

DEVELOPMENT NO.:	25009679
APPLICANT:	Paula Gray
ADDRESS:	159B ESPLANADE BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Two level building comprising garage on ground level and ancillary accommodation on first level
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Waterfront Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Coastal Flooding • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Finished Ground and Floor Levels (Minimum finished ground level is 3m AHD; Minimum finished floor level is 3.25m AHD) • Minimum Frontage (Minimum frontage for a detached dwelling is 5m; semi-detached dwelling is 5m; row dwelling is 5m; group dwelling is 5m; residential flat building is 5m) • Minimum Site Area (Minimum site area for a detached dwelling is 300 sqm; semi-detached dwelling is 250 sqm; row dwelling is 200 sqm; group dwelling is 200 sqm; residential flat building is 200 sqm) • Maximum Building Height (Levels) (Maximum building height is 3 levels)
LODGEMENT DATE:	13 Apr 2025
RELEVANT AUTHORITY:	Assessment Panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2025.7 10/04/2025
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 1: Application Documents

ATTACHMENT 2: Representations

SUBJECT LAND & LOCALITY:

Site Description:

The subject site is approximately 485sqm and contains an existing 2 level semi-detached dwelling with an outbuilding/garage in the rear yard, which is sought to be demolished to accommodate the proposed building. The site has a secondary frontage to Cambridge Terrace, which provides vehicle access to the garage at the rear of the subject land.

There is no vehicle access from the Esplanade for the subject land or the associated semi-detached dwelling. This neighbouring dwelling at 159A Esplanade has a garage on the Cambridge Tce frontage and it is understood they have a right-of-way access over the driveway leading to the rear 159B.

Locality

The locality is typical of the Waterfront Neighbourhood Zone, which comprises dwellings predominately in the range of 2 to 3 levels. Most of the buildings in this locality are of a relatively large scale, with domestic structures such as verandahs and outbuildings located in rear yards. Overshadowing of neighbouring dwellings to the south is common, with 2-3 level dwellings fronting the Esplanade more concerned with ocean views to the west.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Residential - Ancillary accommodation: Code Assessed - Performance Assessed
Outbuilding (Carport or garage): Code Assessed - Performance Assessed
Carport or garage
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

REASON

Ancillary accommodation building wall height on two boundaries exceeds 3 metres above ground level.

LIST OF REPRESENTATIONS

- John Tanti of 159C Esplanade, Brighton
- Greg Schultz of 159A Esplanade, Brighton
- Elfriede Driscoll of 18 Cambridge Terrace, Brighton

SUMMARY

Please refer to Attachment 2 for specific details pertaining to the 3 representors who have highlighted their opposition to the proposed development. Issues of concern include building scale on the boundary, amenity, overshadowing, overlooking and car parking.

PLANNING ASSESSMENT

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

Question of Seriously at Variance

The proposed development is a two-level building comprising a garage at ground level and ancillary accommodation on the first level. It is in the Waterfront Neighbourhood Zone, where development of this nature is generally appropriate within the site, locality and Zone, as the Zone anticipates ancillary accommodation, outbuildings and dwellings of up to three levels.

The proposed development is not considered to be seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

Ancillary accommodation is defined in the Code as 'accommodation that:

- a) is located on the same site as an existing dwelling and is ancillary to that dwelling; and
- b) can be (but need not be) self-contained; and
- c) contains no more than 2 bedrooms or rooms or areas capable of being used as a bedroom'.

Built Form and Appearance

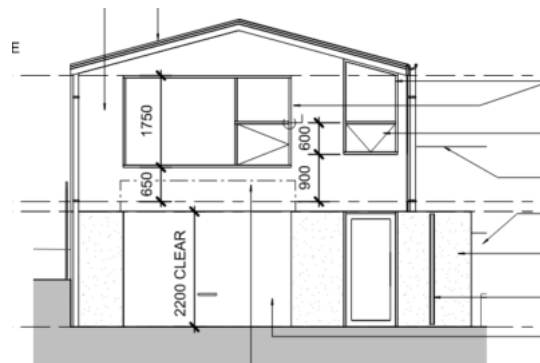
The proposed building has a length of 7.8 metres and width of 6.4 metres. This results in a floor area of 49 square metres, which is within the anticipated range in terms of footprint coverage. Zone DPF 12.4 guides outbuilding floor areas of up to 60sqm for allotments up to 500sqm, or 80sqm for allotments >80sqm.

