

<b>DEVELOPMENT NO.:</b>	24002719
<b>APPLICANT:</b>	Tom Vartzokas
<b>ADDRESS:</b>	98 ESPLANADE HOVE SA 5048
<b>NATURE OF DEVELOPMENT:</b>	Variation to development application 22026449 comprising the construction of a roof top terrace as a 4th building level
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Waterfront Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Building Near Airfields</li> <li>• Coastal Flooding</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Finished Ground and Floor Levels (Minimum finished ground level is 3m AHD; Minimum finished floor level is 3.25m AHD)</li> <li>• 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)</li> <li>• 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)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 3 levels)</li> </ul>
<b>LODGEMENT DATE:</b>	13 Feb 2024
<b>RELEVANT AUTHORITY:</b>	Assessment Panel City of Holdfast Bay
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2024.2 08/02/2024
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Dean Spasic Development Officer - Planning,

## CONTENTS:

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APPENDIX 1: Relevant P&D Code Policies

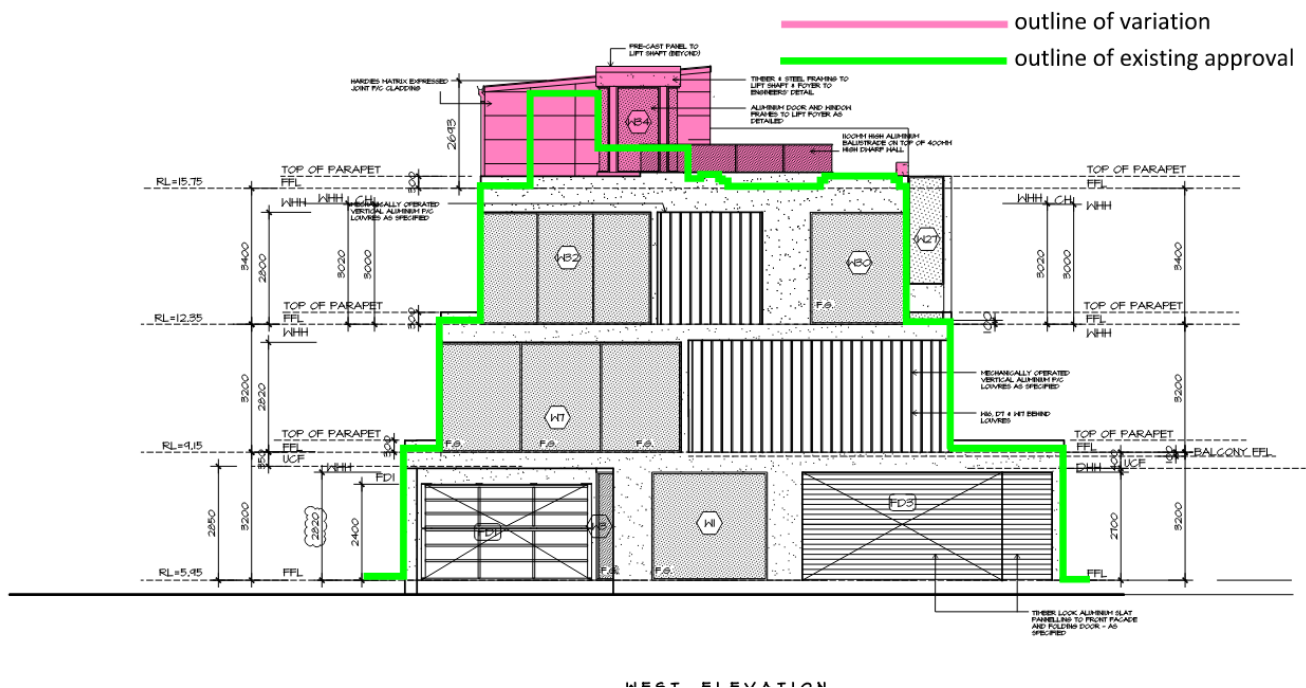
ATTACHMENT 2:  
plans

DA 22026449 relevant stamped

## PROPOSAL:

The proposal is a variation to an approved application comprising the construction of a three storey detached dwelling by way of constructing a fourth level.

The terrace comprises a floor area of 95 square metres, excluding the lift shaft, lobby, staircase and machinery shelter. The available space is consistent with that of a roof top terrace, however the applicant indicates that the use and size of the area is purely to accommodate access to a large quantity of solar panels (cleaning), machinery shelter and general maintenance. Notwithstanding, the space is designed with consideration to ensuring visual privacy to neighbouring properties is not compromised.



