

DEVELOPMENT NO.:	24025197
APPLICANT:	Thomas Treloar
ADDRESS:	18 GULF PDE SOUTH BRIGHTON SA 5048
NATURE OF DEVELOPMENT:	Appeal Report - Two (2) double storey detached dwellings with rooftop terraces, retaining walls up to 1.4m high and swimming pools
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:	27 Aug 2024
RELEVANT AUTHORITY:	Assessment panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.15 15/8/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Alexander Stamatopoulos Development Officer - Planning
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

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ATTACHMENT A:	Amended plans
ATTACHMENT 1:	Initial application attachments

Background

At its meeting held on 23 October 2024, the Council Assessment Panel resolved as follows to refuse application Number 24025197 for two (2) double storey detached dwellings with rooftop terraces, retaining walls up to 1.4m high and swimming pools located at 18 Gulf Parade South Brighton.

That Development Application Number 24025197, by Thomas Treloar is REFUSED Planning Consent for the following reasons:

1. Does not sufficiently meet the general neighbourhood zone 8.1 as the buildings are not satisfactorily separated between each other, particularly with regards to the second level separations. Does not contribute to the suburban character and does not provide sufficient light for windows.

2. Does not sufficiently meet the general urban design PO 10.2. Does not sufficiently mitigate the overlooking from upper-level balconies to habitable rooms and private open space of adjoining properties.

3. General Neighbourhood zone 4.1 and wall heights exceed 7m.

Since the refusal was issued an appeal was lodged to the ERD Court to seek a compromise. The applicant has provided amended plans to address the reasons for refusal.

Plan Amendments

The changes to the proposal comprise:

Balustrade Material Change: Replaced rooftop terrace balustrade with lightweight, obscured glass.

Rooftop Features Removed: Eliminated rooftop spa.

Balcony Roof Adjustment: Pitched the balcony roof to prevent downward views from the rooftop terrace.

Balustrade Height Increase:

- Balcony balustrade raised from 1.2m to 1.5m.
- Rooftop balustrade raised from 1m to 1.5m.

Privacy Screens Added:

- 1.7m high privacy screen at the top of the rooftop stairs for the southern dwelling.
- 1.7m solid wall on the southern side balcony and 1m solid wall at the bottom of the balcony stairs.

Building Shifted North: Increased 100mm setback from the Southern boundary.

Height Adjustments: Wall heights amended where its highest point is 7.1m to the front of the dwelling.