From the northern, secondary street perspective (Cambridge Terrace), the building presents as a two-level building with the garage at ground level and ancillary accommodation at the upper level. The building is setback 12.1 metres from the secondary street boundary, therefore its visual presence on the street is negligible.

From the eastern rear perspective, when measured from the adjacent ground level of the driveway to 159C Esplanade, the boundary wall height is in the range of 3.55 to 4.1 metres high.

From the southern perspective, particularly when measured from the ground level of the rear yard of 159C, the proposed building wall will be 3.55 metres high, with the 15-degree pitch gable end extending to a total height of 4.4 metres.

Generally, the built form proposed is considered to be complementary to that found within the immediate and surrounding locality, which contains many multi-level buildings of various architectural styles.



NORTH ELEVATION GARAGE

Boundary Setbacks

The building is located on the eastern rear and southern side boundaries, with wall heights as expressed above, which exceed 3 metres. The walls have a total boundary length that is within the maximum of 11.5 metres guided by Zone DPF 7.1.

The proposed development was subject to public notification due to the boundary wall heights exceeding 3 metres (in the range of 3.55 to 4.4 metres at the highest point of the gable ends).

The Zone anticipates outbuildings located on side and rear boundaries, albeit with a maximum wall height of 3 metres, or of a nature that does not detract from the streetscape or appearance of buildings on the site or neighbouring properties. Zone PO 7.1 seeks that 'Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.

When considering the context of this site, the proposed building is adjacent to the southern neighbour's driveway, swimming pool and verandah. The street presentation is acceptable given the 12.1 metre setback from Cambridge Terrace.

It is noted that the overall building height on the southern boundary will result in an increased level of shadowing to the swimming pool and private open space, beyond the impacts from the existing garage and fence. However, it is not considered to be unacceptable in the context of the existing and anticipated 2-3 level buildings in the Zone, and the following General Development Policies for Interface Between Land Uses:

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.

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:

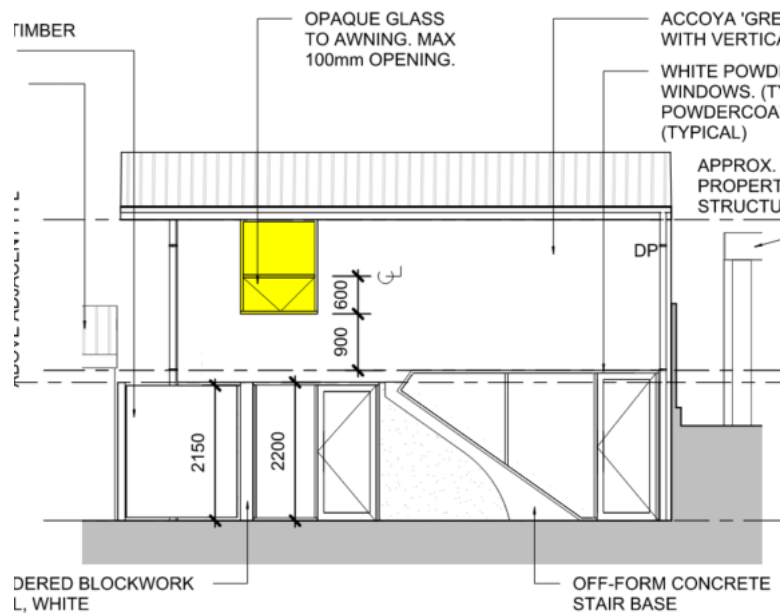
i. half the existing ground level open space

