



The City with Spirit

NOTICE OF MEETING

Notice is hereby given that a **Planning Authority Committee** meeting of the Devonport City Council will be held in the Aberdeen Room, Level 2, parnaple centre, 137 Rooke Street, Devonport on Monday 7 December 2020, commencing at 5:15 PM.

The meeting will be open to the public and live streamed from 5:15 PM.

QUALIFIED PERSONS

In accordance with Section 65 of the *Local Government Act 1993*, I confirm that the reports in this agenda contain advice, information and recommendations given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

Matthew Atkins
GENERAL MANAGER

02 12 2020

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 7 December 2020, in the Aberdeen Room, Level 2, paranable centre,137
Rooke Street, Devonport at 5:15 PM**

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ATTENDEES

		Apology
Chair	Cr A Rockliff (Mayor)	
	Cr J Alexiou	
	Cr P Hollister	
	Cr S Milbourne	
	Cr L Murphy	
	Cr L Perry	

ACKNOWLEDGEMENT OF COUNTRY

Council acknowledges and pays respect to the Tasmanian Aboriginal community as the traditional and original owners and continuing custodians of this land.

IN ATTENDANCE

All persons in attendance are advised that it is Council policy to record Council Meetings, in accordance with Council's Digital Recording Policy. The audio recording of this meeting will be made available to the public on Council's website for a minimum period of six months. The meeting is also being live streamed via YouTube.

1 APOLOGIES**2 DECLARATIONS OF INTEREST**

3 DELEGATED APPROVALS

3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY

Author: **Jennifer Broomhall, Planning Administration Officer**

Endorser: **Kylie Lunson, Development Services Manager**

RECOMMENDATION

That the list of delegated approvals be received.

Planning applications approved under delegated authority 1 November 2020 – 22 November 2020.

ATTACHMENTS

{attachment-list-do-not-remove}

4 DEVELOPMENT REPORTS

4.1 PA2020.0142 - 94 WINSPEARS ROAD EAST DEVONPORT - 3 LOT SUBDIVISION

Author: **Alex Mountney Planning Officer**
 Endorser: **Kylie Lunson, Development Services Manager**

RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Tasmanian Planning Scheme – Devonport 2020* and Section 57 of the *Land Use Planning and Approvals Act 1993*, refuse application PA2020.0142 for a 3-lot subdivision at 94 Winspears Road, East Devonport for the following reasons:

- The subdivision and intended residential use on lots 1 & 2 are not in accordance with the purpose of the Agriculture zone; and
- The subdivision configuration does not satisfy the requirements of clause 21.5.1 - *Development Standards for Subdivision – Lot Design - P1(b)* due to the following reasons:
 - The subdivision will diminish the agricultural productivity of the land; and
 - Additional lots are being created.

RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- Strategy 2.1.1 Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use
- Strategy 2.1.2 Provide consistent and responsive development assessment and compliance processes

SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee acting as a Planning Authority to make a decision regarding planning application PA2020.0142.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	94 Winspears Road East Devonport
Applicant:	PDS Surveyors obo Rhebanvale
Owner:	Mrs HM Radcliff & Mr MJ Radcliff
Proposal:	3 lot subdivision
Existing Use:	Resource Development & Residential
Zoning:	Agriculture
Decision Due:	8/12/2020 - extension of time granted by applicant (initial decision due 26/11/2020).

SITE DESCRIPTION

Omeo Farm is identified by certificate of title 170489/1 with the property address of 94 Winspears Road, East Devonport. The site has an area of 78.60ha and is principally utilised for agricultural purposes, including cropping and grazing land for livestock.

Located on the property is a single dwelling which is situated within the northern section of the farm and is accessed from Winspears Road. A recently developed telecommunications tower is located on the western portion of the site adjacent to a neighbouring TasWater reservoir. Numerous farm implement sheds are sporadically located over the property.

The property has a number of road frontages including Winspears Road to the north, Loanes Lane to the east, Bel-Air Crescent and Skyline Drive to the west and Park Drive to the south.

The property is surrounded by a number of land-uses including residential development, farmland and undeveloped land.

Figure 1 reproduced below is an aerial image of the site.



Figure 1 – Aerial image of site (overlaid in red) and surrounding locality (DCC, 2020)

APPLICATION DETAILS

The applicant is seeking approval for a 3-lot subdivision.

Lots 1 and 2 are intended for future residential development. Lot 1 is proposed to be accessed from Skyline Drive and will have an area of 8493m². Lot 2 is proposed to be accessed from Bel-Air Crescent and will also have a frontage to Winspears Road. Lot 2 is proposed to encompass an area of 1.06ha. Future dwelling envelopes have been highlighted for these lots. In addition, a vegetation buffer is shown between the lots and the balance lot to the immediate east.

The balance lot is proposed to have an area of 76.69ha. The established farming activities are to be continued on this lot.

A copy of the subdivision plan submitted by the applicant is reproduced as Figure 2. A full copy of the development application, including supporting compliance reports is appended as **Attachment 1**.

