

DEVELOPMENT NO.:	24002719
APPLICANT:	Tom Vartzokas
ADDRESS:	98 ESPLANADE HOVE SA 5048
NATURE OF DEVELOPMENT:	APPEAL REPORT - Variation to development application 22026449 comprising the construction of a roof top terrace as a 4th building 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 • Building Near Airfields • 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 Feb 2024
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.2 08/02/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Dean Spasic Development Officer - Planning

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ATTACHMENT 1: Compromise Plans

ATTACHMENT 2: Panel Report from the 25 September 2024 meeting

ATTACHMENT 3: Refused Decision Notification Form and Plans

APPENDIX 1: Relevant P&D Code Policies

BACKGROUND

A variation application for the construction of a roof top terrace as a 4th building level was refused by the Council Assessment Panel on the 25 September 2024 subject to the following reasons:

- The building height is not consistent with form expressed in the Zone (maximum of 3 levels) and the development is not low rise or complementary to the height of nearby buildings;
- The side boundary setback is not setback from the side boundaries to provide separation between buildings in a way that contributes to the suburban character and access to natural light and ventilation;
- The external appearance of the building does not contribute to the character of the local area by responding to local context.

Following the refusal, the applicant lodged an appeal through the Environment, Resources and Development Court (ERD 24/63) in the matter of Tom Vartzokas v City of Holdfast Bay Council Assessment Panel.

As part of the appeal process, the applicant has opted to submit a set of amended plans aiming to reduce the overall built form on the proposed roof top level (4th level).

COMPROMISE PLANS:

The compromise plans submitted comprise a reduced building area concerning the 4th level, namely the removal of part of the timber framed partition wall between the lift shaft and machinery shelter and a reduction in the floor area of the machinery shelter, by way of moving the vertical wall up to 2.9 metres inwards with the aim of reducing the visual impact to the north of the building.

PLANNING ASSESSMENT

Reason for Refusal 1

Waterfront Neighbourhood Zone Performance Outcome 4.1 – Building Height, in that the height is not consistent with the form expressed in the Maximum Building Height Levels (3) Technical and Numeric Variation, and is not low rise, or complements the height of nearby buildings.

The reduction in the floor area of the machinery shelter serves reduce the overall visual impact of the 4th level by way of the increase in the northern setback, which will minimise the buildings visual prominence from when viewed from northern orientated vantage points. The amendments however do not remove the entirety of the proposed 4th level.

Reason for Refusal 2

Waterfront Neighbourhood Zone Performance Outcome 8.1 – Side Boundary Setback, in that the building is not setback from the side boundaries to provide separation between buildings in a way that contributes to the suburban character and access to natural light and ventilation for neighbours.

The increase in the northern side boundary setback by the amount of 2.9 metres is considered to address Performance Outcome 8.1 in that the increased setback provides a northern boundary setback of 5.8 metres in lieu of the previous setback of 2.8 metres.

The staircase is enclosed by a raked roof, which is pitched away from the northern elevation, hence a reduction in visual prominence relative to the previous vertical wall and flat roof enclosing it.

Reason for Refusal 3

Design in Urban Areas – All Development – Medium and High Rise – External Appearance Performance Outcome 12.1 in that the building does not contribute to the character of the local area by responding to local context.

Much like the first reason for Refusal, the reduction in the floor area of the machinery shelter and increased side boundary setback, along with pitched staircase, serves to address Performance Outcome 12.1 since the northern setback increase will minimise the buildings visual prominence from when viewed from northern orientated vantage points.

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 24/63 in the matter of *Tom Vartzokas v City of Holdfast Bay Council Assessment Panel* that the Council supports Application ID 24002719 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. The roof top terrace shall comprise fixed 1.5 metre high screening to the northern and eastern elevations and 650mm high screening to the southern elevation over a minimum continual length of 11.9 metres when measured from the eastern most point of the southern elevation prior to occupation.
3. All previous stamped plans and documentation, including conditions previously granted approval for Development Application ID No.22026449 are still applicable except where varied by this application and conditions.

OFFICER MAKING RECOMMENDATION

Name: Dean Spasic

Title: Development Officer - Planning

Date: 21/01/2025