or

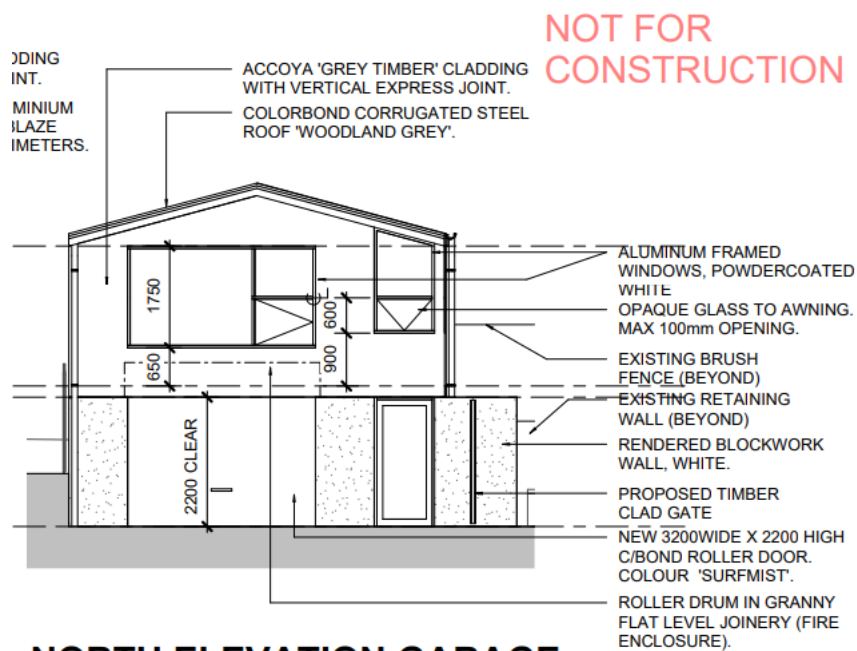
ii. 35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)

Visual Privacy

Western and some northern upstairs windows are opaque up to a height of 1.5 metres above the floor level, as sought by the Code. One large window on the northern elevation does not include obscure glazing. A condition of planning consent is recommended to reinforce the requirement for visual privacy to be achieved. If desired, a variation application can be assessed at the time of construction to view any impacts on neighbouring dwellings.



WEST ELEVATION GARAGE

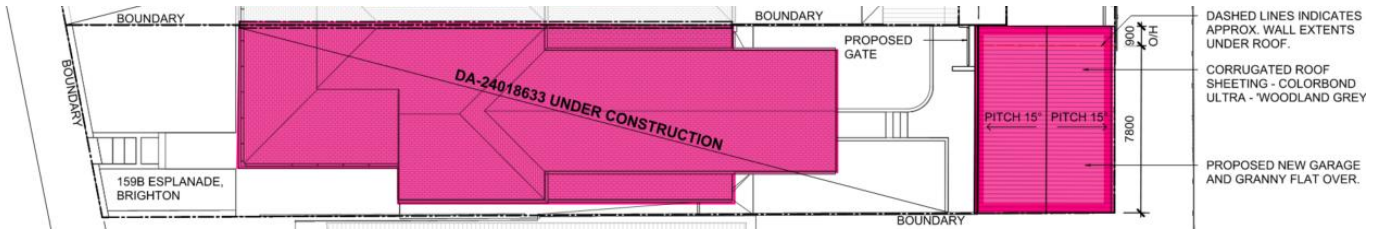


NORTH ELEVATION GARAGE

1 : 100

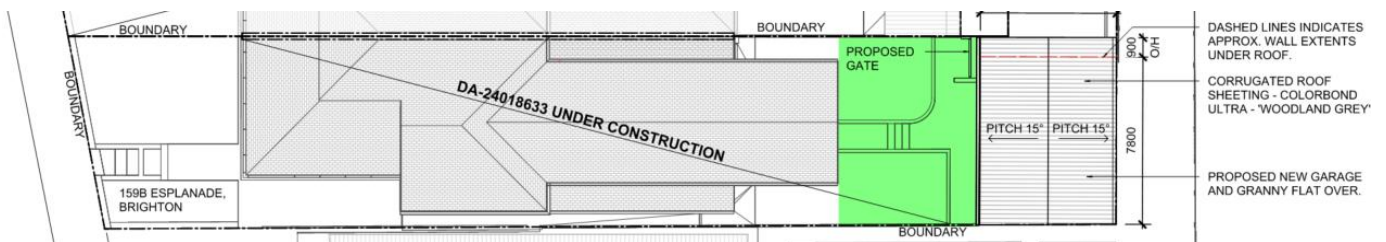
Site Coverage

The building results in an overall site coverage of 60 percent of the allotment, which matches the maximum site coverage guided ed by Zone DPF 3.1.