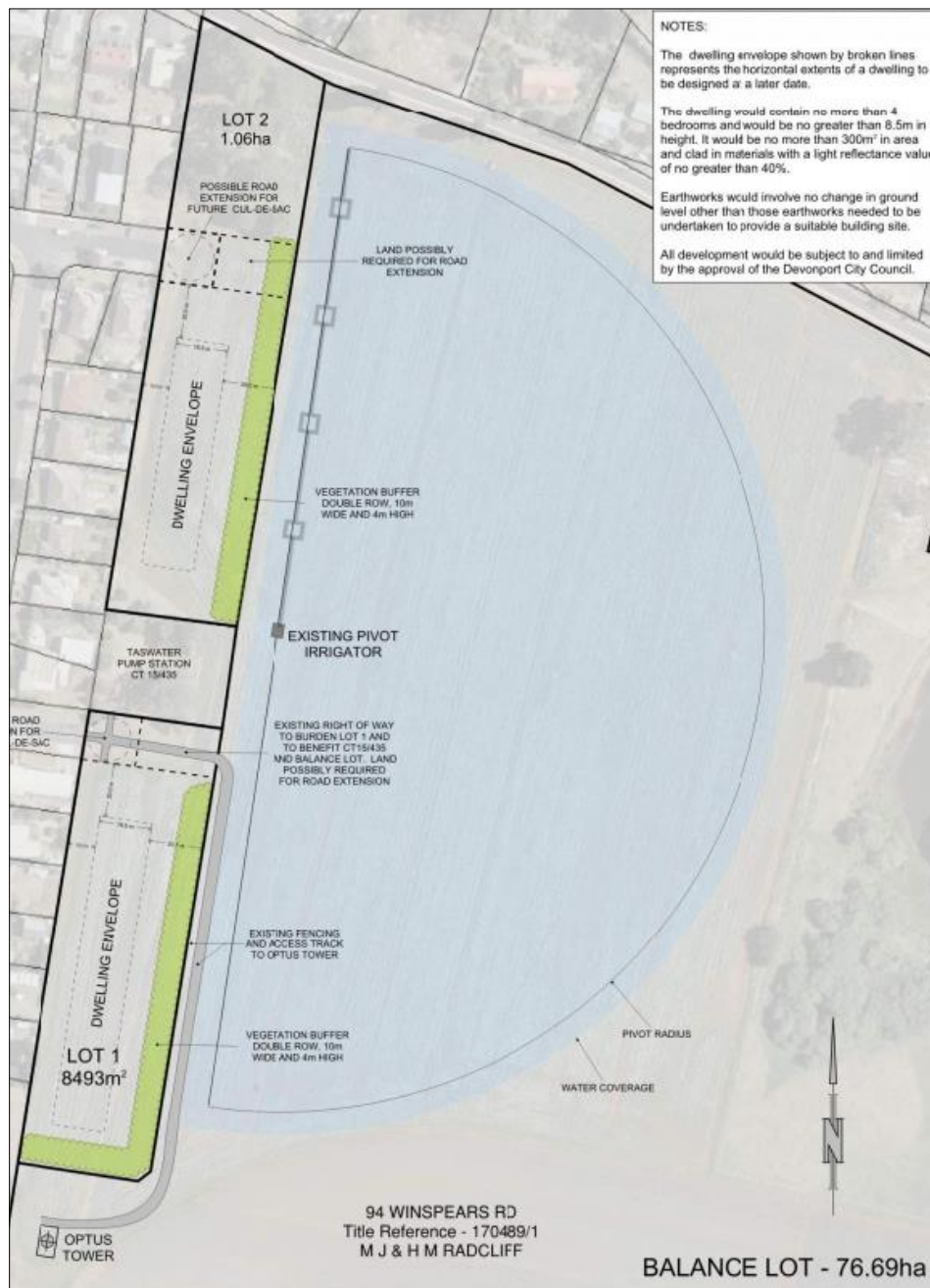


Figure 2 – Subdivision plan (PDA Surveyors, 2020)

PLANNING ISSUES

Preamble

The application was validated under Council's previous planning scheme - the *Devonport Interim Planning Scheme 2013* (the DIPS). Under the DIPS, the property was zoned Rural Resource. On the 18th October 2020, a new planning scheme was declared for the Devonport municipality - *Tasmanian Planning Scheme - Devonport, 2020* (TPS-D).

Under the TPS-D, there is no longer a Rural Resource zone. This land-use zone does not exist under the State Planning Provisions which forms part of the TPS-D. As a result, the site was assigned to the Agriculture zone under the TPS-D. The assignment of the Agriculture zone was in accordance with the *Agricultural Land Mapping Project* commissioned by the Tasmanian State Government and was ratified by the Tasmanian Planning Commission as part of the approval process of the TPS-D.

The application is required to be assessed in accordance with the *Land Use Planning and Approvals Act 1993* (LUPAA). LUPAA has no transition provisions for applications validated under a previous planning scheme. Subsequently, the application is being assessed under the applicable provisions of the TPS-D.

The applicant provided supporting compliance statements in accordance with the applicable provisions prescribed within the DIPS as they were the applicable standards when the application was submitted and validated. The development standards have changed under the TPS-D, however they are considered somewhat measurable and no further information was considered necessary to assess the merits of this application. Lastly, the applicant was made aware when the TPS-D was declared and of the assignment of the Agriculture zone to the property.

Planning Assessment

As discussed above, the land is zoned Agriculture under the TPS-D. A land-use zoning map of the site and surrounds is reproduced as Figure 3.

