



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 12 July 2021, commencing at 5:00 PM.

The meeting will be open to the public and live streamed from 5:00 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

07 JULY 2021

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 12 July 2021, in the Aberdeen Room, Level 2, paranaple centre,137
Rooke Street, Devonport at 5:00 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

The following apology was received for the meeting.

Councillor's Name	Apology or Leave of Absence
Cr A Rockliff	Leave of Absence

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 22 February 2021 – 30 June 2021.

ATTACHMENTS

1. Delegated Approvals [**3.1.1** - 2 pages]

4 DEVELOPMENT REPORTS

4.1 PA2021.0075 - 27 LEARY AVENUE STONY RISE - RESIDENTIAL (SINGLE DWELLING)

Author: **Carolyn Milnes, Senior Town Planner**
Endorser: **Matthew Atkins, General Manager**
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 PA2021.0075 and grant a Permit to use and develop land identified as 27 Leary Avenue, Stony Rise for the following purposes:

- Residential (single dwelling)

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as 3-Bed Dwelling, Job No. 0321-74, Drg No. 01-10, dated 15/3/2021 by Tas Laughlin, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The developer is to direct any stormwater collected from this work into the existing property stormwater pipe in accordance with the *National Construction Code*.
3. The developer is to ensure that all stormwater run-off is managed in accordance with the Environment Protection Authority's recommendations "Soil & Water Management on Large Building & Construction Sites" (refer to notes).

Note: The following is provided for information purposes.

The development is to comply with the requirements of the current National Construction Code. The developer is to obtain the necessary building and plumbing approvals and provide the required notifications in accordance with the *Building Act 2016* prior to commencing building or plumbing work.

In regard to condition 3, large building and construction sites are those with greater than 250m² of ground disturbance – refer to the following link

https://epa.tas.gov.au/Documents/Soil_and%20_Water_Management_Fact%20_Sheet_1.pdf

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*.

The owner must, at their expense, repair any Council services (e.g. pipes, drains) and any road, crossover, footpath, or other Council infrastructure that is damaged because 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.

In regard to condition 2 the applicant 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 PA2021.0075.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	27 Leary Avenue, Stony Rise
Applicant/Owner:	Mr EM Zamboni
Proposal:	Residential (single dwelling)
Existing Use:	Vacant
Zoning:	General Residential
Decision Due:	22 July, 2021

SITE DESCRIPTION

The site is located on the northern side of the Leary Avenue cul-de-sac head and is surrounded by established and vacant residential lots. The irregularly shaped lot has an area of 1075m² and falls approximately 10m from south to north. The lot has views to the Dial Range to the west and over Devonport to Bass Strait to the north. Figure 1 shows an aerial view of the subject site and surrounding area.



Figure 1 - Aerial view of subject site and surrounding area - Courtesy of ListMap

APPLICATION DETAILS

The applicant is seeking approval for a carport associated with a single dwelling. The carport will be setback 3.0m, at its closest point, to the frontage. Figure 2 shows the proposed site plan and Figure 3 shows the south-western elevation.

