

DEVELOPMENT NO.:	24034779
APPLICANT:	Mr John and Elisha Tsoutsikos
ADDRESS:	53 MARINE PDE SEACLIFF SA 5049
NATURE OF DEVELOPMENT:	Appeal Report Variation to Application ID 23037611 for the construction of a pair of two level detached dwellings, fences and retaining walls comprising the addition of a third level to both detached dwellings
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Character Area • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 12m; semi-detached dwelling is 12m; row dwelling is 12m; group dwelling is 12m; residential flat building is 12m) • Minimum Site Area (Minimum site area for a detached dwelling is 450 sqm; semi-detached dwelling is 400 sqm; row dwelling is 350 sqm; group dwelling is 350 sqm; residential flat building is 350 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level)
LODGEMENT DATE:	14 Oct 2024
RELEVANT AUTHORITY:	Assessment panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.18 10/10/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Dean Spasic Development Officer - Planning

CONTENTS:

ATTACHMENT 1:	Compromise Plans
ATTACHMENT 2:	Refused Decision Notification Form and Plans
ATTACHMENT 3:	Panel Report from the 26 March 2025 CAP meeting
APPENDIX 1:	Relevant P&D Code Policies

BACKGROUND:

A variation application comprising the construction of a third level to application ID 23037611 for the construction of a pair of two level detached dwellings, fences and retaining walls was considered by the CAP on the 26 March 2025 and refused for the following reasons:

1. Does not contribute to the predominant character of the neighbourhood nor complement the height of the nearby dwellings PO 4.1 ENZ;
2. Does not have the consideration to the values expressed in the character area statement PO 1.1 CO and does not consider, in particular, architectural style, scale and building height HOB1;
3. Does not sufficiently satisfy PO 8.1 ENZ side boundary setbacks. Does not complement the established character;
4. Does not sufficient meet the prevailing wall heights in character overlay PO 2.1 and 2.2. The proposal is still higher than adjoining dwellings.

Following the refusal, the applicant lodged an appeal through the Environment, Resources and Development Court (ERD-25-000025) in the matter of John Tsoutsikos and Elisha Tsoutsikos v. Assessment Panel at City of Holdfast Bay. The applicant has opted to submit a compromise plan with the aim of addressing the reasons for refusal.



Compromise Plans:

The compromise plans submitted comprise:

53A Marine Parade

- A reduction in building height by way of reduced finished floor levels by 350mm resulting in a lower building profile;

- Adjusted external steps to accommodate the floor level changes;
- Lowered lawn area by 100mm to ensure sufficient tolerance for the highlight windows of gym room.