The purpose of the Agriculture zone is:

21.1.1 To provide for the use or development of land for agricultural use.

21.1.2 To protect land for the use or development of agricultural use by minimising:

(a) conflict with or interference from non-agricultural uses;

(b) non-agricultural use or development that precludes the return of the land to agricultural use; and

(c) use of land for non-agricultural use in irrigation districts.

21.1.3 - To provide for use or development that supports the use of the land for agricultural use.

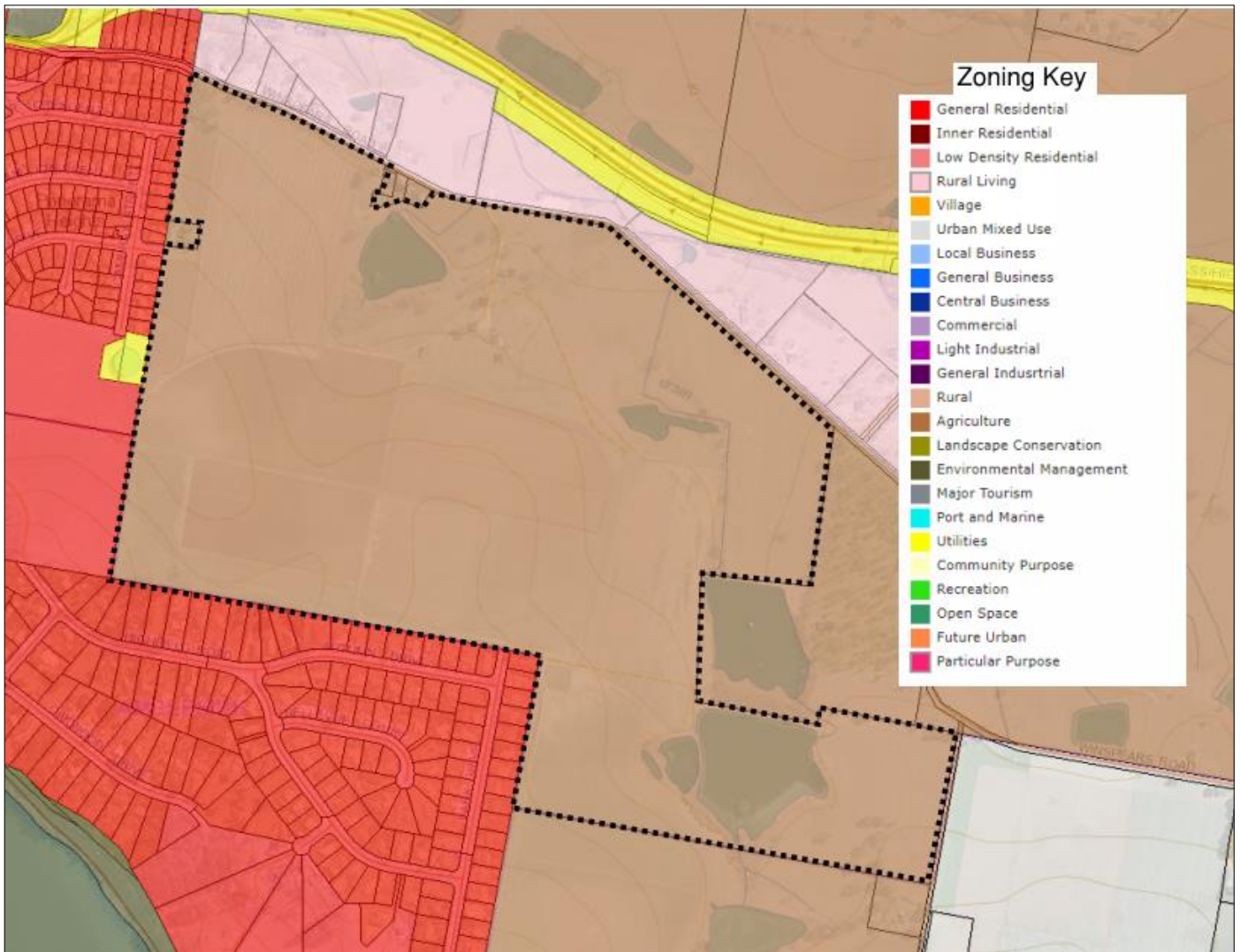


Figure 3 – Land-use zoning map, TPS-D (The List, 2020)

The identified applicable Agriculture zone development standards that need to be assessed for the subdivision are the following:

- 21.3.1 - *Discretionary Uses*
- 21.4 - *Development standards for Buildings & Works*
- 21.5 - *Development standards for Subdivision*

One development code has also been identified that is relevant - C13.0 *Bushfire-Prone Areas Code*. This is due to the property falling within a mapped bushfire-prone area and being for a subdivision.

With respect to assessment of this application, development standard 21.5 – *Development standards for Subdivision* has been assessed first. The reason behind this methodology is that this particular standard considers the subdivision aspect of the proposal and if the subdivision cannot be supported no further planning assessment is deemed necessary.