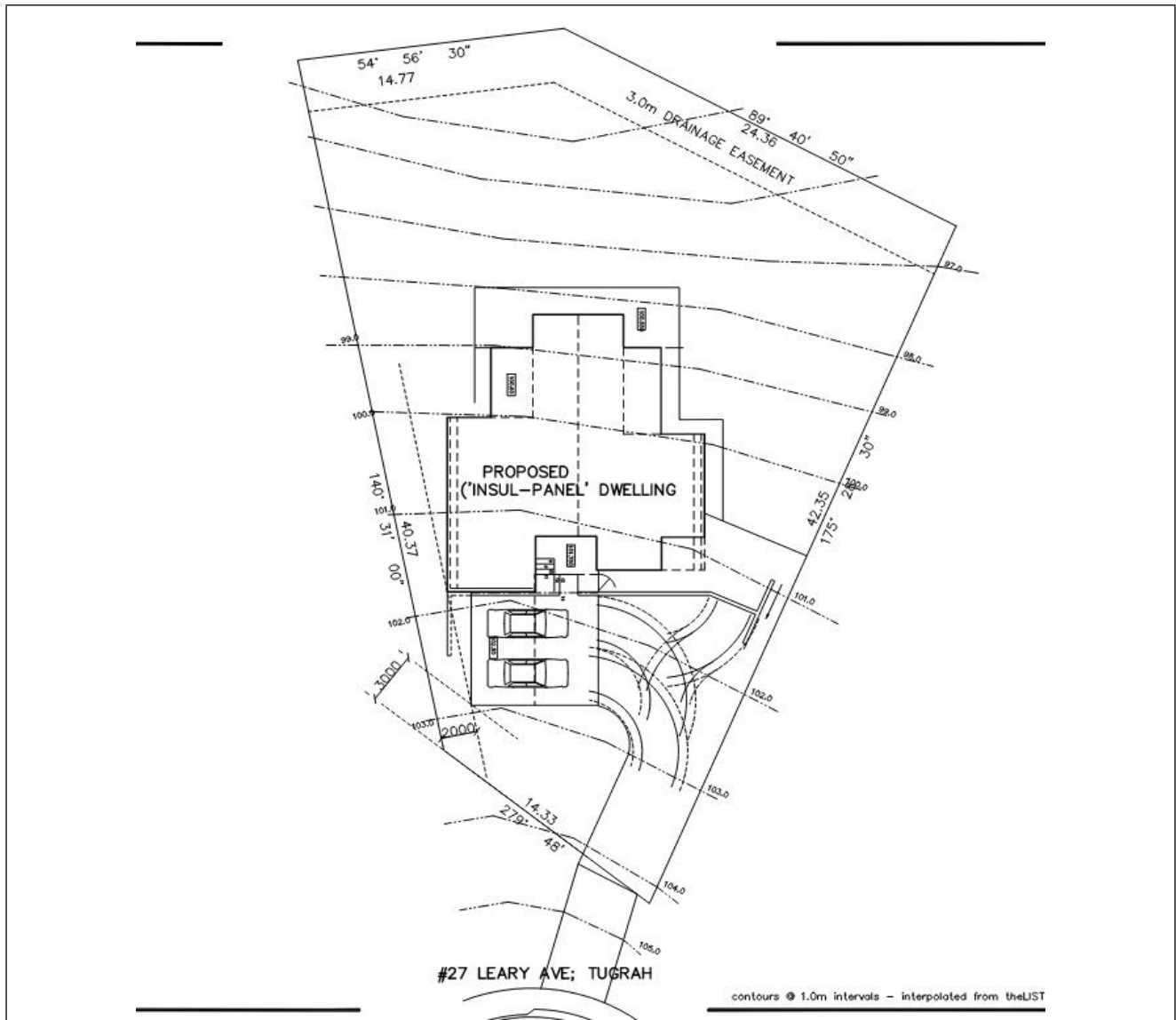


Figure 2 - Proposed site plan

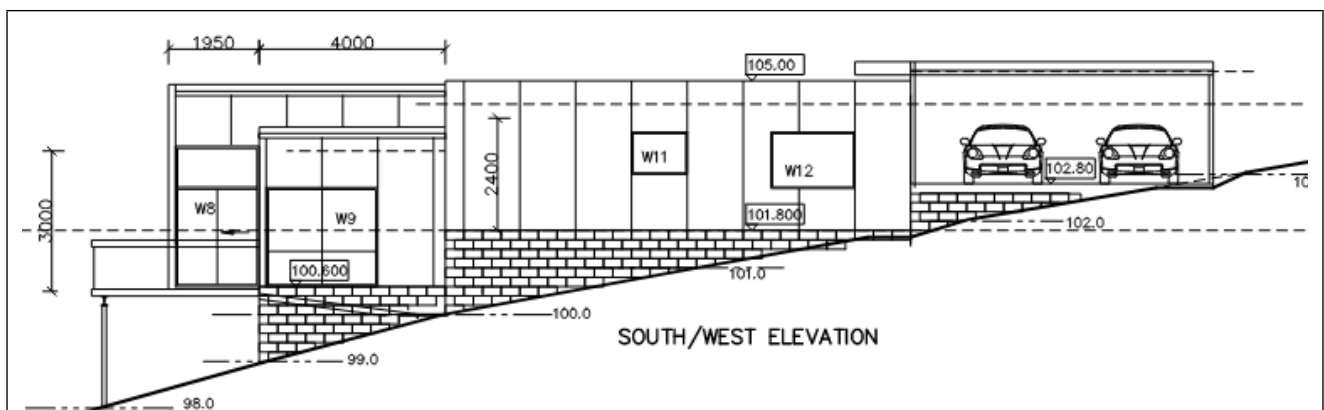


Figure 3 - South-western elevation

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.