## BACKGROUND:

A previous application, 22026449 for the construction of a 3 storey detached dwelling was determined to satisfy all relevant Design Code Performance Outcomes and was granted planning consent on the 17 October 2022.

## SUBJECT LAND & LOCALITY:

### Site Description:

The subject site is located on the Esplanade in Hove and has a frontage of 17.50 metres and depth of 44.25 metres, resulting in a total site area of 774 square metres. The construction of the approved 3 level detached dwelling has commenced, with the framework erected in association with what the applicant is seeking approval for via this variation application. Although this has been done without development authorisation, for the purpose of this assessment, it is noted that it provides a visual demonstration of the scale proposed.

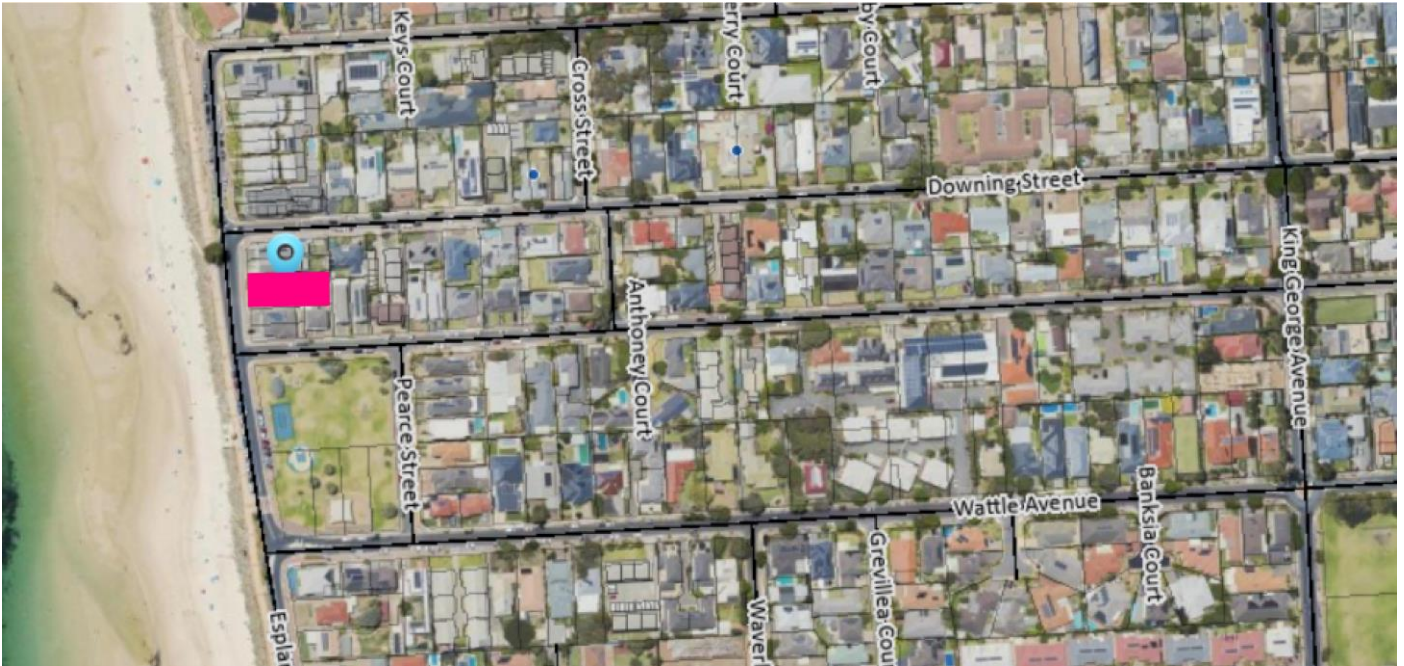


**Location reference:** 98 ESPLANADE HOVE SA 5048

**Title ref.:** CT 5710/687 **Plan Parcel:** D770 AL48 **Council:** CITY OF HOLDFAST BAY

## Locality

The subject locality is defined by the seaside setting, with Hove beach located 20 metres east of the site. The surrounding locality is predominately residential, with Wattle Reserve located 30 metres south of the site and nearby primary school and Jetty Road precinct nearby.



## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
 New housing  
 Detached dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
 Code Assessed - Performance Assessed
- **REASON**  
 P&D Code

## PUBLIC NOTIFICATION

- **REASON**  
 4 level building

• **LIST OF REPRESENTATIONS (2)**

<b>Summary of Representors</b>			
<b>Address of Representor</b>	<b>Position</b>	<b>Wish to be heard</b>	<b>Comments</b>
Hove SA	Does not support	No	excessive number of levels and building height, which is out of character with the locality. The architects sight line drawing is disputed by the fact the fourth level will be visible from other vantage points, particularly to the north and south. The proposed fourth level would further impact solar access to my property to the east.
6/63 Downing Street, Hove	Does not support	Yes	fourth level is contrary to the zone policies. The fourth level is likely to be used as a habitable floor. This proposal contends a significant change to the potential use of the building and adverse visual impact. The existing roof top structures already extend beyond what the policy supports (existing roof top lift shaft).

**PLANNING ASSESSMENT**

**PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. The proposal is considered to not be seriously at variance with the Design Code, as the Zone anticipates residential land use in the form of dwellings.

## Building Height

Waterfront Neighbourhood Zone Performance Outcome 4.1 refers to building height that is consistent with the form expressed in the Maximum Building Height (3 Levels) and (9 Metres), and is otherwise low rise, or *complements the height of nearby buildings*.

The relevant Maximum Building Height Level for this Zone is 3 levels as expressed in the Designated Performance Feature 4.1. The proposed variation will result in a building of 4 levels and a maximum height of 13.2 metres, which exceeds the numerical reference of 9 metres. The existing approval comprises 3 levels and a maximum height of 12 metres to the top of the air conditioning and batteries shelter and a maximum building height of 9.8 metres to the top of the 3<sup>rd</sup> level wall. The proposed variation reflects an additional building level and additional building height of 3.4 metres in comparison to the existing approval.

It is noted however that the nearby locality contains predominately 3 and 4 level buildings (4 levels being similar in form comprising roof top lift shafts, equipment enclosures, roof top terraces with verandahs and the like). The proposed building height therefore is complementary to nearby built form, specifically 87, 92 and 96 Esplanade, as seen in the photos below:



Although the 4<sup>th</sup> levels are prominent when viewing the other existing buildings, the overall scale and visual form is not so dominate as to read as conventional 4 level dwellings when generally viewing the buildings from the footpath. This is due to the upper level being set in from the external walls of the lower levels. The 4<sup>th</sup> level components in effect, are generally obscured from lower level walls and of a scale no greater than if those buildings had been approved with pitched gable or hipped roofs. This is evident in the photo below. When standing on the street or footpath, the 4<sup>th</sup> level is not visible, hence the photos taken from afar.

When standing on the beach, as per the example below, there is a greater vantage point of the building and, the 4<sup>th</sup> level is visible. However if standing on the footpath, the walling of the approved facade will obscure any 4<sup>th</sup> level walling.



The additional building level however will be visible from adjacent properties, such as behind the site, as demonstrated in the photo below. Overall, the existing approved building will obscure much of the 4<sup>th</sup> level wall, as per the vantage points from the street, however there will remain additional building scale visible from adjacent sites.





### Setbacks

The 4<sup>th</sup> level enclosure is setback 8.9 metres from the southern side boundary and 15.7 metres from the eastern rear boundary, which on balance is a sufficient distance in offsetting overshadowing impacts.