21.5 Development Standards for Subdivision

21.5.1 Lot Design

Objective	
To provide for subdivision that:	
(a) relates to public use, irrigation infrastructure or Utilities; and	
(b) protects the long term productive capacity of agricultural land.	
Acceptable Solutions	Performance Criteria
A1	P1
Each lot, or a lot proposed in a plan of subdivision, must:	Each lot, or a lot proposed in a plan of subdivision, must:
(a) be required for public use by the Crown, a council or a State authority;	(a) provide for the operation of an agricultural use, having regard to:
(b) be required for the provision of Utilities or irrigation infrastructure; or	(i) not materially diminishing the agricultural productivity of the land;
(c) be for the consolidation of a lot with another lot provided both lots are within the same zone.	(ii) the capacity of the new lots for productive agricultural use;
	(iii) any topographical constraints to agricultural use; and
	(iv) current irrigation practices and the potential for irrigation;
	(b) be for the reorganisation of lot boundaries that satisfies all the following:
	(i) provides for the operation of an agricultural use, having regard to:
	a. not materially diminishing the agricultural productivity of the land;
	b. the capacity of the new lots for productive agricultural use;
	c. any topographical constraints to agricultural use; and
	d. current irrigation practices and the potential for irrigation.

	<ul style="list-style-type: none"> (ii) all new lots must be not less than 1ha in area; (iii) existing buildings are consistent with the setback required by clause 21.4.2 A1 and A2; (iv) all new lots must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use; and (v) it does not create any additional lots; or <p>(c) be for the excision of a use or development existing at the effective date that satisfies all of the following:</p> <ul style="list-style-type: none"> (i) the balance lot provides for the operation of an agricultural use, having regard to: <ul style="list-style-type: none"> a. not materially diminishing the agricultural productivity of the land; b. the capacity of the balance lot for productive agricultural use; c. any topographical constraints to agricultural use; and d. current irrigation practices and the potential for irrigation. (ii) an agreement under section 71 of the Act is entered into and registered on the title preventing future Residential use if there is no dwelling on the balance lot; (iii) any existing buildings for a sensitive use must meet the setbacks required by clause 21.4.2 A2 or P2 in relation to setbacks to new boundaries; and (iv) all new lots must be provided with a frontage or legal connection to a
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	road by a right of carriageway, that is sufficient for the intended use.
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The subdivision does not satisfy the acceptable solutions prescribed within A1. Therefore, the performance criteria is required to be assessed to determine if a permit pathway can be achieved.

Either P1 (a), (b) or (c) needs to be assessed. In this regard, P1(c) is not applicable as a house excision is not proposed. There is some subjectivity whether P1(a) or P1 (b) is the most appropriate test for this subdivision proposal. It is contended that P1(a) is not relevant as two lots are intended for residential use. Subsequently, the application has been assessed against the merits of P1(b).

A copy of P1(b) is further reproduced below.

<p><i>P1(b)</i></p> <p><i>Each lot, or a lot proposed in a plan of subdivision, must:</i></p> <p><i>be for the reorganisation of lot boundaries that satisfies all the following:</i></p> <ul style="list-style-type: none"> <i>(i) provides for the operation of an agricultural use, having regard to:</i> <ul style="list-style-type: none"> <i>a. not materially diminishing the agricultural productivity of the land;</i> <i>b. the capacity of the new lots for productive agricultural use.</i> <i>c. any topographical constraints to agricultural use; and</i> <i>d. current irrigation practices and the potential for irrigation.</i> <i>(ii) all new lots must be not less than 1ha in area;</i> <i>(iii) existing buildings are consistent with the setback required by clause 21.4.2 A1 and A2;</i> <i>(vi) all new lots must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use; and</i> <i>(vii) it does not create any additional lots; or</i>
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In response to P1 (b) (i) – (vii), the applicant has provided a comprehensive agricultural land use assessment titled *Omeo Farm Improvements Plan* by Ben Leditschke obo of ProAdvice Pty Ltd. This assessment is included within the application documentation appended as **Attachment 1**. As discussed earlier, the accompanying report has addressed Council's previous planning scheme - the DIPS, however the rationale provided is relevant and can be considered to determine if compliance can be achieved with P1(b).

Mr Leditschke states that the property encompasses Class 2 agricultural land. This is supported by the Land Capability layer from The LIST website which demonstrates the subdivision site to have Class 2 land with other areas of the farm containing Class 4 land. A

land capability map of the site is reproduced as Figure 4. For information purposes, land capability mapping is an accepted method of ranking the ability of the land to support a range of broadacre agricultural activities on a sustainable basis.

