

EVELOPMENT NO.:	23035987
APPLICANT:	Dan Ferrone
ADDRESS:	8 PATAWALONGA FRTG GLENELG NORTH SA 5045
NATURE OF DEVELOPMENT:	Two-level detached dwelling with walls located on the southern side and western boundaries and a semi-undercroft car park
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • General Neighbourhood Overlays: <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy
LODGEMENT DATE:	21 Dec 2023
RELEVANT AUTHORITY:	Assessment Panel at City of Holdfast Bay
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.18 7/12/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Alexander Stamatopoulos Development Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 1:	Application Documents
ATTACHMENT 2:	Representation
ATTACHMENT 3:	Response to Representation

DETAILED DESCRIPTION OF PROPOSAL:

The application comprises a two-storey detached dwelling with a semi-undercroft car park. The lower level of the dwelling comprises a bedroom with ensuite, separate lounge, laundry, wine bar, water closet, storeroom, open living areas, an alfresco and gym with amenities. The rear outdoor ground area comprises a large open space area with a grassed area, a canary date palm and permitter planting along the northern side boundary. The front outdoor area is also comprised of generous landscaping areas, pedestrian access and an access driveway.

The upper level comprises a front balcony, living areas, a front and rear void, water closet, separate bathroom and three bedrooms. The semi-undercroft car park contains 5 parking spaces, a store, wine room, stairs and a lift to access the upper levels of the dwelling.

The site will be filled as the finished floor level of the dwelling is 600mm to 1m above the existing ground level. Retaining walls are proposed on the northern and southern side boundaries varying from 600mm to 800mm in height. The dwelling contains a modern façade similar to recent developments along Patawalonga Frontage where parapet walls feature resulting in a grand appearance. The features of the dwelling façade include an upper-level balcony with glass balustrading, floor-to-ceiling windows and stacker doors, trimdek sheeting, stonework, timber garage and front door and a central rendered wall on the upper level.

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

Location reference: 8 PATAWALONGA FRTG GLENELG NORTH SA 5045

Title ref.: CT 5839/383 **Plan Parcel:** F1091 AL19 **Council:** CITY OF HOLDFAST BAY

The subject site currently hosts a single storey detached dwelling and an outbuilding located in the rear yard. The dwelling appears to be built during the 1940s and sits on approximately 1000sqm of land with an 18.49m frontage. An image of the current dwelling is shown below:



Above: Existing single-storey dwelling

The site is located on the western side of the Patawalonga River and abuts dwellings to the west that front North Esplanade located in the Suburban Neighbourhood Zone. The locality has been subject to infill development where two-level dwellings along Patawalonga Frontage with similar built forms to the proposal Frontage take advantage of the river and hills views.



Above: Locality map showing subject site and zones

There are a number of three-level dwellings with designs similar to the proposed containing semi-undercroft garaging and two building storeys to the north of the subject site located at 9, 9a, 10 and 14, and 14a Patawalonga Frontage. To the south of the subject site are single-storey detached dwellings with large north-facing private open space areas and ancillary outbuildings. To the west are several recent developments comprised of typical Esplanade style dwellings along with a multi-level residential flat building on the corner of North Esplanade and King Street.



Above: 14 and 14a Patawalonga Frontage

Below: 10 Patawalonga Frontage Glenelg North





Above: 9 and 9a Patawalonga Frontage

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

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

PUBLIC NOTIFICATION

- **REASON**
The dwelling involves a building wall that is proposed to be situated on an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) that exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment).