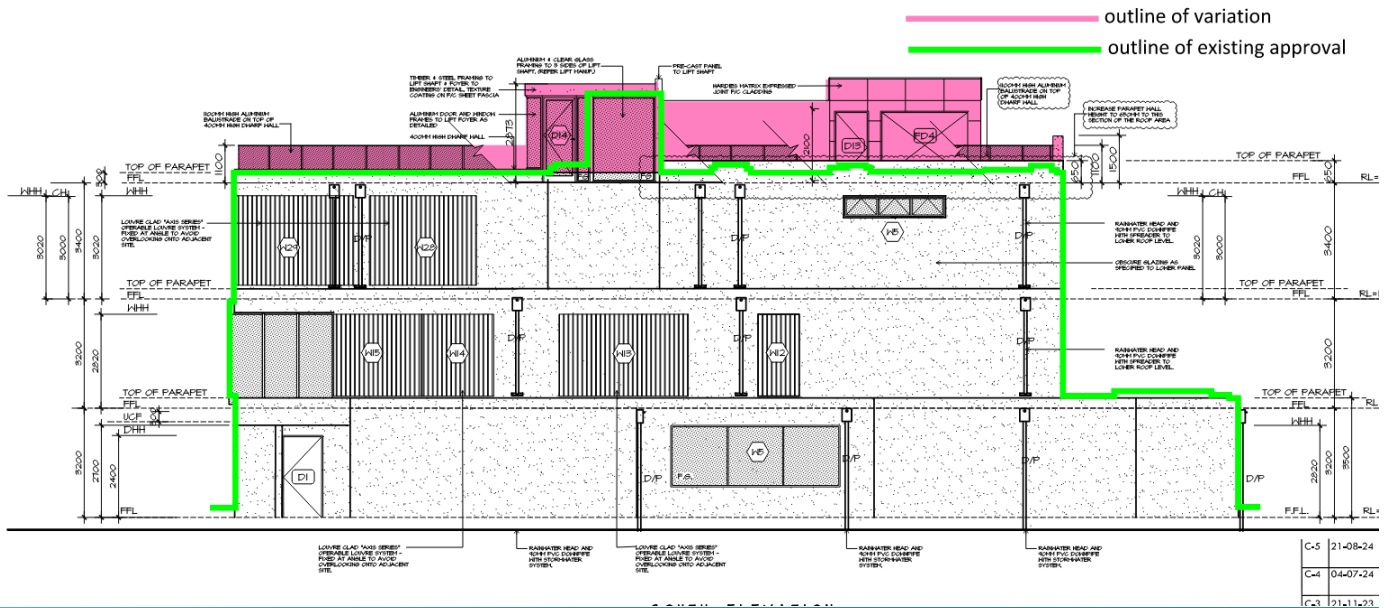
The 4<sup>th</sup> level enclosure is setback 2.9 metres from the northern side boundary, although it should be setback 4.2 metres where following the relevant Designated Performance Feature 8.1 with respect to side setbacks. Of course being the northern elevation, there is no concern regarding overshadowing. Visually, the 4<sup>th</sup> level will be visible from the immediate northern adjacent property.

The proposed setbacks are considered reasonable on balance and satisfy Performance Outcomes 8.1 (side boundary setbacks) and 9.1 (rear boundary setbacks) whereby the 4<sup>th</sup> level wall is setback a sufficient distance to achieve separation between buildings that contributes to the suburban character and provides sufficient access to natural light and ventilation.

### Design and Appearance

Visually, the fourth level will result in a built form that complements the existing built form character and height/scale of buildings in the locality, although it does not complement the maximum desired levels or total building height sought by Performance Outcome 4.1 numerically. It is noted however that PO 4.1 does reference an alternative to the numerical value in that new buildings either match the numerical heights **or complements the height of nearby buildings**. The proposed 4<sup>th</sup> level component does in fact complement the height of nearby buildings, specifically 87, 92, and 96 Esplanade, all nearby the subject site.





**Visual Privacy**

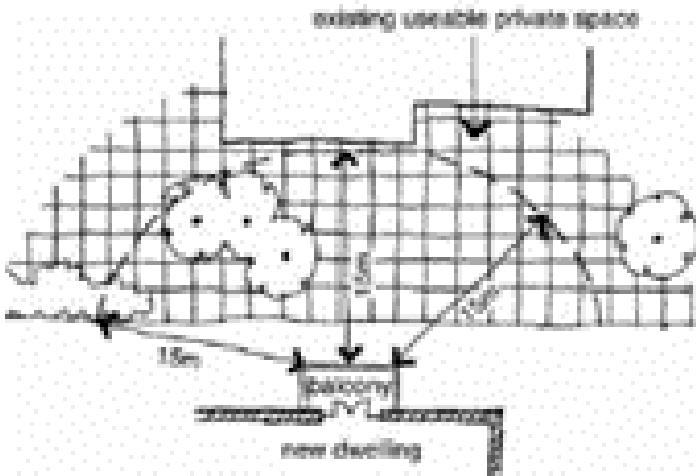
The roof top is enclosed with a balustrade that is predominately 1 metres high to ensure safety. The outlook toward the west is the sea, which is encouraged as it does not present visual privacy concerns.

The roof top section to the northern and eastern elevations is proposed with 1.5 metre high screening to alleviate overlooking to the neighbouring properties.

Overlooking / Visual Privacy Performance Outcome 10.2 requires development to mitigate direct overlooking from balconies to habitable rooms and private open space of adjoining residential properties.