Private Open Space

The proposed building results in a private open space area of 57 square metres, which is under the minimum 60 square metres guided by the General Development Policies in the Code. The 3 square metre shortfall is considered reasonable in context with the location of the site being less than 20 metres from the beach and the main dwelling oriented for ocean views with a front balcony.



Soft Landscaping

The Code anticipates that sites with an area of between 201 and 450 square metres (424 square metres in this case) retain a minimum area of soft landscaping of 20 percent of the site area or otherwise no less than the existing amount prior to the development.

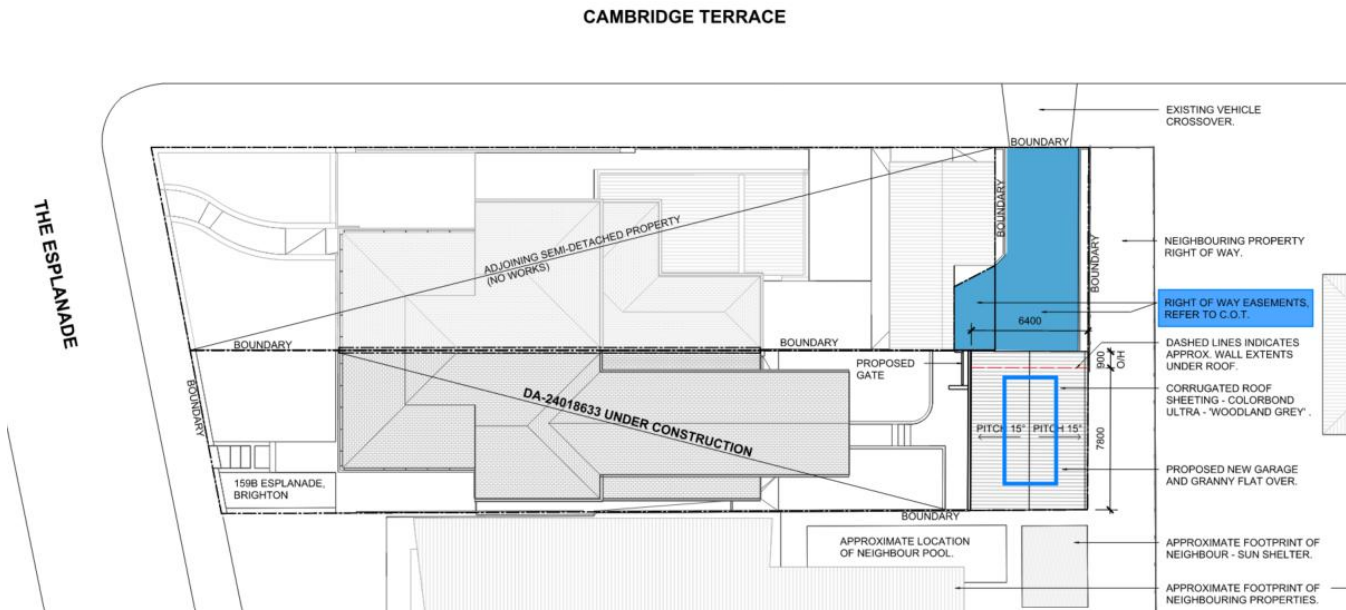
A separate development application 24018633 comprising dwelling additions and new garage was approved by Council in November 2024. The approved garage comprises a floor area of 7.7 x 7.3 metres for a floor area of 56 square metres. This is larger than the proposed outbuilding and ancillary accommodation.

The proposed development therefore comprises a total area of soft landscaping that is equal to the existing soft landscaping already approved.

Vehicle Access and Car Parking

The proposed development continues the current arrangement of providing one undercover parking space. There is no provision for a second space as the driveway forms an unrestricted right of way to 159A Esplanade. This driveway is required to be kept clear at all times, strictly for vehicle manoeuvring.