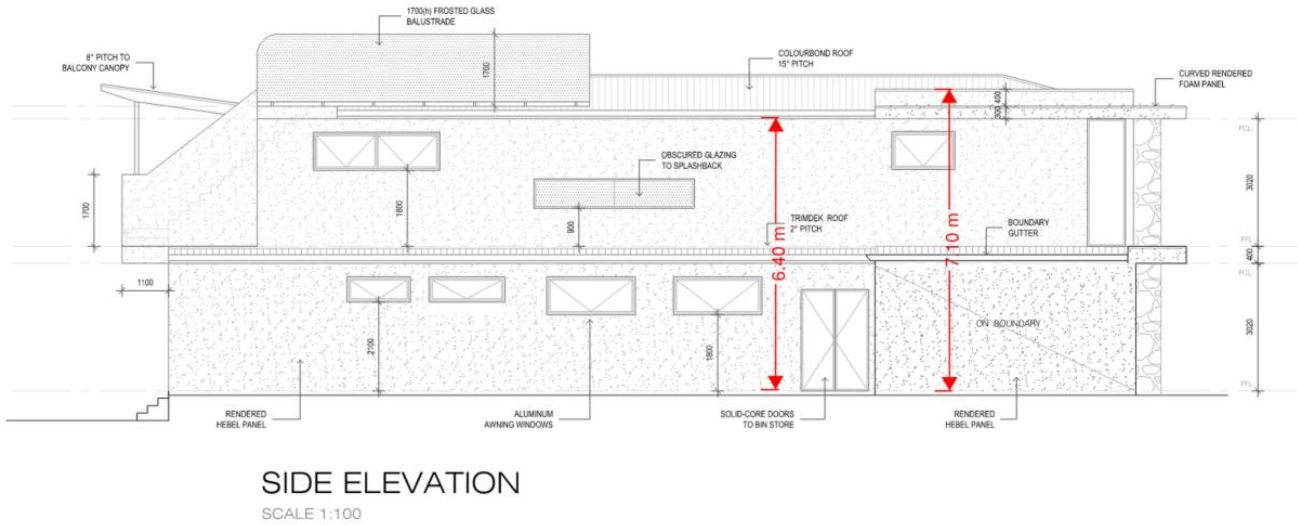
Planning Assessment

Reason for Refusal 1: PO 4.1 – Low-Rise Suburban Character

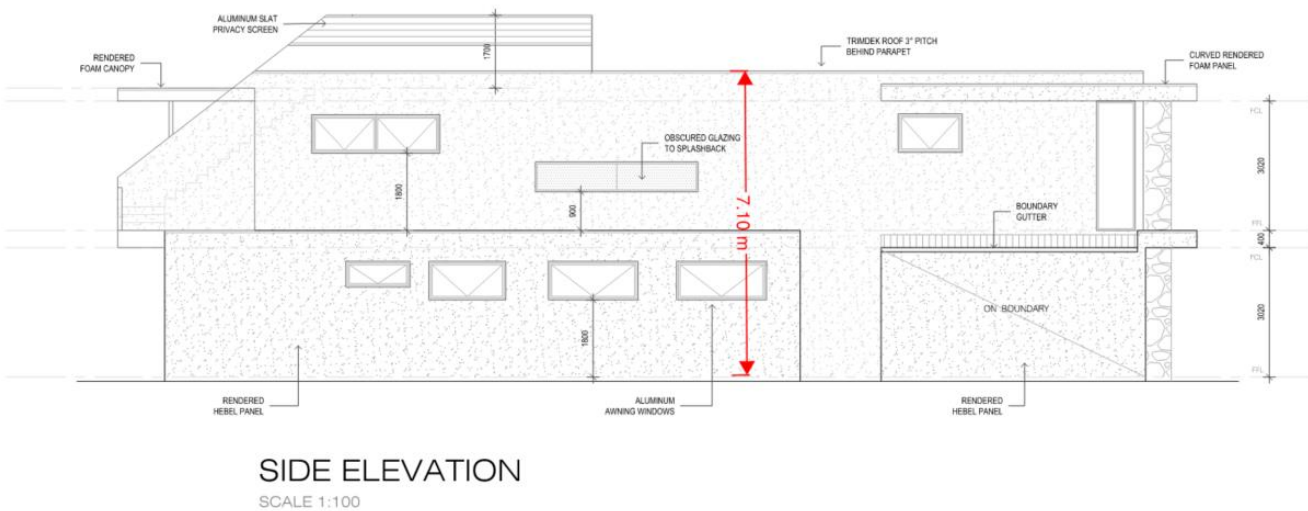
"Buildings contribute to a low-rise suburban character. Low rise is defined as up to and including two (2) building levels."

The initial refusal cited concerns that the proposed development did not align with the intended low-rise suburban character of the General Neighbourhood Zone (GNZ), due to excessive wall height and rooftop terrace elements. The original design featured a 7.1m high main wall and a rooftop terrace reaching 8.4m, leading to an increased perception of bulk and scale inconsistent with the zone's expectations.

In response, several amendments have been made to reduce the perceived and actual building bulk. Most significantly, the majority of the side walls have been reduced from 6.4m, bringing the development within a scale more reflective of low-rise suburban character. Additionally, the replacement of the rooftop balustrade with lightweight, obscured glass ensures that the development remains visually unobtrusive from key vantage points.



Above: Amended plans showing side wall heights
Below: Initial plans



The General Neighbourhood Zone anticipates and accommodates two-storey dwellings, with an upper wall height of up to 7m. The revised proposal is now below this threshold, ensuring a built form that does not dominate the streetscape or adjacent properties. Given the reduction in scale the amended proposal now satisfies PO 4.1, ensuring that the development contributes appropriately to a low-rise suburban character.

2. Reason for Refusal: PO 8.1 – Side Boundary Setbacks and Suburban Character

"Building walls are set back from side boundaries to provide:

- (a) Separation between buildings in a way that contributes to a suburban character; and*
- (b) Access to natural light and ventilation for neighbours."*

The initial refusal identified concerns regarding side boundary setbacks, specifically that the proposed upper-level and rooftop setbacks did not meet the DPF 8.1 guidelines, thereby reducing separation between dwellings and potentially impacting natural light and ventilation for adjacent properties.

