

|                                 |  |
|---------------------------------|--|
| DEVELOPMENT NO.:                | 25014740   |
| APPLICANT:                      | Michael Fogarty  |
| ADDRESS:                        | 5 PERCIVAL ST GLENELG SA 5045  |
| NATURE OF DEVELOPMENT:          | Two level detached dwelling and swimming pool  |
| ZONING INFORMATION:             | <p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Urban Renewal 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>• Design</li> <li>• Hazards (Flooding - General)</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>• Maximum Building Height (Metres) (Maximum building height is 11.5m)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 3 levels)</li> </ul> |
| LODGEMENT DATE:                 | 26 May 2025  |
| RELEVANT AUTHORITY:             | Assessment Panel at City of Holdfast Bay   |
| PLANNING & DESIGN CODE VERSION: | P&D Code (in effect) Version 2025.9 15/05/2025   |
| CATEGORY OF DEVELOPMENT:        | Code Assessed - Performance Assessed   |
| NOTIFICATION:                   | Yes  |
| RECOMMENDING OFFICER:           | Dean Spasic<br>Development Officer - Planning,   |

## CONTENTS:

### APPENDIX 1: Relevant P&D Code Policies

|               |                             |
|---------------|-----------------------------|
| ATTACHMENT 1: | Application Documents       |
| ATTACHMENT 2: | Representations             |
| ATTACHMENT 3: | Response to representations |

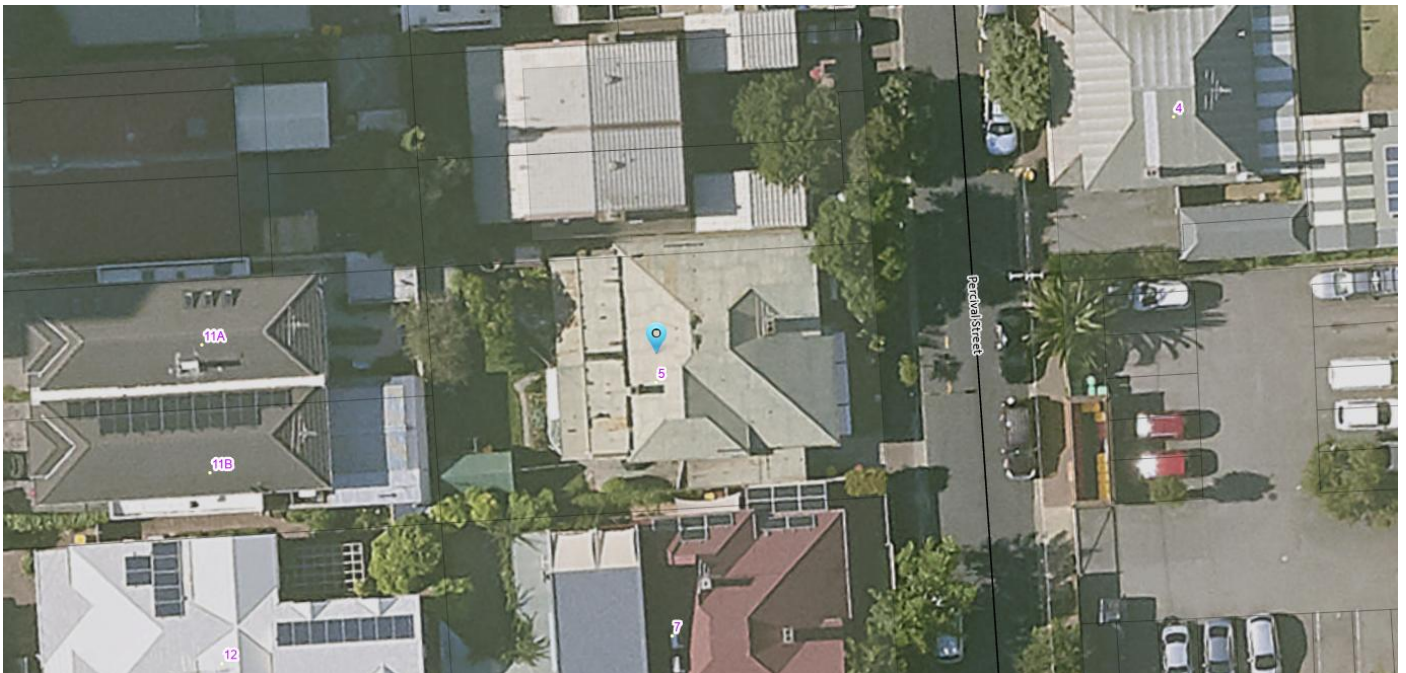
**SUBJECT LAND & LOCALITY:****Site Description:**