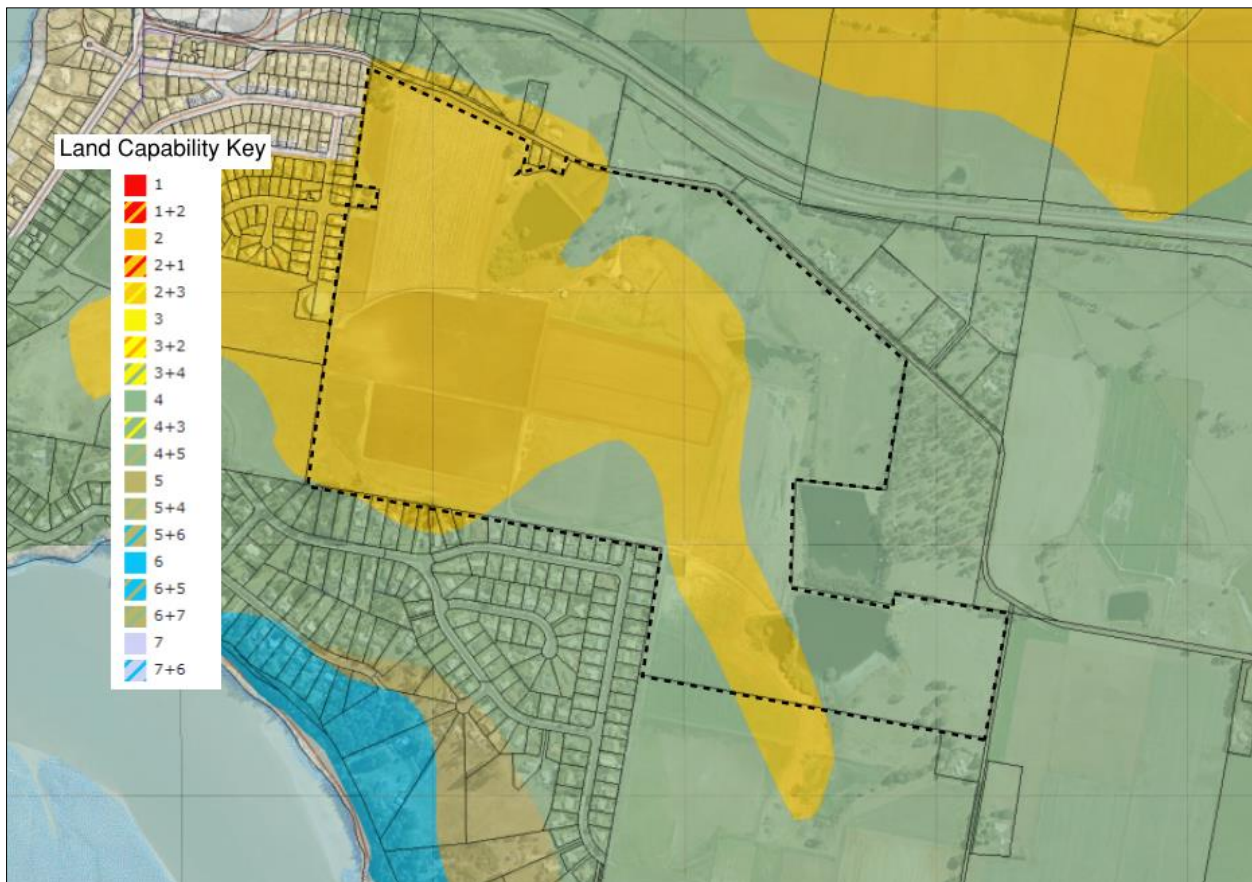


Figure 4 – Land Capability of site and surrounding area (The List, 2005)

Under the *Land Capability Handbook - Guidelines for the classification of Agricultural land in Tasmania* commissioned by the Department of Primary Industries, Water and Environment (DPIPWE), Class 2 land is defined as:

“Land suitable for a wide range of intensive cropping and grazing activities. Limitations to use are slight, and these can be readily overcome by management and minor conservation practices. However the level of inputs is greater, and the variety and/or number of crops that can be grown is marginally more restricted, than for Class 1 land.

This land is highly productive but there is an increased risk of damage to the soil resource or of yield loss. The land can be cropped five to eight years out of ten in a rotation with pasture or equivalent during 'normal' years, if reasonable management inputs are maintained.”

The application is also required to have regard to *The State Policy on the Protection of Agricultural Land 2009* (PAL policy). The purpose of the PAL policy is to:

“To conserve and protect agricultural land so that it remains available for the sustainable development of agriculture, recognising the particular importance of prime agricultural land.”

(DPIPWE, 2009)

The PAL Policy is implemented through the TPS-D by virtue of zone purpose statements, objectives and development standards. Under this policy, land classed as 1, 2 or 3 is considered 'prime agricultural land'.

It cannot be favourably supported that the reorganisation of the lot boundaries can satisfy the tests prescribed within P1(b)(i) - (vi). Commentary regarding this determination is provided below.

The reorganisation of lot boundaries is not primarily intended for agricultural use with two lots proposed for residential purposes. It is quite clear that the intention of the subdivision is to provide a superior buffer for the farm operation in comparison to the existing situation - that is having 15 residential lots situated along the land-use zoning interface. Mr Leditschke notes the following regarding the section of agricultural land to be converted to residential lots.

"...the sustainable and long term use of the balance agricultural land for primary industry purposes would be assisted by minimising the number of adjoining residential uses and by creating appropriate separation, exclusion fencing and vegetation buffering. It is considered that the advantages of the proposed circumstances outweigh the conversion of a minor amount of land to non-agricultural use. It is considered that the proposed use and development would have a net agricultural advantage given that the current situation may threaten future actives across the whole site rather than just the interface zone."

(Leditschke, 2020, pg. 3)

It is agreed that the portion of land proposed to be converted for residential purposes is only a minor percentage of the farm, approximately 2.5%. Furthermore, it can be supported that the proposed lot configuration, including the provision of a vegetation buffer along the eastern and southern boundary of the residential lots will more than likely provide enhanced security for the farm operation.

