

DEVELOPMENT NO.:	21026623
APPLICANT:	City of Holdfast Bay Council
ADDRESS:	410-420 BRIGHTON RD HOVE SA 5048
NATURE OF DEVELOPMENT:	Installation of 59m of new ball stop netting including 6 posts 7.4m above ground, located at the northern end of Brighton lacrosse field
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Recreation <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Flooding) • Airport Building Heights (Regulated) • Traffic Generating Development • Key Railway Crossings • Regulated and Significant Tree • Major Urban Transport Routes • Heritage Adjacency • Hazards (Flooding - General) • Local Heritage Place • Prescribed Wells Area • Advertising Near Signalised Intersections
LODGEMENT DATE:	2021.5
RELEVANT AUTHORITY:	Assessment panel
PLANNING & DESIGN CODE VERSION:	10 Sep 2021
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Michael Gates Development Services (Planning and Building) Lead
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	None

CONTENTS:

APPENDIX 1: Relevant P&D Code Policies

ATTACHMENT 1: Submitted Plans

ATTACHMENT 2: Representation

ATTACHMENT 3: Response to representation

DETAILED DESCRIPTION OF PROPOSAL:

Installation of 59m of new ball stop netting including 6 posts 7.4m above ground, located at the northern end of Brighton lacrosse field.

SUBJECT LAND & LOCALITY:

Site Description:

The subject site is located on the eastern side of Brighton Road, south of Stopford Road. The site is currently leased by a number of different sporting club, with the development located to the north eastern corner of the site which is predominately used by the Lacrosse club.

Location reference: 410-420 BRIGHTON RD HOVE SA 5048

Title ref.: CT 5733/512 **Plan Parcel:** F40109 AL5 **Council:** CITY OF HOLDFAST BAY



Image: Aerial view of the site and locality marked in Red, with the location of the net in yellow, the representors property is circled in green

Locality

The exception of the subject site, the locality is predominately residential, with a primary school located to the south of the site. Other notable elements of the locality include Brighton Road which has a very high number of traffic movements, and the railway line to the north of the locality. The subject site is made of up multiple sporting clubs and ovals, which creates a large open space area, which is also available to the general public when not being used by the clubs.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:** Other - Community - lacrosse field: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**

The proposal required notification as it is not a type of development listed as a being exempt from notification, and is considered not to be of a minor nature.

- **LIST OF REPRESENTATIONS**

Mr A Lavery – 41 Stopford Road Hove – Oppose the development (does not want to be heard)

- **SUMMARY**

The concerns raised in the representation seek to have the net reduced in height, and also to be removed when not in use.

The applicant has responded by stating that the height of the net is required to protect adjacent properties, and is required all year round as it will be used by both summer and winter sports. It is noted that there are 7 juvenile trees planted on the northern boundary in response to the concerns raised

It is also noted that the representor's property does not directly abut the proposed development, so some of the requests made in the representation will not impact.

Therefore it is considered that the applicant has sufficiently addressed the concerns of the representor.

NO REFERRALS REQUIRED

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. There is limited guidance from the Planning and Design Code given the unique nature of this development, which is not a form of development anticipated by the Code. That does not make it unreasonable, as the proposed netting further enables the existing use on the site. Significant consideration is given the amenity impacts of the proposal will have on the adjacent properties, and previous case law where similar structures have been assessed by the ERD Court.

Land Use

The site is currently used as open space playing fields for a number of sporting clubs, including, cricket, rugby, football and lacrosse. The proposed development does not alter the existing use which is consistent with the desired outcome for the Recreation Zone.

Recreation Zone

Assessment Provisions (AP)

Desired Outcome	
DO 1	Provision of a range of accessible recreational facilities.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Building Height

The proposed height of the netting is to be 7.35 metres. The Planning and Design Code does not give any clear guidance in regards to height in regards to this type of structure, but the proposed height is considered reasonable in this instance given the visually permeable nature of the structure. The height is required to stop any balls from going into the neighbouring properties.