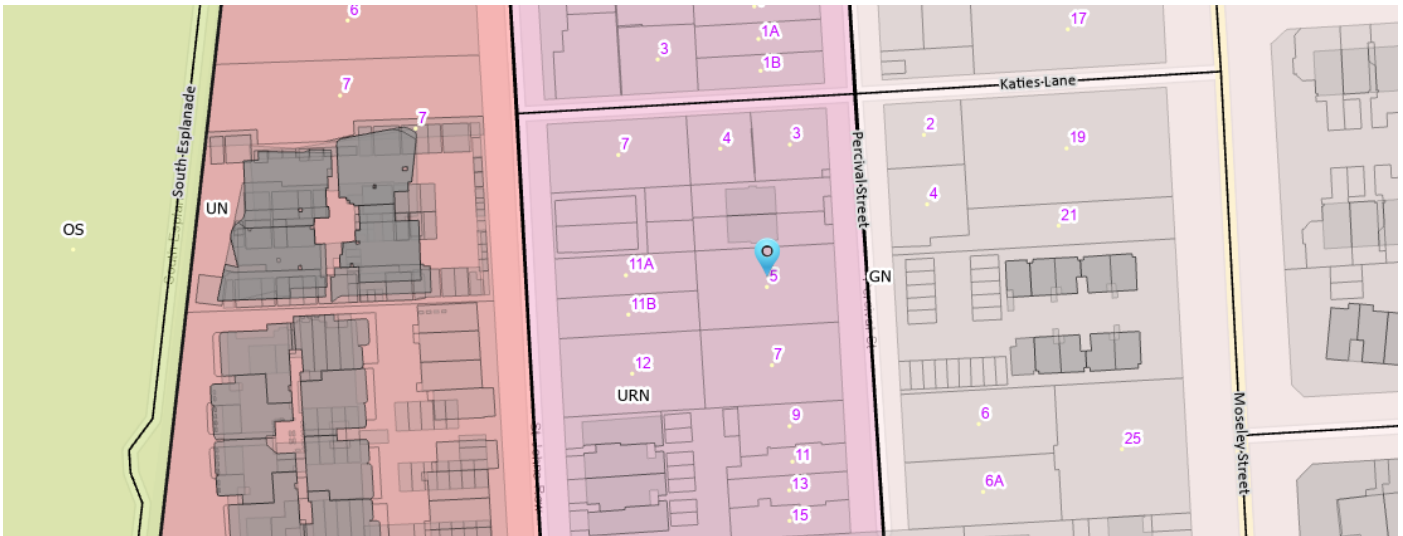
The subject site is a rectangular shaped allotment of 419 square metres with a road frontage of 15.3 metres facing east. The site currently contains a modest single storey detached dwelling, typical of some of the older housing stock in the locality (this building is not heritage listed).

**Locality**

The locality comprises a unique area whereby a few planning zones are adjacent to one another. To the west adjacent to the beach front is the Urban Neighbourhood Zone, which accommodates building height of up to 12 levels. The subject site is located in the Urban Renewal Neighbourhood Zone, which accommodates building height of up to 3 levels. To the east, on the other side of Percival Street, is the General Neighbourhood Zone, which accommodates building height up to 2 levels.

As such, it is anticipated that there will continue to be a mix in built form and dwelling densities within a localised area of less than 100 metres between 3 different zones.