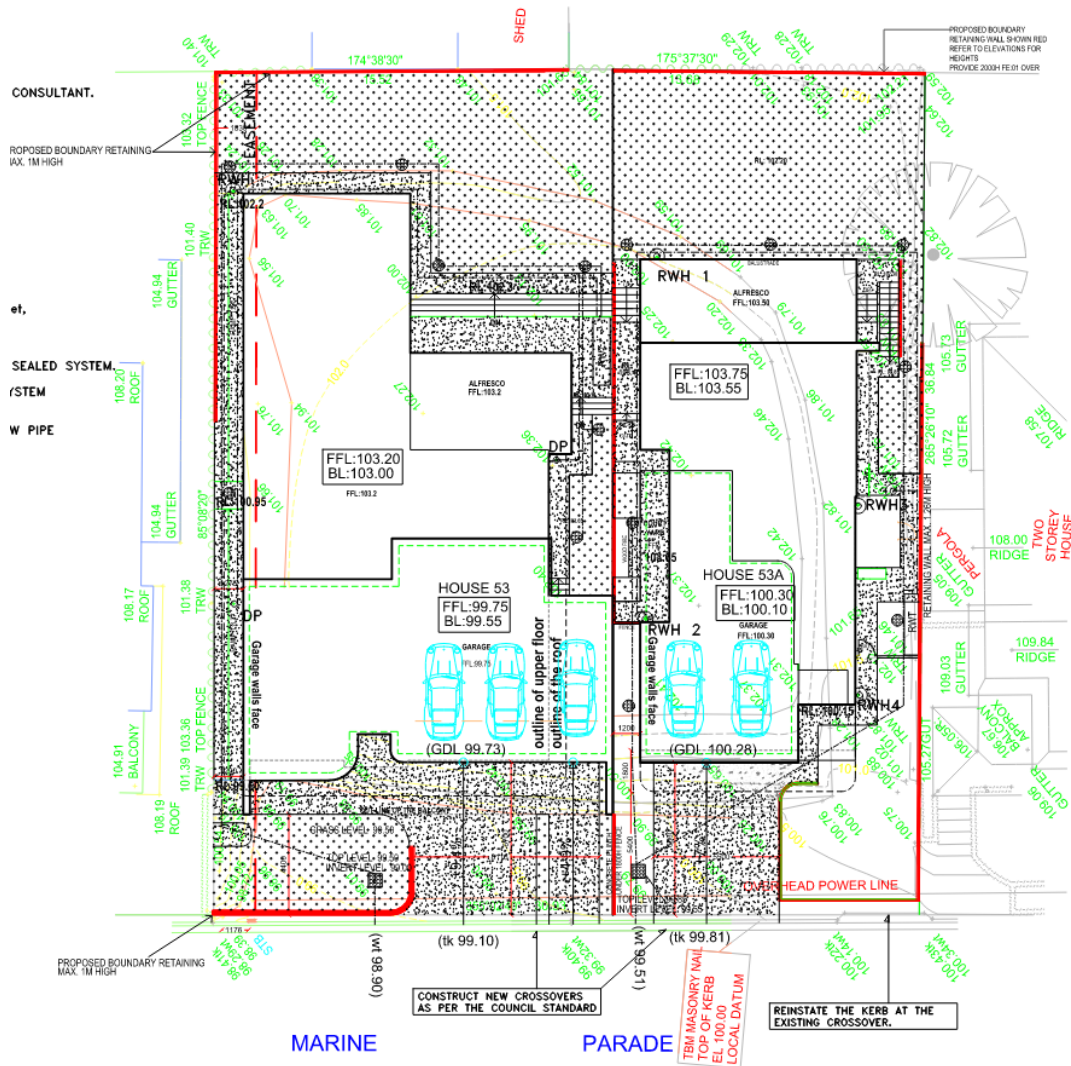
THIS PERSPECTIVE VIEW HAS BEEN TAKEN FROM THE NEIGHBOURS B'DRY LINE ON THE OPPOSITE SIDE OF MARINE PARADE

53 Marine Parade

- Reduction in building height by 300mm by lowering the garage ceiling to 3 metres and refining floor mechanics to 450mm;
- Removed internal steps to create a single-level floor plate, improving cohesion;
- Adjusting paving levels to align with 53A Marine Parade, ensuring continuity in site levels.

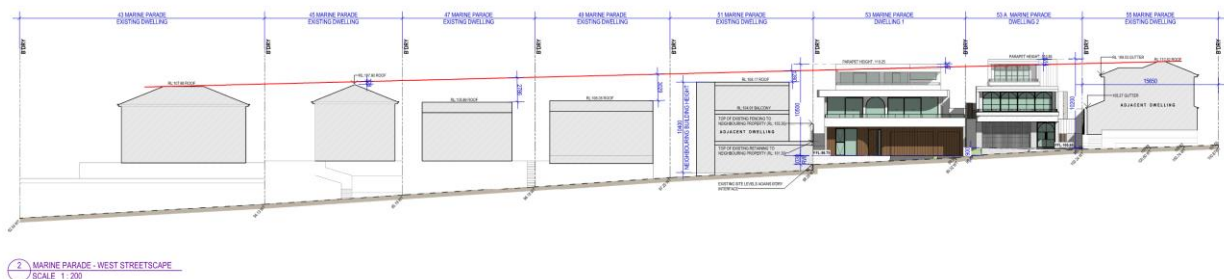


THIS PERSPECTIVE VIEW HAS BEEN TAKEN FROM THE NEIGHBOURS B'DRY LINE ON THE OPPOSITE SIDE OF MARINE PARADE



Additional Supporting Information

- Extended the Marine Parade streetscape elevation using expanded survey data to better demonstrate the development's fit within the streetscape context;
- Included a table summarising building heights along Marine parade, reinforcing the revised dwellings' compliance with local character norms.