Residential use does not require a planning permit in the General Residential zone provided the proposal complies with all relevant development standards and codes contained within 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 complies with all necessary standards save for clauses 8.4.2 A2 & A3 (a)(i) in regard to setbacks and building envelopes. The proposed carport is to be built 3m from the front boundary, rather than the required 5.5m. The relevant sections of the planning scheme are reproduced below, followed by comments.

8.4.2 Setbacks and building envelope for all dwellings

Objective:	The siting and scale of dwellings: <ul style="list-style-type: none"> (a) provides reasonably consistent separation between dwellings and their frontage within a street; (b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings; (c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and (d) provides reasonable access to sunlight for existing solar energy installations. 	
Acceptable Solutions		Performance Criteria
A2 A garage or carport for a dwelling must have a setback from a primary frontage of not less than: <ul style="list-style-type: none"> (a) 5.5m, or alternatively 1m behind the building line; (b) the same as the building line, if a portion of the dwelling gross floor area is located above the garage or carport; or (c) 1m, if the existing ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10m from the frontage. 		P2 A garage or carport for a dwelling must have a setback from a primary frontage that is compatible with the setbacks of existing garages or carports in the street, having regard to any topographical constraints.

Comment – A section of the proposed carport has a setback of 3m to the frontage rather than 5.5m therefore the above performance criteria must be satisfied.

Figure 4 shows the required setback for garages and carports. It can be seen that the south-western corner of the carport does not comply with the setback.