However, the agricultural productivity of the site will be diminished and there is no capacity for the residential lots to operate as a productive agricultural use and as a result the performance cannot be satisfied for P1(b)(i)(a) and (b). It is identified that the section of land proposed to be subdivided for residential lots has legitimate agricultural value. Figure 5 below is a recent photo taken from the Bel-Air Crescent road frontage (lot 2's location). The photo highlights that livestock can utilise this section of the farm for grazing purposes. Although the pivot irrigation system cannot service this area due to the proximity to residential properties and the existing boundary alignment it demonstrates this area of the farm can be used for agricultural purposes. There are no topographical constraints that prohibit agricultural use within this vicinity. Therefore, the subdivision configuration cannot satisfy P(b)(i).



Figure 5 – Photo of lot 2’s location looking to the south-east from Bel-Air Crescent frontage (DCC, 2020)

With respect to P1(b)(ii), Lot 1 has an area of 8493m² and therefore cannot be approved regardless of the above commentary.

In response to P1 (b) (iii), existing buildings on the property are considered to have a building setback in accordance with 21.4.2 A1 and A2.

Each lot has a connection to a road frontage in accordance with P1 (b)(iv).

Regarding P1(b)(v), the subdivision is creating 2 additional lots. As new lots are proposed, the subdivision cannot satisfy this component of the performance criteria.

When evaluating a development standard, the TPS-D provides guidance under section 5.6 – *Compliance with Applicable Standards*. Specifically, section 5.6.4 states the following:

“The planning authority may consider the relevant objective in an applicable standard to determine whether a use or development satisfies the Performance Criterion for that standard.”

The objectives of 21.5.1 - *Lot Design* is as follows:

“To provide for subdivision that:

(a) relates to public use, irrigation infrastructure or Utilities; and

(b) protects the long term productive capacity of agricultural land.”

(TPS-D, 2020)

In this case, (a) is not applicable to this subdivision application.

Regarding (b), it has been identified that the agricultural land proposed for residential conversion still has agricultural value and provides a buffer between the neighbouring residential development and intensive agricultural activities observed on the subject property. It is considered the subdivision configuration fails to protect the long term productive capacity of the agricultural land.

Given the above rationale and consideration of the performance criteria of 21.5.1 P1 (b) the application cannot achieve compliance and a permit pathway cannot be supported for the subdivision. Furthermore, the subdivision fails to meet the guiding principles of the PAL Policy, noting the section of the farm to be subdivided is mapped as being prime agricultural land.

As the subdivision component cannot be supported, it is not considered necessary for the application to be scrutinised against the other applicable development standards of the Agriculture zone and the Bushfire-Prone Areas Code.

COMMUNITY ENGAGEMENT

On 04/09/2020, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 31/10/2020;
- (b) Making a copy of the proposal available in Council Offices from the 31/10/2020;
- (c) Notifying adjoining property owners by mail on 29/10/2020; and
- (d) Erecting a Site Notice for display from the 30/10/2020.

The period for representations to be received by Council closed on 17/11/2020.

REPRESENTATIONS

Seven representations were received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*.

Six of the representations were received from nearby landowners. None of these representations were in support of the subdivision application, addressing concerns that the conversion of prime agricultural land to future residential lots is inappropriate.

One representation was received from the Tasmanian Fire Service which questioned the accompanying bushfire assessment by the applicant's bushfire assessor.

A copy of the representations is appended as Attachment 2.

The six representations received against the subdivision proposal can be supported. Their respective points of objection further highlight that the proposed subdivision is not in accordance with the subdivision requirements prescribed under the Agriculture zone.

Lastly, it is recommended the representation from the Tasmanian Fire Service be noted, however as the subdivision cannot be approved no change to the recommendation is required.

FINANCIAL IMPLICATIONS

No financial implications are predicted, unless an appeal is made against the Council's decision to the Resource Management and Planning Appeal Tribunal. In such instance, legal counsel may be required to represent Council. The opportunity for such an appeal exists as a result of the Council determining to either refuse or approve the subdivision application.

RISK IMPLICATIONS

In its capacity as a planning authority under the *Land Use Planning and Approvals Act 1993* (LUPAA), Council is required to make a determination on this application for a discretionary planning permit. Due diligence has been exercised in the preparation of this report and there are no predicted risks associated with a determination of this application.

CONCLUSION

The application cannot satisfy the performance criteria prescribed within development standard 21.5.1 P1(b) and the overarching purpose of the Agriculture zone. The application is recommended for refusal.

ATTACHMENTS

1. Application - P A 2020.0142 - 94 Winspears Road [**4.1.1** - 58 pages]
2. Representations - P A 2020.0142 - 94 Winspears Road [**4.1.2** - 15 pages]

4.2 PA2020.0199 - 46 MURRAY STREET, EAST DEVONPORT - 2 LOT SUBDIVISION

Author: **Carolyn Milnes, Planning Officer**
Endorser: **Kylie Lunson, Development Services Manager**

RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Tasmanian Planning Scheme – Devonport 2020* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2020.0199 and grant a Permit to develop land identified as 46 Murray Street, East Devonport for the following purposes:

- 2 lot subdivision

Subject to the following conditions:

1. The Development is to proceed generally in accordance with the submitted plans referenced as Proposed Subdivision – 46 Murray Street, East Devonport, Drawing No. 220043, by Michell Hodgetts Surveyors, dated 24/03/20, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The new driveway works is to be constructed generally in accordance with the Tasmanian Standard Drawing TSD-R09.
3. The developer is to provide a 150mm diameter stormwater connection for lot 1 and connect into the 375mm diameter Council main on Murray Street in accordance with Tasmanian Standard drawings TSD-SW25 and TSD-SW27.
4. The developer is to comply with the conditions specified in the Submission to Planning Authority Notice which TasWater has required to be included in the planning permit pursuant to section 56P(1) of the *Water and Sewerage Industry Act 2008*. A copy of this notice is attached.