#### CONSENT TYPE REQUIRED:

Planning Consent

#### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
 Detached dwelling: Code Assessed - Performance Assessed  
 Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Performance Assessed  
 New housing
- **OVERALL APPLICATION CATEGORY:**  
 Code Assessed - Performance Assessed
- **REASON**  
 P&D Code

#### PUBLIC NOTIFICATION

##### REASON

Wall on boundary exceeds a total length of 11.5 metres and height of 3 metres.

#### LIST OF REPRESENTATIONS

- Fran Elisa (no address provided)
- Julie Spry of 7 Percival Street, Glenelg
- Francisco Criscitelli of 11B St Johns Road, Glenelg

Please refer to Attachment 2 for copies of the representations. Concerns included the loss of a character home and trees, fencing type, height and colour of boundary walls, and overlooking.

## SUMMARY

The applicant submitted a response to representations (Attachment 3), which included amended drawings that result in:

- a decrease in boundary wall length
- confirmation of boundary wall material and finish
- confirmation of existing boundary walls to be retained
- increased soft landscaping
- decreased upper floor area to achieve a greater southern side boundary setback
- improvements to visual privacy
- reductions in boundary wall heights
- reduction in the terrace roof canopy and improved boundary setbacks.

## 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 comprises a two-level detached dwelling and swimming pool. It is located in the Urban Renewal Neighbourhood Zone. Development of this nature is generally appropriate, as dwellings are specifically listed in the Zone as an envisaged development.

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*.

### Built Form and Visual Appearance

The Zone does not specify a particular kind of architectural style, rather it anticipates a maximum building height of 11.5 metres and 3 levels. The proposed building has a maximum height of 7.3 metres and 2 building levels. It therefore comprises a form and scale less than the maximum envisaged.

The architecture of the building reflects a contemporary, conventional two-level dwelling, comprising rendered walls and feature stone work, large windows and a hipped roof. The appearance of the building is complementary to the existing built form found in the street and surrounding locality.

**Density**

The Zone specifies medium density, which would equate to a net density of up to 70 dwellings per hectare. This equates to a density of 142 square metres per dwelling.

The site comprises an area of 419 square metres, whereby the development simply seeks to replace an existing dwelling with another single dwelling on the site. Therefore, in the context of site density and building scale, the development is modest.