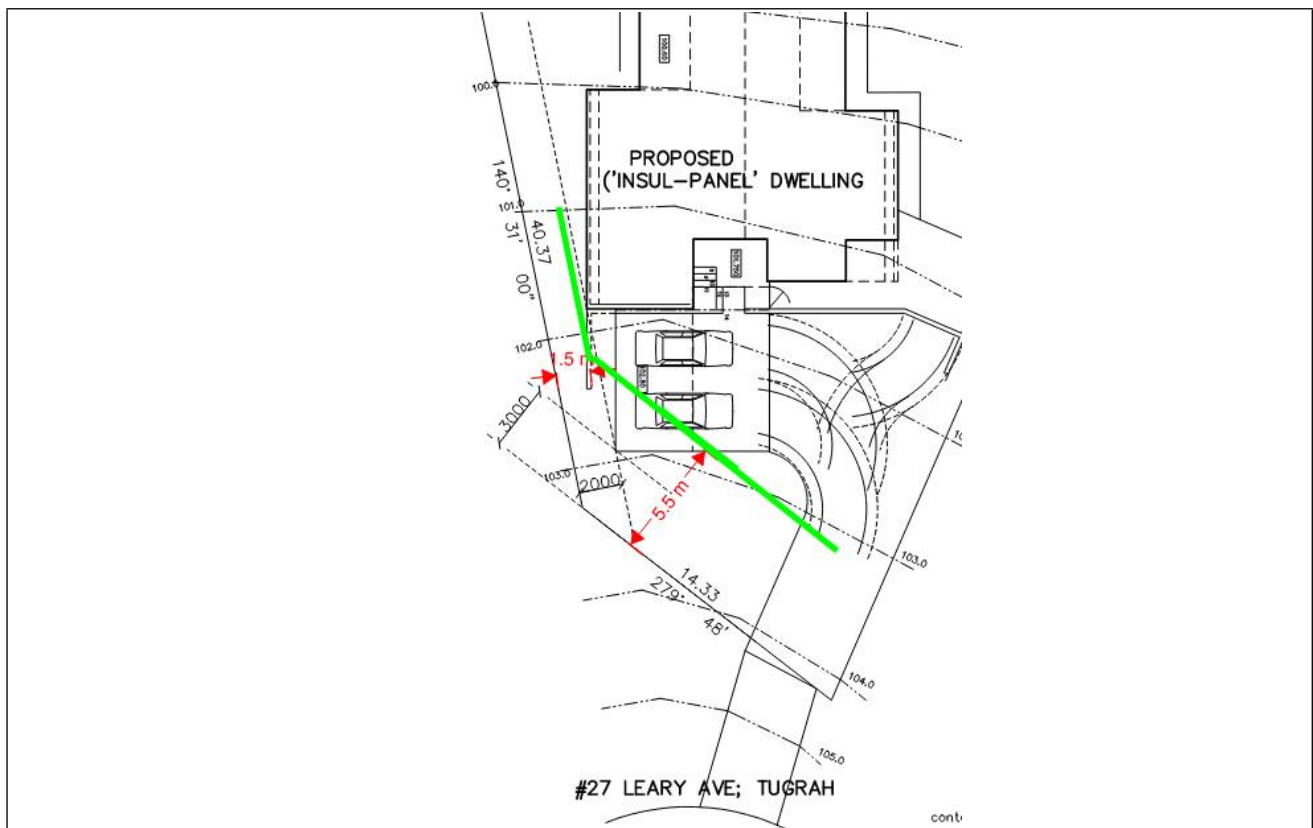


Figure 4 - Required setback for garages/carports shown in green

The proposal is able to satisfy the requirements of the performance criteria as the carport is compatible with those in the street given both the width of the nature strip and the topography of the site.

The nature strip is generally approximately 5.5m wide from the kerb to the property boundaries along Leary Avenue. This differs at the cul-de-sac head where the nature strip is approximately 15m wide between the western side of the site's frontage and the kerb. In addition the land falls away from the street by approximately 2m between the kerb and the location of the carport.

The majority of dwellings along Leary Avenue have a setback of approximately 12m to the kerb. The proposed carport will be between 16m to 18m to the kerb and therefore will not appear to be closer to the boundary than other buildings.

The proposal satisfies the performance criteria.

<p>A3</p> <p>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by:</p> <ul style="list-style-type: none"> (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a property with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of not more than 8.5m above existing ground level; and <p>(b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling:</p> <ul style="list-style-type: none"> (i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or (ii) does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser). 	<p>P3</p> <p>The siting and scale of a dwelling must:</p> <p>(a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:</p> <ul style="list-style-type: none"> (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property; (ii) overshadowing the private open space of a dwelling on an adjoining property; (iii) overshadowing of an adjoining vacant property; or (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property; <p>(b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:</p> <ul style="list-style-type: none"> (i) an adjoining property; or (ii) another dwelling on the same site.
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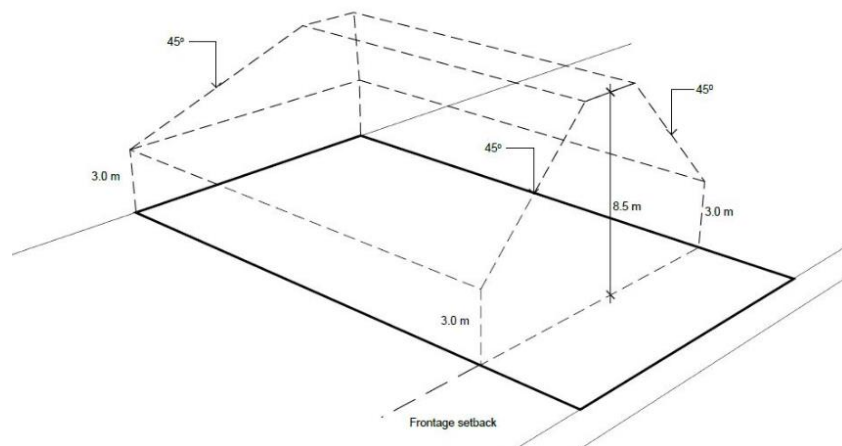


Figure 8.1 Building envelope as required by clause 8.4.2 A3(a) and clause 8.5.1 A2(a)

The proposed carport does not sit within the required building envelope as it does not meet the frontage setback of 5.5m. As such the proposal must meet the performance criteria of clause 8.4.2 P3.

No unreasonable loss of amenity due to a reduction in sunlight to any part of the property will be experienced by any adjoining landowners. A 2m wide footway runs alongside the western boundary of the subject site from Leary Avenue to Hedstrom Drive. In addition, the

carport is only closer to the road than the planning scheme requires, not closer to the side boundary. In any case the closest property has a garage adjacent to the proposed carport, not any habitable rooms.

The scale of the carport is residential in nature and of a low profile, being less than 3m above ground level.

