DTS/DPF will be blank, or say for it not to occur. That means that it is a performance outcome form of development and should be assessed on its merits, rather than the DPF.

In regards to landscaping, the amount of landscaping in front of house 1 has been increased by tampering the driveway which allows additional landscaping to the sides. The site plan has also been amended to show the trees that will be planted on the site, and the species to the side of the driveway. These include small grass *Lomandra Longifolia*, with *Callistemon Viminalis* planted in between. This will help soften the appearance of the driveway and is considered to sufficiently satisfy the landscaping provisions of the Planning and Design Code.

CONCLUSION

On balance the proposed amendments are considered to satisfy to reasons for refusal and reduce the impact off the development on the adjacent properties

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. That the Environment, Resources and Development Court be advised that the Council Assessment Panel supports the amended plans as a compromise in the Appeal Matter of ERD22-137 Yuri Alan Bezeruk v City of Holdfast Bay Assessment Panel, subject to the following conditions of consent.

CONDITIONS

Planning Consent

1. The development granted approval shall be undertaken and completed in accordance with the amended plans and documentation, except where varied by conditions below (if any).
2. That all upstairs windows, other than facing the street of the front dwelling, 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.
3. That the finished level of the crossover at the property boundary shall be a minimum of 75mm above the top of kerb in accordance with AS2890.1, and the maximum gradient of the driveway shall not be greater than 5% across the footpath, with the invert profile conforming to AS2876.

Furthermore, the footpaths on either side shall be graded to the driveway preventing tripping hazards at this junction, without any steep grades along the footpath.

The provision for vehicle crossovers and inverts, and reinstatements of existing crossovers not required by the development, be constructed at the owner's expense. The new crossover must be no closer than 2 metres to a street tree.

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. 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: Michael Gates

Title: Development Services (Planning and Building) Lead

Date: 7 October 2022