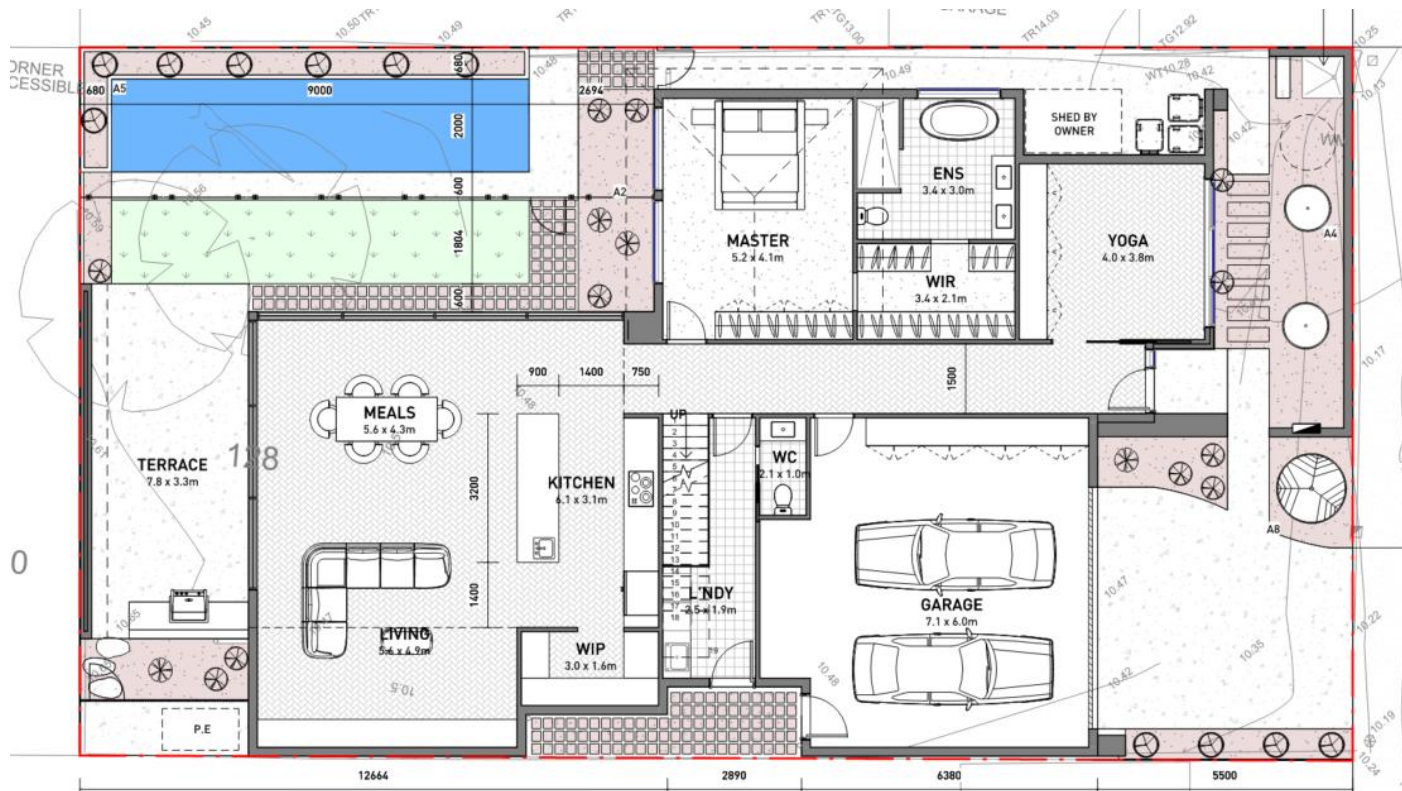
**Boundary Setbacks**

The Zone anticipates a primary street boundary setback of 3 metres. The proposed dwelling is setback 3 metres to 5.5 metres from the primary street boundary and therefore satisfies the relevant guideline.

The Zone provisions guide boundary walls up to 3 metres high over a maximum length of 11.5 metres. The amended plans comprise a boundary wall along the southern side boundary with a wall height of 3.03 metres over a length of 6.38 metres, plus another boundary wall length of 5.98 metres, for a total length of 12.36 metres. The guidelines reference side boundary *walls* and a length of 11.5 metres, which suggests the length of each boundary wall, so long as the total boundary walling does not exceed 45 percent of the total length of the boundary. The amended plans now satisfy this with a total boundary wall length of 45 percent.

At the ground level, the building is otherwise setback at least 900mm from side boundaries and 3.64 metres from the rear boundary. The Zone Designated Performance Feature 7.1 anticipates a minimum 4 metre rear boundary setback, however the 366mm rear setback shortfall is negligible in terms of achieving adequate building separation, light and ventilation to satisfy the corresponding Performance Outcome.