The separation between adjoining properties is in keeping with those of the surrounding area and there will be no reduction in sunlight to any solar energy installations.

The proposal satisfies the performance criteria.

Three planning scheme overlays cover the subject site, the Priority Vegetation Area, Bushfire-Prone Area and Airport Obstacle Limitation Area. None of these overlays require consideration under the applicable codes due to the relevant exemptions.

COMMUNITY ENGAGEMENT

On 10/06/2021, 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 16/06/2021;
- (b) Making a copy of the proposal available in Council Offices from the 16/06/2021;
- (c) Notifying adjoining property owners by mail on 15/06/2021; and
- (d) Erecting a Site Notice for display from the 15/06/2021.

The period for representations to be received by Council closed on 29/06/2021.

A copy of the application is **appended to this report as an attachment**.

REPRESENTATIONS

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

The planning scheme states the following under section 6.10 in regard to what is to be addressed when determining an application.

6.10 Determining Applications

6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

As discussed above the proposal complies with the applicable standards for all but two clauses in the planning scheme. Therefore the compatibility of the setback for the carport with setbacks in the surrounding area and the potential for loss of amenity due to overshadowing and the bulk and scale of the proposal are the only aspects that can be considered.

The representation is from the owner of 26 Leary Avenue, Mr Ashwin Koshy. Mr Koshy's representation is reproduced below.

General Manager
Devonport City Council

G'day

I stay at 26 Leary Avenue and was wanting to state the following that the proposed house coming up at 27 leary avenue could affect my views of the sea and hills and if they are able to make the house in a way that would not affect my views looking over to the sea area from our balcony of the house would be much appreciated

Thanks
Ashwin Koshy
26 Leary Avenue
Stony Rise 7310

The concerns raised relate to the potential loss of views from 26 Leary Avenue. Views are not covered by the planning scheme and maintaining views to existing dwellings cannot be guaranteed. However, Figure 5 shows the existing dwelling at 26 Leary Avenue and the proposed dwelling at 27 Leary Avenue. Views to the Dial Range to the west and Bass Strait to the north can currently be seen from 26 Leary Avenue. These views will not be interrupted by the proposed dwelling. It is likely that the property will also maintain much of its view towards Hawley.

The representation does not raise any issues that warrant alterations to the proposal.



Figure 5 - Aerial photo showing 26 Leary Avenue and location of proposed dwelling

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 an 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 has been assessed against the requirements of the planning scheme. All relevant standards can be satisfied whether acceptable solutions or performance criteria. Approval with conditions is recommended.

ATTACHMENTS

1. Application - PA2021.0075 - 27 Leary Avenue [4.1.1 - 15 pages]

4.2 PA2021.0066 - 26 TRITON ROAD EAST DEVONPORT - RESIDENTIAL (MULTIPLE DWELLINGS X 2)

Author: **Emma Pieniak, Planning Officer**

Endorser: **Matthew Atkins, General Manager**

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 PA2021.0066 and grant a Permit to use and develop land identified as 26 Triton Road, East Devonport for the following purposes:

- Residential (multiple dwellings x2)

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as project no. 00421 by Arplan Home Design, sheets SK01-05, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. Stormwater discharge from the proposed development is to be hydraulically detailed and designed by a suitably qualified hydraulic engineer, for all storm events up to and including a 100-year Average Recurrence Interval (ARI), and for a suitable range of storm durations to identify peak discharge flows. As part of their design the hydraulic engineer is to limit stormwater discharge from the proposed development, by utilising a combination of pipe sizing and/or on-site detention, to that equivalent to only 50% of the development site being impervious. There is to be no uncontrolled overland flow discharge from the proposed development to any of the adjoining properties, for all the above nominated storm events. All design calculations are to be submitted for approval by the City Engineer prior to any subsequent building permit applications.
3. Subject to the above, and as part of any subsequent plumbing permit application, the proposed development is to have a suitably sized stormwater connection generally in accordance with the Tasmanian Standard Drawings. The size and location of the proposed stormwater connection is to be designed by a suitably qualified hydraulic engineer.
4. The new driveway works are to be constructed generally in accordance with the Tasmanian Standard Drawing TSD-R09.
5. All vehicular parking and manoeuvring areas for light vehicles are to be sealed with an impervious surface seal, such as a standard concrete pavement or a sealed granular pavement, to the satisfaction of the Planning Authority.
6. Access & egress for the proposed vehicles in the driveway and onto the roadways are to demonstrate compliance with the standard swept path templates, including 300mm manoeuvring clearances each side of the swept paths. This swept path template, including the 300mm manoeuvring clearances are to be clearly shown on the plans in any subsequent building permit application.