.In response, the amended plans have increased the setback from the southern boundary by shifting both dwellings 100mm north. While the revised upper-level and rooftop setbacks still fall below the quantitative targets of DPF 8.1, it is critical to assess the actual impact of the development, particularly in relation to overshadowing and spatial separation.

An overshadowing analysis provided with the initial plans comparing the proposed design to a compliant 2.9m upper-level setback demonstrated that the difference in shadowing impact is negligible throughout the day. At 9:00 AM, the shadowing from both the proposed and compliant setback scenarios extends towards the adjacent north-facing habitable room windows, with minimal variance. At 12:00 PM, when the sun is at its highest point, both designs exhibit similar shadowing effects on the lower level of the neighbouring property. At 3:00 PM, the afternoon shadows extend further east, with only a minor difference between the two scenarios.

The overshadowing diagrams confirmed that even a fully compliant two-storey detached dwelling with a 2.9m setback would result in overshadowing of the neighbouring southern property. Given that the General Neighbourhood Zone anticipates two-storey dwellings, some level of overshadowing is expected and unavoidable. The side setback separation is consistent with the recent construction that along Gulf Parade therefore it is not an odd with the suburban character.

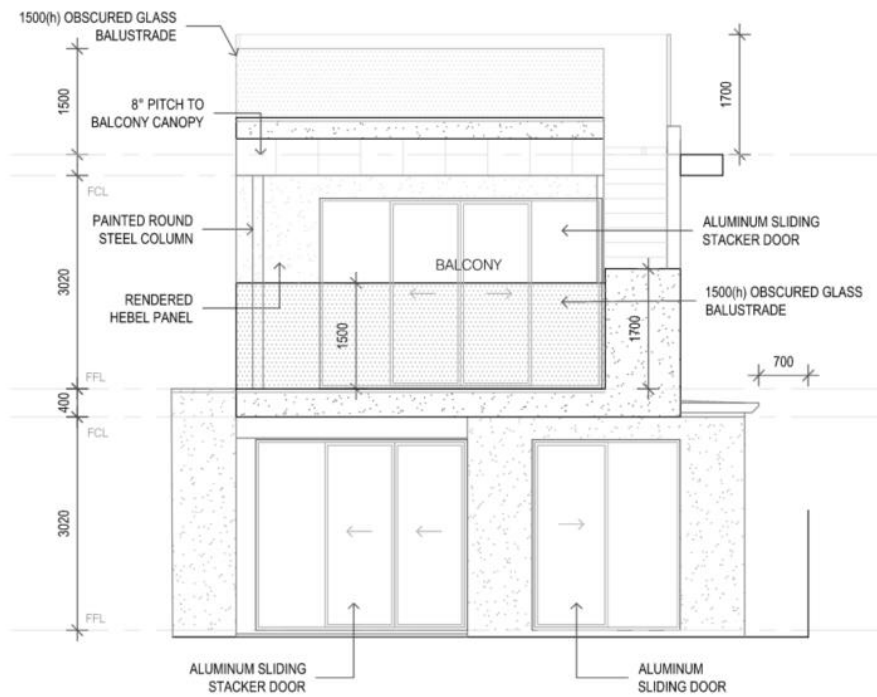
The amendments provide an increased degree of separation, while ensuring overshadowing impacts remain consistent with a compliant two-storey dwelling. As such, the amended design satisfies the intent of PO 8.1, as it provides sufficient building separation while maintaining adequate natural light and ventilation for adjacent dwellings.

3. Reason for Refusal: PO 10.2 – Overlooking and Privacy

"Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood-type zones."

The original proposal raised concerns regarding overlooking and direct sightlines into adjacent properties, particularly from the balconies and rooftop terraces. Representors identified that the initial 1.2m-high balustrades on the balconies and the lack of sufficient rooftop screening allowed for direct views into private open space and habitable rooms, notably at 181 Esplanade, 180 Esplanade, and 20 Gulf Parade.