Note: The following is provided for information purposes.

Addressing:

- Lot 1 on the Proposed Subdivision plan will become 44A Murray Street
- Lot 2 on the Proposed Subdivision plan will retain 46 Murray Street

This complies with AS/NZS 4819.2011 Rural and urban addressing.

In regard to conditions 2 & 3 a 'Permit to work within the road reserve' must be sought and granted prior to any works being undertaken. This will ensure that any existing Council infrastructure impacted by the works is to be reinstated in accordance with the relevant standards.

The owner must, at their expense, repair any Council services (eg pipes, drains) and any road, crossover, footpath or other Council infrastructure that is damaged as a result of any works carried out by the developer, or their contractors or agents pursuant to this permit. These repairs are to be in accordance with any directions given by the Council.

The developer is to provide a copy of the approved proposal plan to Telstra, NBN Co. and TasNetworks to assist them with their forward planning of infrastructure.

Hours of Construction shall be: Monday to Friday Between 7am - 6pm, Saturday between 9am -6pm and Sunday and statutory holidays 10am - 6pm.

During the construction or use of these facilities all measures are to be taken to prevent nuisance. Air, noise and water pollution matters are subject to provisions of the *Building Regulations 2016* or the *Environmental Management and Pollution Control Act 1994*.

In regard to condition 4 the developer should contact TasWater – Ph 136992 with any enquiries.

In regard to conditions 2 & 3 the developer should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

Enquiries regarding other conditions can be directed to Council's Development Services Department – Ph 6424 0511.

RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- Strategy 2.1.1 Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use
- Strategy 2.1.2 Provide consistent and responsive development assessment and compliance processes

SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2020.0199 for a 2-lot subdivision at 46 Murray Street.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	46 Murray Street, East Devonport
Applicant:	Michell Hodgetts Surveyors
Owner:	Mr JC Rand, Mr CL Rand and Ms MH Rand
Proposal:	2 lot subdivision
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	15/12/2020

SITE DESCRIPTION

The site is located on the southern side of Murray Street, approximately 50m west of the David Street intersection. The lot has an area of 1545m² and falls approximately 4.5m from the southwestern corner to the north eastern corner. The property contains an existing two storey dwelling and associated outbuildings. It is surrounded by established residential lots. Figure 1 shows an aerial view of the subject site.



Figure 1 - Aerial view of subject site - DCC

APPLICATION DETAILS

The applicant is seeking approval for a 2-lot subdivision. Lot 1 will have an area of 685m² and be a vacant lot while Lot 2, with an area of 855m² will contain the existing house. Figure 2 shows the proposed subdivision plan. No future development is proposed for the vacant lot as part of this application. The application can be viewed as attachment 1.

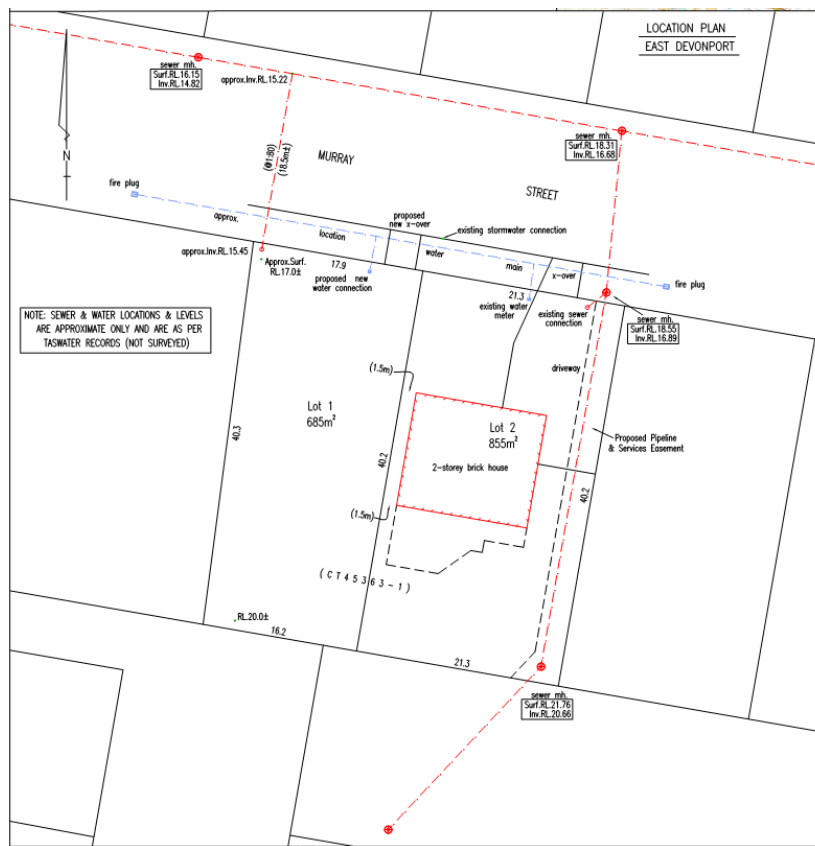


Figure 2 - Proposed subdivision plan – Michell Hodgetts

PLANNING ISSUES

The land is zoned General Residential under the *Tasmanian Planning Scheme – Devonport, 2020*. The purpose of the zone is to provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided, to provide for the efficient utilisation of available social, transport and other service infrastructure, to provide for non-residential use that primarily serves the local community and does not cause an unreasonable loss of amenity through scale, intensity, noise, activity outside of business hours, traffic generation and movement, or other off site impacts and to provide for visitor accommodation that is compatible with residential character.