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7. The developer is to comply with the conditions specified in the Submission to Planning Authority Notice (TWDA 2021 00890-DCC) 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.

In regard to condition 4 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 (e.g. 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.

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*.

The developer is to ensure that all stormwater run-off is managed in accordance with the Environment Protection Authority's "Soil & Water Management on Large (greater than 250m² of ground disturbance) Building & Construction Sites" recommendations.

The removal or interference with birds or other wildlife may require permission in accordance with the *Nature Conservation Act 2002* and *Wildlife Regulations 2010*. For further details contact DPIPWE Wildlife Management on Ph 6165 4305.

In regard to conditions 2-6 the developer should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

In regard to condition 7 the developer should contact TasWater – Ph 136992 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 PA2021.0066 for a multiple dwelling development at 26 Triton Road.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	26 Triton Road, East Devonport
Applicant:	2-8 Tandara Place Pty Ltd
Owner:	2-8 Tandara Place Pty Ltd
Proposal:	Residential – multiple dwellings x2
Existing Use:	Vacant
Zoning:	General Residential
Decision Due:	9 July 2021 – extension of time granted by the applicant

SITE DESCRIPTION

The vacant 819m² subject site is situated to the south-east corner of Triton Road and Tandara Place. Adjoining properties are established residential development. The subject site and surrounding areas are illustrated in Figure 1.

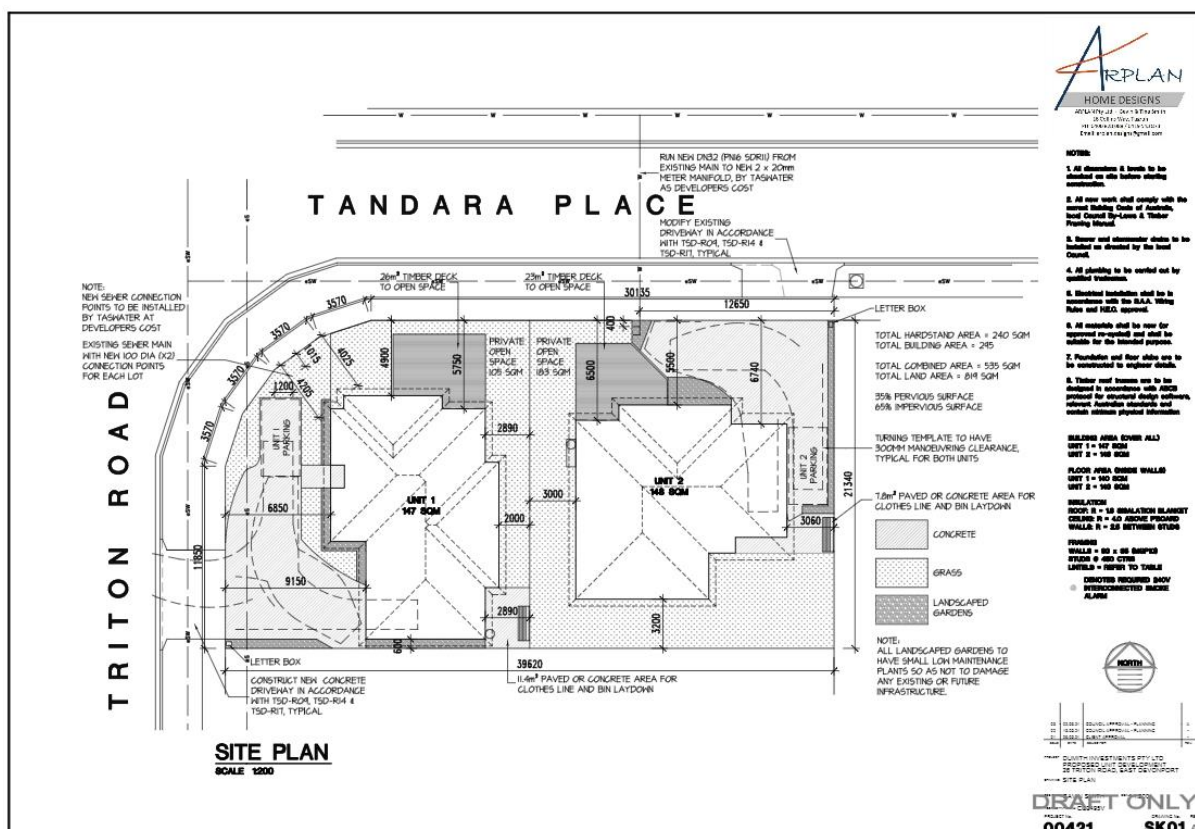


Figure 1 – Aerial view (LISTmap)