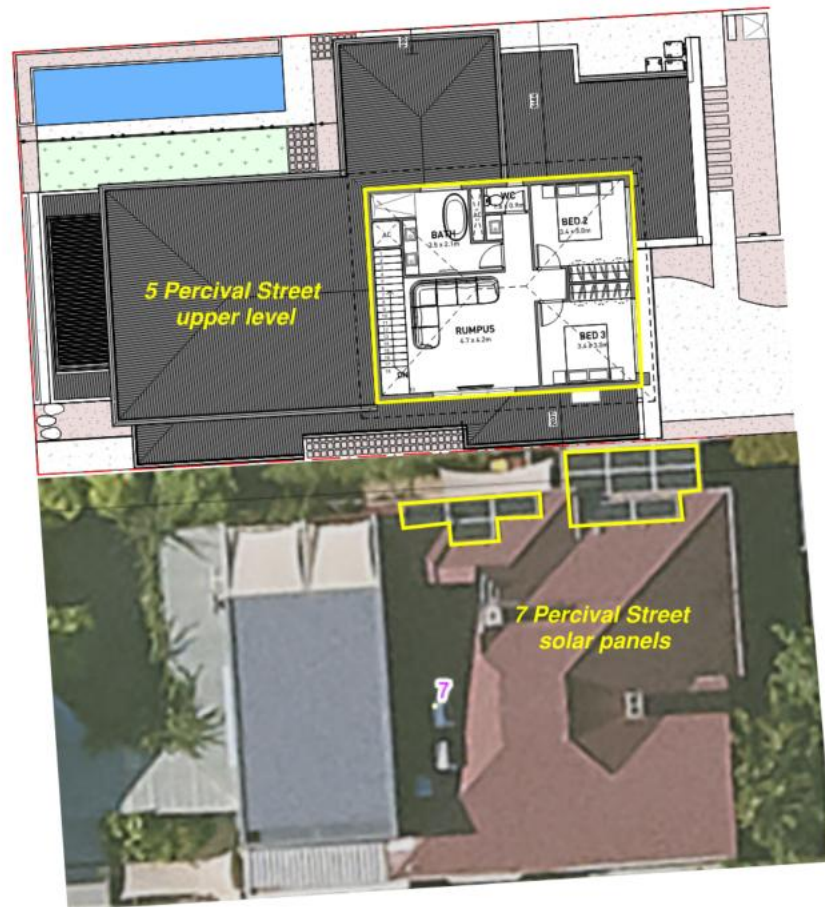


The upper-level wall is 6 metres high and setback 5.68 metres from the northern side boundary, which exceeds the minimum DPF guidance of 1.9 metres.

The upper-level wall is 6 metres high and setback 2 metres from the southern side boundary. Zone DPF 6.1 guides a setback of 2.9 metres (an additional 1 metre) to mitigate overshadowing. The 900mm southern side setback shortfall should be considered on balance with the configuration and built form of the southern adjacent property.

Performance Outcome 6.1 seeks that buildings are setback from side boundaries to provide separation between buildings, to minimise visual impacts and allow access to natural light and ventilation for neighbours. The proposed southern side building setback is considered to satisfy this PO, in that it minimises visual impact and allows for sufficient ventilation.