Subdivision is permitted in the zone provided the proposal complies with all relevant sections of the planning scheme. In instances where the applicable standards cannot be met the proposal must be assessed against the corresponding performance criteria. In this case the proposal does not meet clauses 8.6.1 A1 (a)(ii) in regard to lot design and therefore must be assessed against the corresponding performance criteria.

The relevant standards are reproduced below followed by comment.

8.6 Development Standards for Subdivision

8.6.1 Lot design

Objective:	That each lot: <ul style="list-style-type: none"> (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; (c) contains areas which are suitable for development appropriate to the zone purpose, located to avoid natural hazards; and (d) is orientated to provide solar access for future dwellings. 	
Acceptable Solutions	Performance Criteria	
A1	P1	
<p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <ul style="list-style-type: none"> (a) have an area of not less than 450m² and: <ul style="list-style-type: none"> (i) be able to contain a minimum area of 10m x 15m with a gradient not steeper than 1 in 5, clear of: <ul style="list-style-type: none"> a. all setbacks required by clause 8.4.2 A1, A2 and A3, and 8.5.1 A1 and A2; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by clause 8.4.2 A1, A2 and A3, and 8.5.1 A1 and A2; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with another lot provided each lot is within the same zone. 	<p>Each lot, or a lot proposed in a plan of subdivision, must have sufficient useable area and dimensions suitable for its intended use, having regard to:</p> <ul style="list-style-type: none"> (a) the relevant requirements for development of buildings on the lots; (b) the intended location of buildings on the lots; (c) the topography of the site; (d) the presence of any natural hazards; (e) adequate provision of private open space; and (f) the pattern of development existing on established properties in the area. 	

The proposed subdivision does not meet the above requirement in regard to setbacks for existing buildings. The side setback to the existing dwelling is 1.5m. However, as the existing dwelling is of two storey construction and rises vertically on the western side, rather than stepping back, the building falls outside the building envelope (see Figure 3). The proposal must therefore be assessed against the corresponding performance criteria which requires each lot to have sufficient usable area and dimensions for its intended use.

The proposed vacant lot will be of sufficient size to comfortably locate a dwelling. Given the existing house is to the east of the lot only morning sun will be impacted and a new dwelling can be situated to limit overshadowing.

The proposal satisfies the performance criteria.



Figure 3 - Photo of existing dwelling - Courtesy of Google maps

COMMUNITY ENGAGEMENT

On 03/11/2020, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 14/11/2020;
- (b) Making a copy of the proposal available in Council Offices from the 14/11/2020;
- (c) Notifying adjoining property owners by mail on 12/11/2020; and
- (d) Erecting a Site Notice for display from the 13/11/2020.

The period for representations to be received by Council closed on 01/12/2020.

REPRESENTATIONS

One representation was received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*.

The representation, reproduced below, raises concerns over the use of the existing dwelling to house backpackers, along with issues of overcrowding and parking and the potential for these issues to extend to any future development of the vacant lot. While such concerns are understandable they are not relevant to the planning application for a two lot subdivision and therefore cannot be considered as part of the assessment.

The concerns raised have been passed on to the relevant section of Council and have been followed up.

I wish to voice my concerns on the above subdivision.

The existing home on this land has been used as a backpackers for quite some time by Rand holdings with sometimes up to 16 people living on the resident.

My concern is that this new development will be used for the same with not enough room for off street parking and far too many people being housed in the 2 residents which I feel isn't acceptable to the other residents of this quiet suburban street who will be submitting their own concerns of the same.

Regards

Edna Halley

44 Murray Street

East Devonport

FINANCIAL IMPLICATIONS

No financial implications are predicted, unless an appeal is made against the Council's decision to the Resource Management and Planning Appeal Tribunal. In such instance, legal counsel will likely be required to represent Council. The opportunity for such an appeal exists as a result of the Council determining to either approve or refuse the permit application.

RISK IMPLICATIONS

In its capacity as a planning authority under the *Land Use Planning and Approvals Act 1993* (LUPAA), Council is required to make a determination on this application for a discretionary planning permit. Due diligence has been exercised in the preparation of this report and there are no predicted risks associated with a determination of this application.

CONCLUSION

The proposal was initially submitted under the *Devonport Interim Planning Scheme 2013* however this scheme was replaced by the *Tasmanian Planning Scheme – Devonport 2020* prior to finalisation of the application process. The change to the planning scheme has not altered the general requirements for subdivision in the General Residential zone and the proposal remains able to gain approval.

The proposal has been assessed by TasWater and Council's Development and Infrastructure and Works departments and can be approved with conditions.

ATTACHMENTS

1. Application - P A 2020.0199 - 46 Murray Street [4.2.1 - 23 pages]

5 CLOSURE