To address these concerns, modifications have been made to the balustrade heights and screening elements. The balcony balustrades have been increased from 1.2m to 1.5m, thereby blocking lower sightlines into adjacent properties. Similarly, the rooftop balustrades have been increased from 1m to 1.5m, reducing potential overlooking impacts. Additional privacy measures include the introduction of a 1.7m-high privacy screen at the rooftop stair entry and a 1.7m solid wall on the southern side balcony to dwelling 1, as well as a 1m solid wall at the bottom of the balcony stairs, which collectively ensure that sightlines into neighbouring private spaces are effectively obstructed.

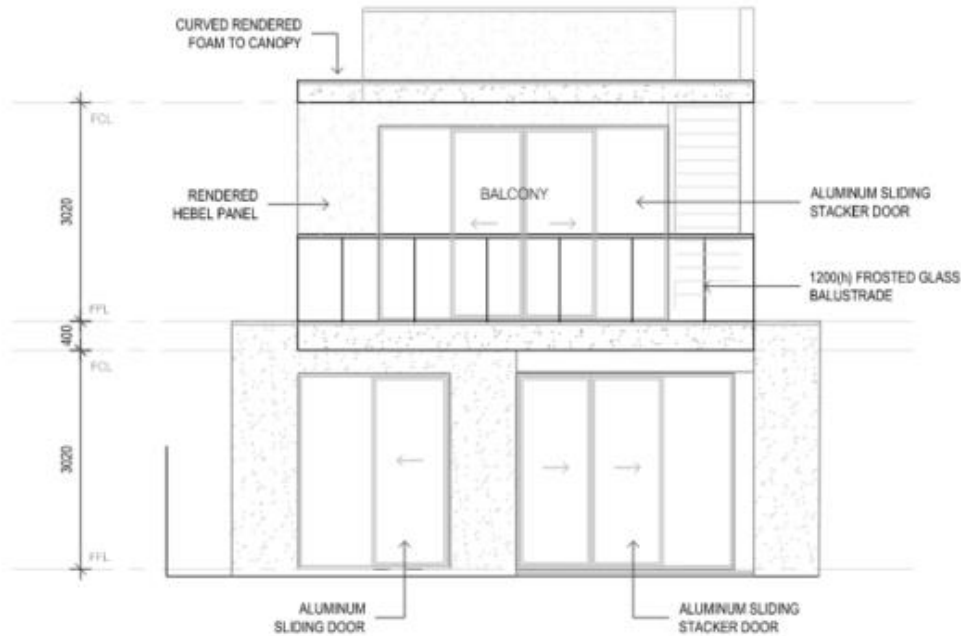


REAR ELEVATION

SCALE 1:100

Above: Amended rear elevation (Dwelling 1)

Below: Initial Application



REAR ELEVATION

SCALE 1:100

The amendments align with the performance intent of PO 10.2, ensuring that views from elevated areas are directed away from habitable spaces and private outdoor areas. The increased screening and balustrade heights eliminate the potential for intrusive overlooking, bringing the development into full compliance with PO 10.2.

Summary

The amendments made to the proposal effectively address the reasons for refusal by reducing bulk and scale, improving separation, and enhancing privacy. The wall height reduction, removal of the rooftop lift and spa, and use of lightweight, obscured glass balustrades ensure compliance with PO 4.1, reinforcing the low-rise suburban character. The 100mm northward shift increases separation from the southern boundary, and an overshadowing analysis confirms that the impact remains comparable to a compliant 2.9m setback, satisfying PO 8.1. Privacy concerns under PO 10.2 are resolved with increased balustrade heights (1.2m to 1.5m on balconies, 1m to 1.5m on rooftops) and additional privacy screens and solid walls, eliminating direct overlooking. While minor numerical deviations in setbacks remain, the amendments ensure the intent of planning policies is met, striking a balance between contemporary design and suburban character. Given these improvements, the proposal now warrants approval by the assessment panel.

RECOMMENDATION

Planning Consent

It is recommended that the Council Assessment Panel advise the Environment, Resources and Development Court in the matter of Case Number ERD-24000147 that the Council Assessment Panel supports Application ID 24025197 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. 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.

3. That all side upstairs windows, 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.
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).
6. The stormwater disposal system shall cater for a 5 year rainfall event with discharge to the street not to exceed 10 litres per second. Any excess above this flow is to be detained on site. All stormwater collected on the site must only be discharged to the street and not on to any adjacent properties.

OFFICER MAKING RECOMMENDATION

Name: Alexander Stamatopoulos

Title: Development Planner

Date: 03/02/2025