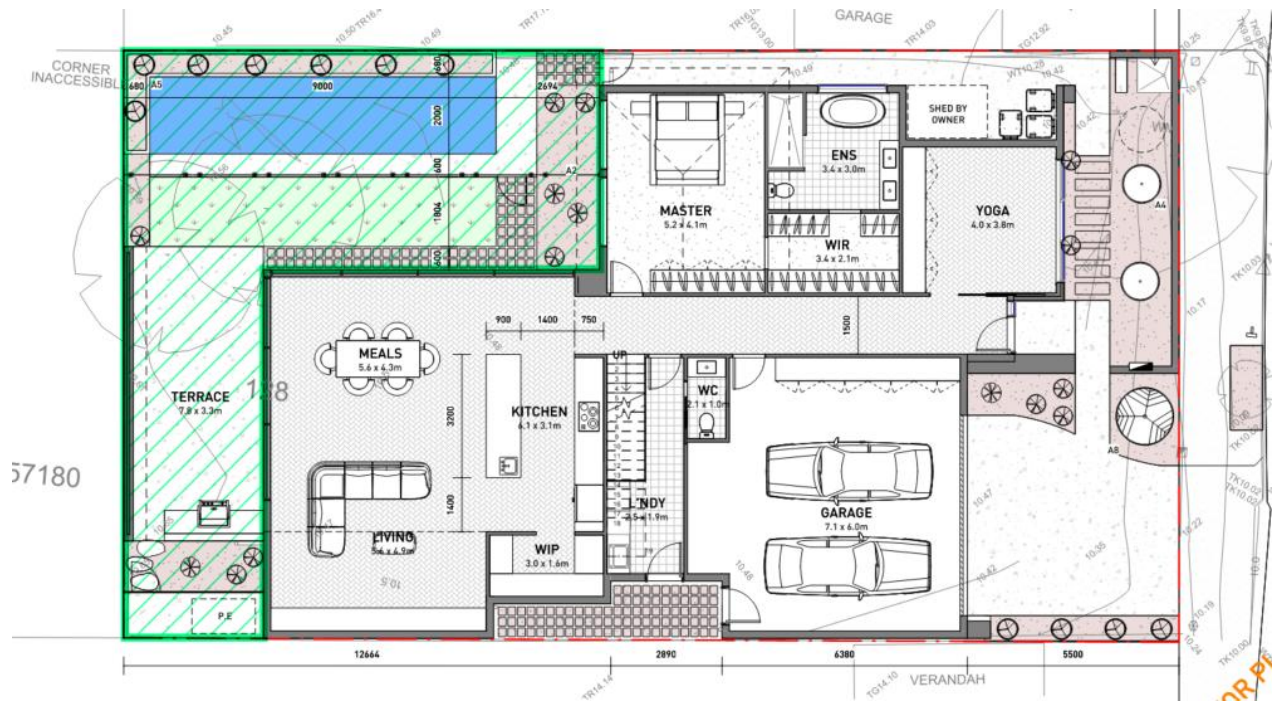
When considering solar access/overshadowing, the southern neighbour has a series of structures that cover its own north facing windows, including a carport, shade sail and verandahs. The upper level wall is setback 3.5 metres from the solar panels, which on balance, ensures compliance with Interface Between Land Uses PO 3.3, in that the development does not unduly reduce the generating capacity of adjacent roof top solar panels, taking into account the form of development contemplated in the Zone (up to 3 levels), the orientation of solar energy facilities (the northern roof setback is 1.5 metres from the northern side boundary), and the extent in which the solar energy facilities are already shadowed (nil). The 3.5 metre separation between the proposed upper-level wall and solar panels, plus the general location of the upper-level component, suggests that the solar panels will achieve access to sunlight during the morning and afternoon at the winter solstice.



### Private Open Space

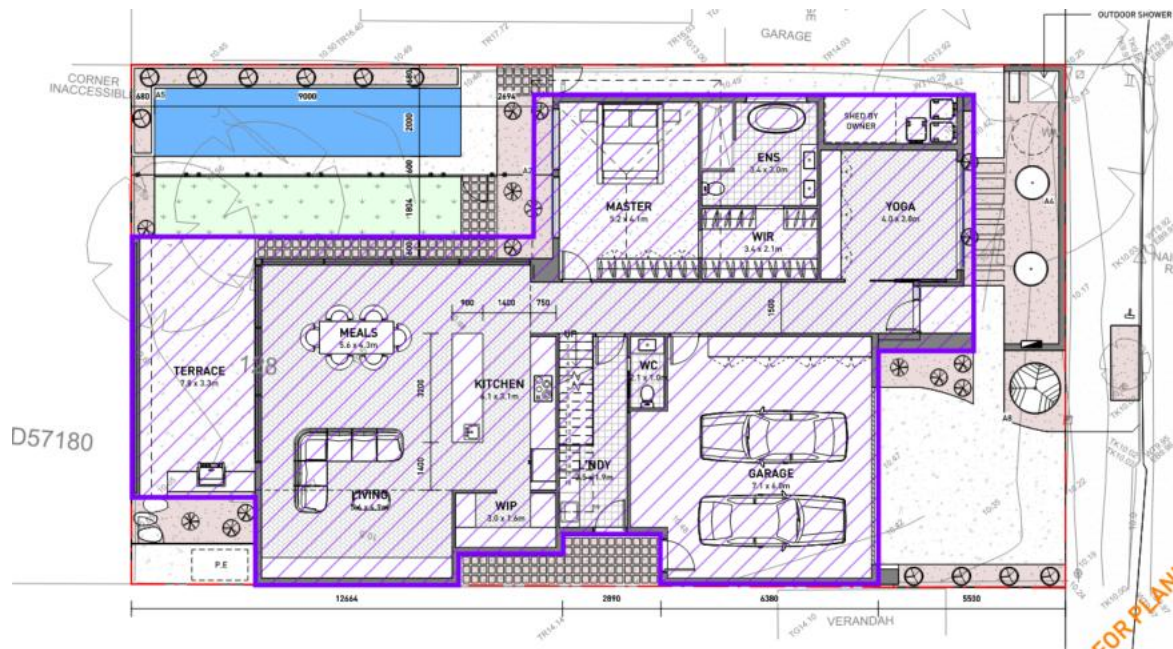
The proposal includes 105 square metres of private open space, which is predominately north facing and accessible from the living areas. The Code anticipates a minimum private open space area of 60 square metres.