• **LIST OF REPRESENTATIONS**

Summary of Representors			
Address of Representor	Position	Wish to be heard	Concerns
<i>Robyn Iomazzo of 7 King Street Glenelg North</i>	<i>I support the development with some concerns</i>	<i>No</i>	- <i>Clarification of overlooking from the front porch area into the private open space of 7 King Street Glenelg North</i>

• **SUMMARY**

The applicant responded to the representation as detailed in Attachment 3. The applicant stated that retaining walls will be constructed to the new ground level and a fence will be constructed on top which will mitigate any views from the front porch into dwellings to the south.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

Quantitative Provisions

	Proposed	DPF Requirement	Achieved
Building Height	Two levels and 7.4m Wall Height 7.4m	2 levels and 9m Wall Height 7m	Yes No
Boundary Development	18.29m & 100% (rear boundary length) 13.97m & 25% (southern side boundary length) 3m height from footing (both boundary walls)	11.5m and 45% 3m height from footing	No Yes
Front Setback	12.1m metres	1m in front of the adjoining dwelling 10 Patawalonga Frontage – primary setback 9m <u>Quantitative requirement = 8m</u>	Yes
Rear Setback (dwelling)	12.7m – lower level 13.7m - upper level	4 metres at ground level and 6 metres at upper level	Yes

	Proposed	DPF Requirement	Achieved
Side Setbacks	Ground level northern wall 2m	Ground level wall 900mm	Yes
	Ground level southern wall 2m	Ground level wall 900mm	Yes
	Upper level northern wall 2m	Upper level northern wall 2.3m	No
	Upper level southern wall 2m and 3m	Upper level southern wall 3.3m	No
Site Coverage	50%	60%	Yes
Private Open Space	269 square metres	60 square metres	Yes
Soft Landscaping	25 percent of the site area	25 percent of the site area	Yes
Front Yard Landscaping	43 percent	30 percent	Yes
Tree Planting	2 medium trees	2 medium trees	Yes

The assessment below will discuss the components of the application that require a detailed discussion.

Boundary Development

The quantitative assessment identified numerical shortfalls associated with the boundary walls located on the western rear and southern side boundary. The relevant assessment provisions are shown below:

PO 7.1

Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.

DTS/DPF 7.1

Except where the building is a dwelling and is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:

- a) *side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height*
- b) *side boundary walls do not:*
 - i. *exceed 3m in wall height*
 - ii. *exceed 11.5m in length*
 - iii. *when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary*
 - iv. *encroach within 3m of any other existing or proposed boundary walls on the subject land.*

The wall associated with the alfresco and gym will abut an existing wall that is located on the boundary between the subject site and 13 North Esplanade. See below, which shows a photo of the wall itself and also an aerial showing the wall being associated with a covered communal parking area.



Above: Photo of the existing rear wall located on the western side boundary behind the existing outbuilding