*Direct overlooking* is defined by the Code as:

*In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the deck, balcony or terrace.*

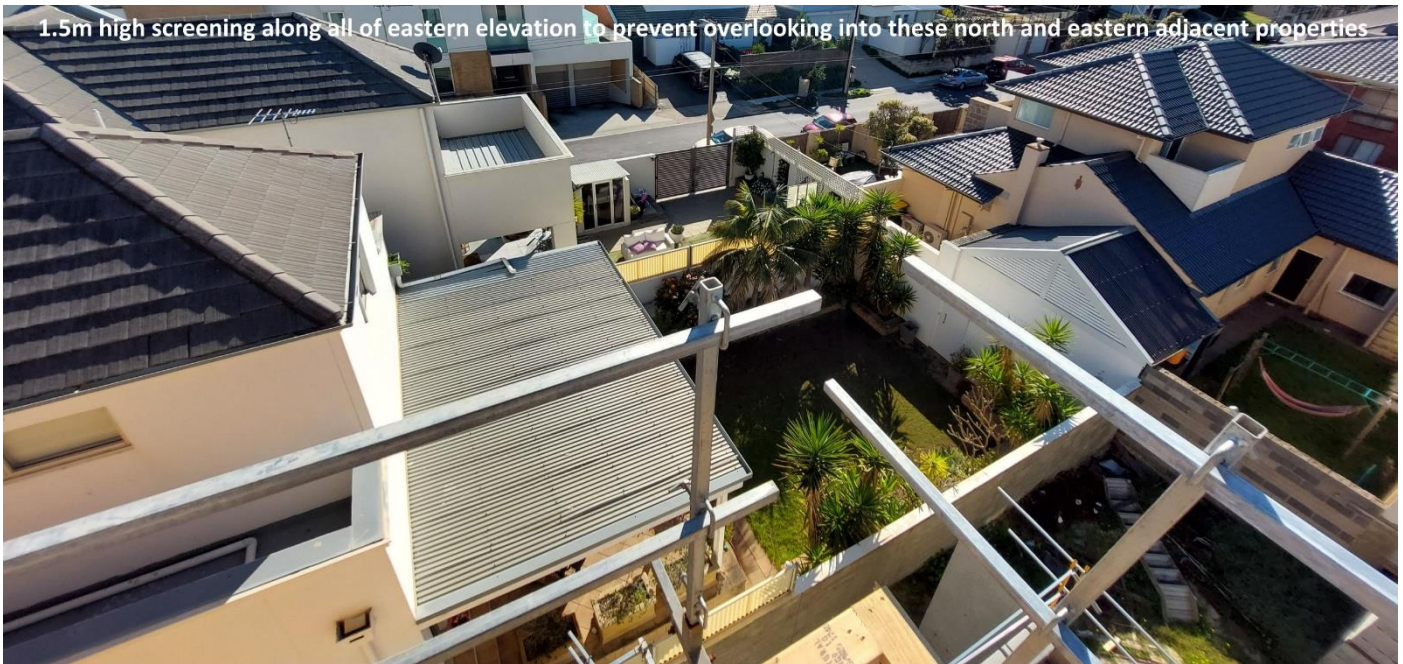


Designated Performance Feature 10.2 suggests a screen height of 1.5 metres where the terrace is located more than 15 metres from the nearest habitable room window of a dwelling on adjacent land, or 1.7 metres in all other cases.

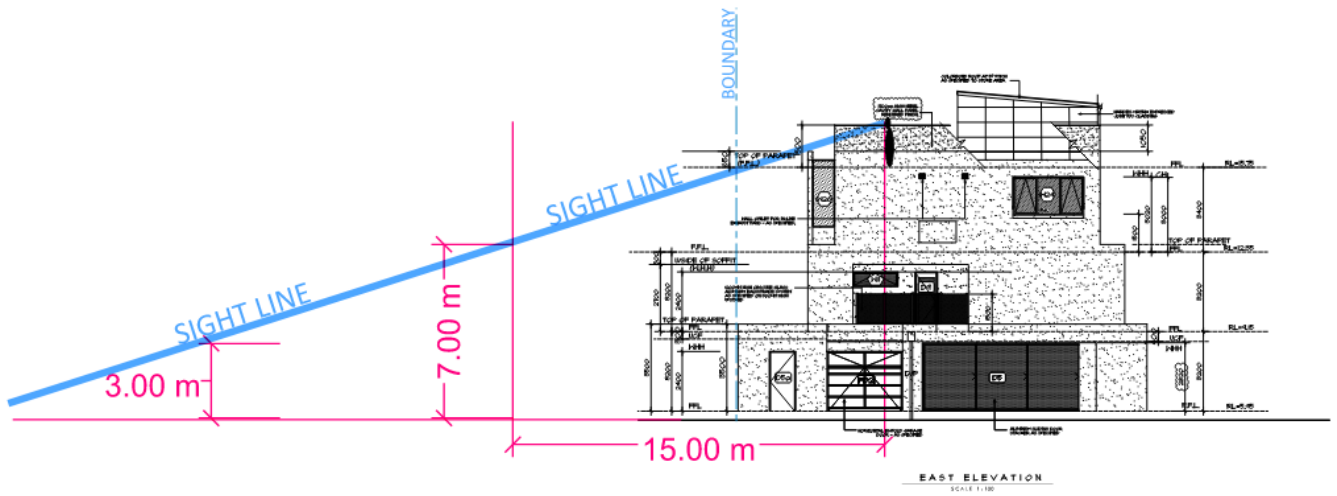
The 4<sup>th</sup> level terrace is setback 13.3 metres from the eastern rear boundary and therefore approximately 14 metres from the nearest habitable room window to the east. The terrace is located 2.9 metres from the northern side boundary and approximately 5 metres from the nearest habitable room window of the northern adjacent dwelling.