PLANNING ASSESSMENT

Reason for Refusal 1

Does not contribute to the predominant character of the neighbourhood nor complement the height of the nearby dwellings PO 4.1 ENZ;

The compromise plans do not contribute to addressing the built form character of the neighbourhood. The reduction in overall building heights does contribute to addressing the height of nearby dwellings, primarily due to the fact that the approved lower building levels visually obstruct the third level.

Reason for Refusal 2

Does not have the consideration to the values expressed in the character area statement PO 1.1 CO and does not consider, in particular, architectural style, scale and building height HOB1;

The compromise plans do not contribute to addressing the values expressed in the Character Area Statement and associated architectural styles however the reduction in overall building height does contribute to considering the building scale and height.

Reason for Refusal 3

Does not sufficiently satisfy PO 8.1 ENZ side boundary setbacks. Does not complement the established character;

The compromise plans do not result in a reduction in side boundary setbacks, although the reduction in building height does marginally address visual and overshadowing impacts.

Reason for Refusal 4

Does not sufficiently meet the prevailing wall heights in character overlay PO 2.1 and 2.2. The proposal is still higher than adjoining dwellings.

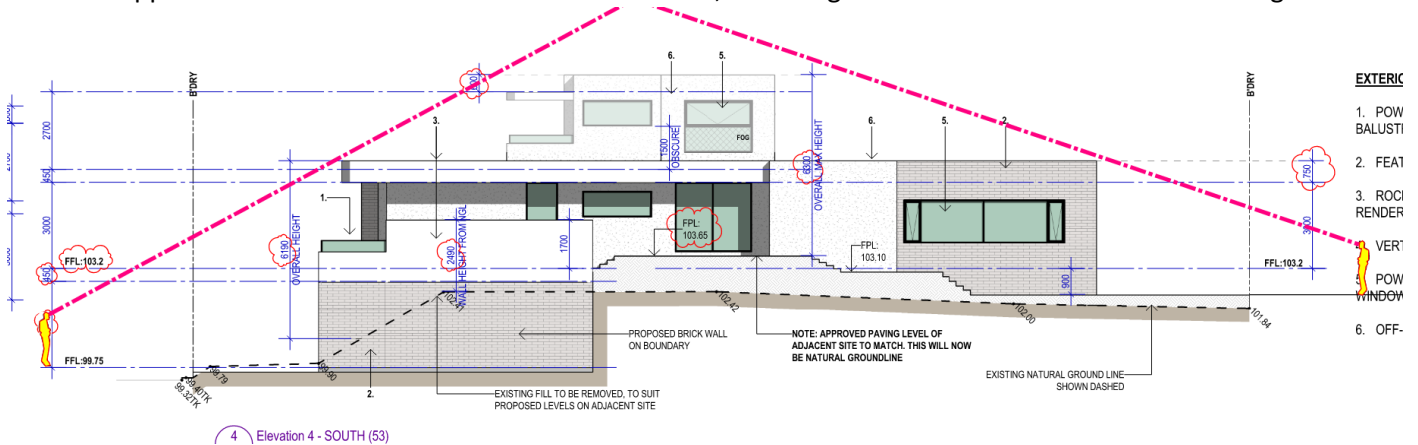
The compromise plans do not physically match the prevailing wall heights in the character overlay, however visually, the third level is not visible from most relevant vantage points. It is noted that the compromise does not result in a building height that is the same or lower than adjoining dwellings, although from a visual perspective, the highest point of the proposed building will not be seen from the streetscape.