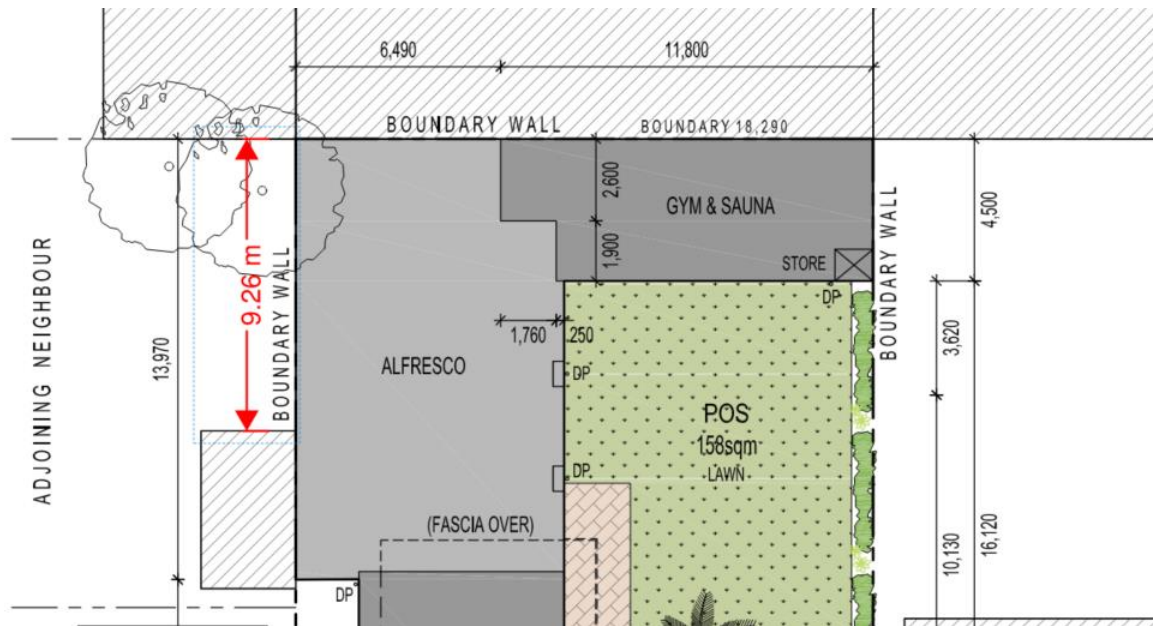


Above: Aerial showing the allocated spaces over the covered parking structure adjoining the subject site.

The wall located on the southern side boundary associated with the alfresco is 13.97m where the policy anticipates a maximum length of 11.5m. While numerical shortfalls are noted the test is whether PO 7.1 is satisfied. Therefore, it needs to be determined whether the walls will unreasonably shadow and or visually impact the adjoining properties.

The wall associated with the alfresco and gym located on the western rear boundary will be screened by the existing wall therefore mitigating visual impacts. Overshadowing will not be unreasonable given the siting of the wall being on the western side boundary, being single storey and when considering it will be adjacent to a roofed area.

The southern wall associated with the alfresco is located adjacent to the boundary of 3 King Street to the south. The wall benefits from being located adjacent to an outbuilding associated with the southern neighbouring dwelling.



Above: Portion of wall highlighted visible to the southern neighbour

The image above shows a portion of the wall that will be screened by the existing outbuilding. Therefore only 9.26m of wall will be easily visible to the adjoining property negating visual impacts. Overshadowing from the wall is not considered to be unreasonable given its single storey built form as the majority of shadows cast will result from the upper level of the dwelling.

For the reasons mentioned above PO 7.1 is considered to be satisfied as the boundary walls are limited in height and length to manage visual and overshadowing impacts on the adjoining properties to the south and west.

Side Setbacks and overshadowing

Both the northern and upper-level side setbacks do not comply with the quantitative requirements of DPF 8.1. PO 8.1 is the performance outcome which is set to be achieved. See below:

PO 8.1

Building walls are set back from side boundaries to provide:

- a) *separation between dwellings in a way that contributes to a suburban character and*
- b) *access to natural light and ventilation for neighbours.*

The northern upper-level setback contains a shortfall of 300mm which is considered to be a minor variance. A setback of 2m is proposed where 2.3m is anticipated. Given the orientation of the northern wall, the impacts are considered to be minor. The northern wall will not result in overshadowing and the separation from the northern boundary is suitable and consistent with the existing setbacks of the established two-level dwellings along Patawalonga Frontage.

The policy demands a greater setback for south-facing walls given the potential for increased overshadowing. The southern upper level of the dwelling is setback 2m and 3m where a setback of 3.3m is anticipated. This results in a shortfall varying from 300mm to 1.3m. The majority of the southern upper level is setback 3m (19.5 of spanning

wall) with only a portion setback at 2m (12.7m of spanning wall). The applicant provided overshadowing diagrams that show shadows cast of the proposed setback and also the shadows cast (red outline) from a compliant 3.3m side setback (attachments 1.15-1.17).

The relevant assessment provisions relating to overshadowing are shown below:

PO 3.1

Overshadowing of habitable room windows of adjacent residential land uses in:

- a. neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- b. other zones is managed to enable access to direct winter sunlight.*

DTS/DPF 3.1

North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.