Setbacks, Design & Appearance

The proposed netting and associated poles will be located in close proximity to the property boundaries of the north end of the site. Given the visually permeable nature of the structures and the relatively small diameter of the poles, the setback is considered reasonable in this instance and will not unreasonably impact on the amenity of the neighbouring properties.

The length of the netting is required to be the length proposed to ensure that it is suitable for purpose and as long as the playing fields.



Location where netting is proposed

Heritage

The subject site has a heritage adjacency overlay as there are heritage listed trees on the Stopford Road frontage. Given the semi-transparent nature of the netting and the distance to the trees, the proposal is considered to have no impact on the heritage character of the trees.

Traffic Impact, Access and Parking

The development will not impact on the existing traffic and access arrangements and the proposal will not alter the traffic movements.

Amenity Value

The main issue with this proposal is the impact that it will have on the amenity of the locality, due to the visual impact and the proximity to the residential properties. In assessing the impact on the amenity it is important to note previous case law, which has involved development of community accessible facilities similar to this, such as tennis court lighting. In those assessments, it has been noted that residents adjacent a community recreational facility should expect a lower level of amenity due to the impacts associated with the recreational facilities. It is also noted that adjacent residents also have the benefit of the public open space in close proximity to their property. Developments such as this service the whole of the community, and therefore it is reasonable to assess the application as to how it impacts, and provides benefits the whole of the community. Whilst there will be some visual

impact to the neighbouring properties, the permeable design of the netting means that will be minimised and there will be no overshadowing, or loss of light. It is worth noting that the representor does not directly abut the site and will not be directly impacted by the netting. The development will also allow for greater enjoy of the site, and assist in protecting the properties from stray balls.

The issue of how this relates to the adjacent properties is covered in the findings of *GARDNER & ANOR v CITY OF BURNSIDE & ANOR* [2013] SAERDC 14 in Para 75 & 76.

75 *In Lanzilli Holdings v City of Campbelltown (1982) 32 SASR 81 at 85 Jacobs J dealt with a comparable situation, in which occupants of dwellings close to an industrial use argued that noise from that use created an unacceptably adverse impact on their amenity. In his judgment in that matter, His Honour observed, inter alia, that “the amenity of the locality ... has to be judged by reference to the locality as a whole, and not by reference only to the houses located closest to the Industrial Zone ... the amenity of such a locality is not to be measured by the standards appropriate to a solely residential zone, and the amenity and convenience of those who choose to live on the very boundary of the Light Industrial Zone ought not necessarily to be regarded as the appropriate standard of amenity and convenience for the locality as a whole”.*

76 *Similarly, those residing next to a substantial recreational reserve cannot expect the levels of amenity and convenience characteristic of residential areas well removed from such a reserve. I accept that, in this matter, Miller Reserve is located wholly within the Residential Zone. Nevertheless, proximity to the Reserve does create some adverse impacts on the residences of those directly abutting it, principally light spill and noise, which impacts are not typically experienced in the greater part of the Residential Zone. The limited additional impact occasioned by the subject proposal will, on the evidence, be confined largely to those immediately neighbouring the subject land. Again, on the evidence, that is 54 and 62 Sturdee Street and 7 Hawke Street. I agree with the evidence of Mr Rumsby that those impacts have to be balanced against the wider community benefits deriving from the subject proposal, particularly having regard to the fact that the amenity currently enjoyed by those residing immediately adjacent Miller Reserve is not the amenity characteristic of the Residential Zone as a whole.*

The netting and associated poles are proposed to be in a black colour which is considered to be reasonable in this instance and assist to minimise the visual impact of the structures.

CONCLUSION

On balance the proposal is considered to reasonably accord with the relevant principles of the Planning and Design Code, and will not unreasonably impact on the amenity of the locality and therefore warrants Planning Consent.

RECOMMENDATION

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 21026623, by City of Holdfast Bay Council be 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

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:** Michael Gates**Title:** Development Services (Planning and Building) Lead**Date:** 18 November 2021