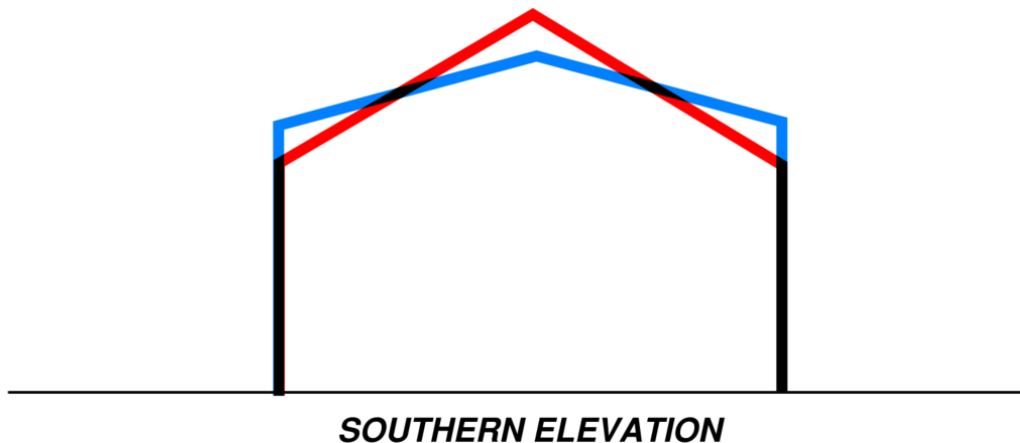
The car parking rate in the Code for ancillary accommodation is for 'No additional requirements beyond those associated with the main dwelling.'



CONCLUSION

The proposed development exceeds the desired 3m wall height on boundaries guided by Zone DPF 7.1. However, in the context of the site, topography and surrounding building heights and positions, it is considered to satisfy Zone PO 7.1, seeking that 'walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties. On balance, the additional wall height and other minor Code shortfalls are considered to be acceptable in terms of actual impacts on neighbouring land and usability of the site.

For instance, the 3.55 to 4.4 metre peak height of boundary walls do not result in adverse impacts to neighbouring properties that would be substantially more than 'as of right' development (Accepted or Deemed To Satisfy). For instance, the southern boundary wall, which ranges from 3.55 to 4.4 metres in height, could be setback 900mm from the southern rear boundary, but have a 3-metre-high wall and total height of 5 metres. That would generally present a similar visual and shadowing impact, particularly relative to the neighbour's swimming pool. The diagram below illustrates this, with the blue outline depicting the proposed building form, and the red outline depicting the parameters as prescribed by the Code in terms of building scale:



As discussed earlier, private open space is measured at 57 square metres, which is only 3 square metres under the minimum area sought by the Code. The shortfall here is considered to be negligible, particularly considering the occupants have access to kilometres of uninterrupted beaches within 20 metres of the front boundary.

Vehicle parking comprises only 1 space, however this maintains the status quo of retaining the single garage that has historically been available on the property. This satisfies the rate in the Code for ancillary accommodation.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 25009679, by Paula Gray 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.
2. That all upstairs windows shall have minimum windowsill heights of 1.5 metres above finished floor level, or any glass below 1.5 metres shall be obscured and fixed shut, prior to occupation of the ancillary accommodation.

ADVISORY NOTES

Planning Consent

Advisory Note 1

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

Advisory Note 2

The owner/applicant is advised that infrastructure located within Council Road reserve (i.e. area between the kerb and allotment boundary) should be designed and constructed (including modified) in accordance with relevant / current Council standards. This includes, but is not limited to, driveway crossovers, alterations to kerbing and footpaths, stormwater easement connections and domestic stormwater connection to the street water table.

Advisory Note 3

If you are a developer or owner-builder, there are important Commonwealth telecommunications rules you need to comply with. For more information visit www.infrastructure.gov.au/tind

Advisory Note 4

The owner/applicant is advised that consent from any relevant easement or encumbrance owner may be required prior to any construction. Easements may include, but are not limited to: drainage, Council easements (i.e. stormwater, encroachments, access etc), power transmission (SA Power Networks), telecommunications, or other forms of access (such as vehicle) rights of way.

Easements and encumbrances would be registered on the relevant Certificate of Title. The location of easements on the land would be shown on the Deposited Plan. A copy of the Certificate of Title and Deposited Plan can be obtained from the South Australian Integrated Land Information System (SAILIS) at:
<https://sailis.lssa.com.au/home/auth/login>

Advisory Note 5

If excavating, it is recommended you contact Before You Dig Australia (BYDA) (www.byda.com.au) to keep people safe and help protect underground infrastructure.