PO 3.2

Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:

- a. a neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b. other zones is managed to enable access to direct winter sunlight.*

DTS/DPF 3.2

Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:

- a. for ground level private open space, the smaller of the following:*
 - i. half the existing ground level open space*
 - or*
 - ii. 35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)*
- b. for ground level communal open space, at least half of the existing ground level open space.*

The dwellings to the south benefit from having large rear yards where the north-facing windows will not be impacted by shading from the dwelling. A portion of the rear private open space areas of the southern dwellings will be subject to some shading throughout the day. The shading diagrams show the shadows that are cast from a compliant 3.3m setback highlighted in red. The difference between the proposed shadows and the shadows cast from a compliant setback should be taken into consideration when determining the merits of the proposal.

The additional shadowing from the dwelling as proposed is minor in comparison to what a compliant setback would achieve. It is also worth considering that the established dwellings along Patawalonga Frontage with a similar built form contain southern upper-level setbacks that vary from 2m to 2.5m with examples being on sub-divided allotments. The subject land would be suited to a division where there would be greater pressure to achieve a compliant southern-upper level setback given the width of the allotment would be halved. Therefore, a likely outcome would be for the dwellings to contain setbacks consistent with the established dwellings in the locality being 2m to 2.5m.

The dwelling as lodged is an ideal outcome for the site as greater separation can be achieved to the southern side boundary. Therefore, the shadowing cast from the dwelling is not considered to be unreasonable as proposed. PO 3.2 is satisfied.

Building Height

The building is defined as a two-level dwelling. A building level is defined in the Planning and Design Code as the following:

Building level

Means that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include any mezzanine or any building level having a floor that is located 1.5m or more below finished ground level.

As the semi-undercroft garaging floor level is 1.5m below natural ground level it does not fit the definition of a building level. Therefore, the dwelling is defined as having two levels.

DPF 4.1 references both *building height* and *wall height* which contain two separate definitions as shown below:

Building Height

Means the maximum vertical distance between the lower of the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

- a) flues connected to a sewerage system*
- b) telecommunications facility tower or monopole*
- c) electricity pole or tower*
- d) or any similar structure.*

Wall Height

Means the height of the wall measured from the top of its footings but excluding any part of the wall that is concealed behind an eave or similar roof structure and not visible external to the land.

The *building height* from the lowest point of natural ground level is 8.67m, well under the anticipated maximum of 9m. The *wall height* of the dwelling is measured from the top of the footings as defined in the code. The height of the dwelling is 7.42m from the ground level footing. This exceeds the 7m maximum by 742mm, which results from the parapet style design of the dwelling containing higher vertical walls.

The quantitative measures are a guide to satisfy the relevant performance outcome. PO 4.1 for building height is shown below:

PO 4.1

Buildings contribute to a low-rise suburban character.

Low Rise is defined as:

In relation to development, means up to and including 2 building levels.

While the undercroft is not entirely under the existing natural ground level the scale of the building will assimilate well with the existing built form in the locality particularly noting the similar dwellings highlighted in the subject land and locality assessment. PO 4.1 is considered to be satisfied.

CONCLUSION

The application seeks to construct a dwelling that will assimilate well with the existing built form of the locality. It is noted that components of the dwelling do not align with some assessment provisions of the Planning and Design Code. However, the impacts of the shortfalls are not considered to unreasonably impact the adjoining properties. The dwelling will contain an appropriate appearance to the streetscape without being overly dominant and impacts to adjoining neighbours are not considered to be unreasonable when considering the type of development that is anticipated for the site.

RECOMMENDATION

Planning consent

It is recommended that the Council Assessment Panel/SCAP 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 23035987, by Dan Ferrone 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 (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

3. 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.
4. 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 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 obscure and fixed shut and be installed prior to occupation of the dwelling.
4. 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.
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. 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).

OFFICER MAKING RECOMMENDATION

Name: Alexander Stamatopoulos
Title: Development Planner
Date: 07/02/2024