Although, numerically, the terrace screen should have a minimum height of 1.7 metres, the proposed screen height of 1.5 metres is considered satisfactory in the context of this proposal, as it is considered to reasonably mitigate direct overlooking, and is consistent with the minimum height of 1.5 metres, which would be required if the proposal involved a 4<sup>th</sup> level room window.

As per the photos below, it is clear that 1.5 metre high screening would be sufficient in addressing overlooking, particularly as these images show the 1.1 metre high temporary builders safety balustrade, which makes it clear that a 1.5 metre high fixed screen above the finished floor level, would obliterate all views of adjacent windows and yards.



The southern elevation proposes a more unique screening solution on balance with sight lines and accessibility restrictions due to proposed safety balustrade in front of roof top solar panels and restricted accessibility beyond the solar panels. In effect, on the southern elevation, there will be 1.1 metre high safety balustrade in front of the roof top solar panels, which cannot be stood on. On the external building wall, a 650mm high parapet is proposed, which when considering the site line from the 1.1 metre high balustrade to top of 650mm parapet screen, will result in obstructed southerly views. This is illustrated using the photo and eastern elevation plan, below:



*The red hashed area depicts the height of the 650mm parapet as measured on site to support this photographic illustration.*



650mm high screening along southern elevation to prevent overlooking into these southern adjacent properties  
 1.1 high balustrade in position of camera. 650mm high screening not accessible as they sit beyond the solar panels

location of solar panels - cannot be accessed and stepped on



It is accepted that the roof top is designed to primarily support access and maintenance to roof top equipment, however the overall provision of this space can easily accommodate the space being used as a roof top deck for recreational purposes, whereby consideration to visual privacy becomes more critical.

The level of screening proposed to the northern, eastern and southern elevations is considered to satisfactorily prevent direct overlooking into adjacent residential properties.

## CONCLUSION

The proposed 4<sup>th</sup> level is numerically excessive (beyond 3 levels). It is acknowledged that the building scale is visually consistent with some examples of existing built form character in the locality, such as those referenced in the report and demonstrated in the photos.

The proposal is not the first in the nearby locality to incorporate a 4 level terrace which includes built form supporting a stair case, lift shaft and equipment housing, therefore it is consistent with and complementary to the built form in the locality, particularly as the 4<sup>th</sup> level is not visible from the Esplanade unless the vantage point is further north or south, to which the streetscape viewpoint captures the other nearby examples, such as 92 and 96 Esplanade.

The 4<sup>th</sup> level is setback sufficiently from the allotment boundaries to satisfy Performance Outcomes 8.1 and 9.1 whereby buildings should be setback to provide a separation between buildings in a way that contributes to the suburban character and provides adequate access to natural light and ventilation for neighbours. The 4<sup>th</sup> level walls are setback 8.9 metres from the southern boundary, 15.7 metres from the eastern boundary and 2.9 metres from the northern boundary.

Visual privacy is satisfactorily achieved by means of screening that is positioned to prevent direct overlooking into adjacent properties.



## RECOMMENDATION

Consent

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 24002719, by Tom Vartzokas is GRANTED Planning Consent subject to the following conditions:

## CONDITIONS

Planning Consent

### Condition 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).

### Condition 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.

### Condition 3

Conditions 2 to 5 associated with Development Application 22026449 still apply.

## OFFICER MAKING RECOMMENDATION

**Name:** Dean Spasic

**Title:** Development Officer - Planning,

**Date:** 04/09/2024