### Site Coverage

Site coverage amounts to 60 percent of the site area, which offers a good balance of building coverage and opportunity for appropriate building setbacks, soft landscaping and private open space.



### Soft Landscaping

Soft landscaping covers up to 18 percent of the site area, which aligns with the minimum referenced in the relevant Code DPF. This is a guide to what is generally considered to satisfy the corresponding PO.



More importantly, the level of soft landscaping satisfies Design in Urban Areas PO 22.1. It will assist in minimising heat absorption and reflection, contribute to shade and shelter, provide stormwater infiltration and biodiversity, and enhance the appearance of land and streetscapes.

The swimming pool satisfies all relevant Code guidelines in its own right. Although not formally designated as soft landscaping, it will contribute to minimising heat absorption, not impact on stormwater infiltration and will enhance the appearance of the rear yard.



### Vehicle Access and Car Parking

The new dwelling generates a car parking demand of 2 on-site car parking spaces. The proposed development provides 2 undercover car parking spaces and 1 visitor space on the driveway. Vehicle access is achieved via an existing driveway, slightly extended in width, does not interfere with any stobie poles or side entry pits, and is sufficiently separated from a Council street tree.

### CONCLUSION

The proposed development satisfies the Planning and Design Code in every way in terms of land use, density, building height and scale, site coverage, private open space, soft landscaping, and vehicle access and car parking.

The development satisfies the Code with respect to front, rear and northern side boundary setbacks.

The upper-level wall is 6 metres high and setback 2 metres from the southern side boundary, in lieu of the 2.9 metre distance suggested by DPF 6.1. PO 6.1, seeks setbacks from side boundaries to provide a separation between buildings, to minimise visual impact and provide access to natural light and ventilation for neighbours.

The proposed upper-level building setback of 2 metres to the southern boundary satisfies part of this provision in terms of achieving an adequate separation to minimise visual impact, as well as sufficient spacing to accommodate ventilation.

The final consideration rests with whether the 2 metre southern side boundary setback is considered sufficient in achieving access to natural light for neighbours. At the ground level, the southern neighbour has extensive shading by way of a carport, shade sail, and verandahs, which in their own right cast shade to any north facing windows. At the roof level, the southern neighbour has a series of solar panels setback 1.5 metres from the northern side boundary. The proposed upper level is setback 2 metres from the southern side boundary, resulting in a total separation of 3.5 metres, which on balance, is a suitable separation to achieve solar access to the panels. Furthermore, in light of the fact that the Zone allows for 3 building levels, the proposed development is considered to demonstrate sufficient overall compliance with the Code.

## 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 25014740 by Michael Fogarty 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, other than facing the street, shall have minimum window sill heights of 1.5 metres above finished floor level, or any glass below 1.5 metres shall be obscured, fixed shut and be installed prior to occupation of the dwelling.
3. The pool filter pump must be enclosed in such a way that noise levels do not exceed 52 dB(A) between 7am and 10pm on the same day, and 45dB(A) between 10pm and 7am the next day, measured at adjoining property boundaries.
4. That landscaping as detailed in the approved plans shall be planted prior to occupation and shall be maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased.
5. 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.
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

7. 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).

**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 watertable.

**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](http://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](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.