APPLICATION DETAILS

The applicant is seeking approval to develop two dwellings within the subject lot. Figure 2 illustrates the layout of the proposed development. The proposal seeks to provide each four bedroom dwelling with bathroom, ensuite, open plan lounge, dining and kitchen areas. An attached single garage provides laundry facilities for each dwelling. The proposed development allows for a separate vehicle crossover to each dwelling, unit 1 being from Triton Road, and unit 2 being from Tandara Place.

The full application is contained in and **appended to this report as an Attachment.**



The relevant standard is provided below with comment on how the proposal achieves the performance criteria.

C2.5.1 Car parking numbers

Objectives: That an appropriate level of car parking spaces are provided to meet the needs of the use.	
Acceptable Solutions	Performance Criteria
A1 The number of on-site car parking spaces must be no less than the number specified in Table C2.1, excluding if: <ul style="list-style-type: none"> (a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan; (b) the site is contained within a parking precinct plan and subject to Clause C2.7; (c) the site is subject to Clause C2.5.5; or (d) it relates to an intensification of an existing use or development or a change of use where: <ul style="list-style-type: none"> i. the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or ii. the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows: $N = A + (C - B)$ <p>N = Number of on-site car parking spaces required A = Number of existing on site car parking spaces B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1</p> 	P1.1 The number of on-site car parking spaces for uses, excluding dwellings, must meet the reasonable needs of the use, having regard to: <ul style="list-style-type: none"> (a) the availability of off-street public car parking spaces within reasonable walking distance of the site; (b) the ability of multiple users to share spaces because of: <ul style="list-style-type: none"> i. variations in car parking demand over time; or ii. efficiencies gained by consolidation of car parking spaces; (c) the availability and frequency of public transport within reasonable walking distance of the site; (d) the availability and frequency of other transport alternatives; (e) any site constraints such as existing buildings, slope, drainage, vegetation and landscaping; (f) the availability, accessibility and safety of on-street parking, having regard to the nature of the roads, traffic management and other uses in the vicinity; (g) the effect on streetscape; and (h) any assessment by a suitably qualified person of the actual car parking demand determined having regard to the scale and nature of the use and development. P1.2 The number of car parking spaces for dwellings must meet the reasonable needs of the use, having regard to: <ul style="list-style-type: none"> (a) the nature and intensity of the use and car parking required;

C= Number of on-site car parking spaces required for the proposed use or development specified in Table C2.1.	(b) the size of the dwelling and the number of bedrooms; and (c) the pattern of parking in the surrounding area.
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As a residential development Performance Criteria P1.2 applies. The design for the proposed units allows for at least two vehicles to park on site for each dwelling with sufficient room to allow tandem parking for another one or two vehicles. There are opportunities for on street parking in close proximity of the site as well.

It is therefore considered the provision of on site car parking is reasonable for the size of the dwellings and is compatible with the pattern of parking in the area.

COMMUNITY ENGAGEMENT

On 26/05/2021, 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 09/06/2021;
- (b) Making a copy of the proposal available in Council Offices from the 09/06/2021;
- (c) Notifying adjoining property owners by mail on 08/06/2021; and
- (d) Erecting a Site Notice for display from the 15/06/2021.

The period for representations to be received by Council closed on 23/06/2021.

REPRESENTATION

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 impact the garage wall of proposed unit 1 will have upon sunlight to his living room and outdoor area. The proposal demonstrates compliance with the Acceptable Solutions of the applicable Design Standards as discussed below, and in accordance with 6.10.1 (b) of the *Tasmanian Planning Scheme – Devonport 2020* does not require consideration as part of the assessment.