CONCLUSION

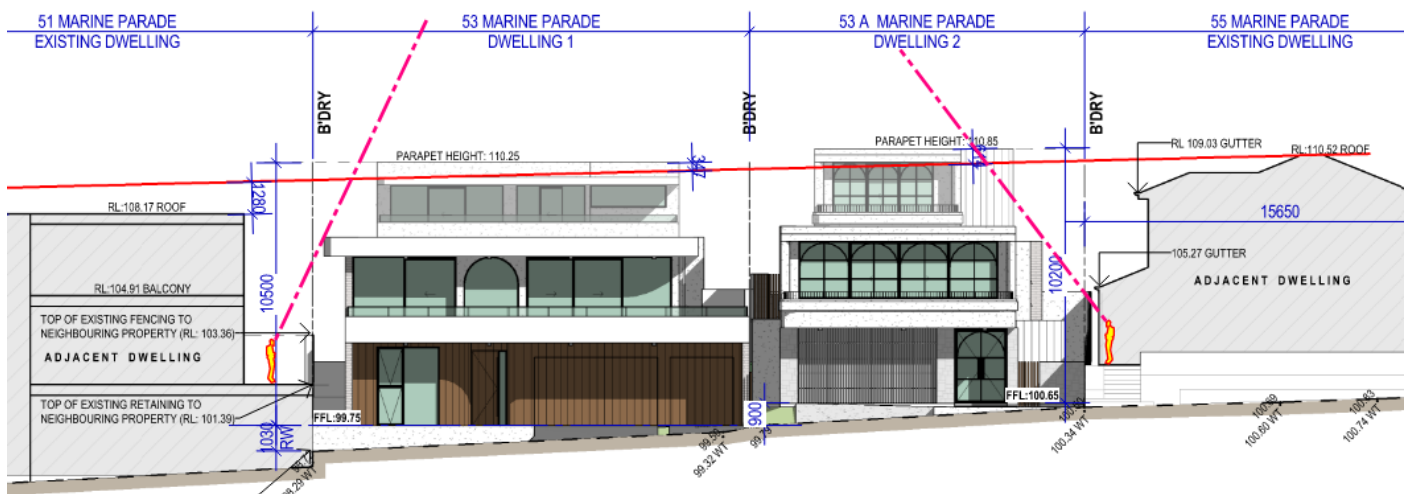
Although the general built form has not altered significantly from the original proposal which was recently refused, the reduction in building height of some 300mm is considered to go a long way in addressing the predominant concern raised by the Panel, which in effect is the visual impact associated with a 3 level dwelling on the streetscape.

A decrease in building height of 300mm is considered to reflect a meaningful change to address the concern raised, as this height reduction impacts the actual appearance of the proposed building from key vantage points.

When considering actual site lines from various vantage points around the proposed buildings, it is determined that the second level walling obstructs any view to the third levels. This is the result of the third levels being stepped in further from the second level building envelopes. The diagrams below illustrate this, demonstrating the sight line from the opposite street kerb to the west of Marine Parade, and the ground levels of the side and rear neighbours:



The above diagram illustrates that when viewing the site from the west (Marine Parade) or east (rear neighbour's yard), the approved lower level components of the building obstruct the view of the third level.



The above diagram illustrates that when viewing the site from the north (49 Marine Parade) the approved lower level components of the building obstruct the view of the third level, whilst when viewing the site from the south (55 Marine Parade) a portion of the third level is visible.

RECOMMENDATION

It is recommended that the Council Assessment Panel advise the Environment, Resources and Development Court in the matter of Case Number ERD 25-000025 John Tsoutsikos and Elisha Tsoutsikos v. Assessment Panel at the City of Holdfast Bay that the Council supports Application ID 24034779 as amended subject to the conditions below:

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 (if any).
2. All previous stamped plans and documentation, including conditions previously granted approval for Development Application ID No. 23037611 are still applicable except where varied by this application and conditions.

OFFICER MAKING RECOMMENDATION

Name: Dean Spasic

Title: Development Officer - Planning

Date: 02/04/2025