ATTN: General Manager

Dear Sir/Madam,

I am writing in response to object to an issue with Planning Permit PA2021.0066 for 26 Triton Road, East Devonport.

Unit 1 does not meet minimum setback for 10.4.2 A3 (b) for setback of 1.5m. Current plans would infringe on unreasonable loss of amenity by:
(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; AND (ii) overshadowing the private open space of a dwelling on an adjoining lot; AND (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot,

Unit 1 being so close to the fence boundary (the eaves basically sitting on the fence line) and with additional building height due to elevation of dwelling due to sloped land would severely restrict natural sunlight and views into my lounge room, dining room, study and kitchen areas.

I welcome Council to attend my dwelling (24 Triton Road) to view the concerns mentioned above.

Thanking you in advance for your consideration in this matter. If there are any concerns or you require further information I can be contacted via email or via mobile phone 0407 300 701

Kind Regards

Doug Shelley
24 Triton Road
East Devonport, TAS 7310

The representor's concerns relate to the proposed unit 1 garage wall which is located 600mm from the southern boundary. The representor has been contacted and advised that the development has demonstrated compliance with the Acceptable Solutions and therefore deemed to be of no unacceptable detriment to his property.

The proposed dwelling is contained within the building envelope in accordance with A3 (a), and the length (7.77m) of the garage wall complies with A3 (b) (ii). The relevant standard is provided below followed by the elevations for proposed unit 1 in Figure 3.

8.4.2 Setbacks and building envelope for all dwellings

Objective: The siting and scale of dwellings: <ul style="list-style-type: none"> (a) provides reasonably consistent separation between dwellings and their frontage within a street; (b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings; (c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and (d) provides reasonable access to sunlight for existing solar energy installations. 	
Acceptable Solutions	Performance Criteria
A3 A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must: <ul style="list-style-type: none"> (a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by: <ul style="list-style-type: none"> i. a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear 	P3 The siting and scale of a dwelling must: <ul style="list-style-type: none"> (a) not cause an unreasonable loss of amenity to adjoining properties, having regard to: <ul style="list-style-type: none"> i. reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property; ii. overshadowing the private open space of a dwelling on an adjoining property;

are afforded the right to appeal the Planning Authority's decision pursuant to Section 61 of the *Land Use Planning and Approvals Act 1993*.

RISK IMPLICATIONS

In its capacity as a Planning Authority under the *Land Use Planning and Approvals Act 1993*, 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 determining of this application.

CONCLUSION

The application satisfies the relevant acceptable solutions and performance criteria under the *Tasmanian Planning Scheme – Devonport 2020* and a permit can be issued, subject to conditions. 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 - PA2021.0066 - 26 Triton Road [**4.2.1** - 19 pages]

4.3 PA2021.0077 - 2 WOODLAND GROVE TUGRAH - RESIDENTIAL (OUTBUILDING)

Author: **Emma Pieniak, Planning Officer**

Endorser: **Matthew Atkins, General Manager**
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 PA2021.0077 and grant a Permit to develop land identified as 2 Woodland Grove, Tugrah for the following purposes:

- Residential (outbuilding)

Subject to the following conditions:

1. The development is to proceed generally in accordance with the submitted plans referenced as Project - New Shed, drawing no. SH-1744, dated 01-03-21 by Wood Drafting & Design Services, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The developer is not to position any structures on, over or in a location which may potentially affect the operation of the existing on-site wastewater system.

Note: The following is provided for information purposes.

The development is to comply with the requirements of the current National Construction Code. The developer is to obtain the necessary building and plumbing approvals and provide the required notifications in accordance with the *Building Act 2016* prior to commencing building or plumbing work.

This addition is to be used as a storage area only, no habitation is to occur. If any activity occurs (such as habitation) which may result in the generation of additional wastewater loadings, the existing on-site wastewater management system must be re-assessed, and a new on-site wastewater report must be completed by a suitably qualified person.

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*.

No burning of any waste materials (including cleared vegetation) is to be undertaken on site. Any such waste material is to be removed and disposed of at a licensed refuse waste disposal facility.

In regard to condition 2 the applicant should contact Council's Environmental Health Services – Ph 6424 0511 with any enquiries.

General enquiries regarding this permit 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 PA2021.0077.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	2 Woodland Grove, Tugrah
Applicant:	Melissa Jane Hammersley
Owner:	Ms MJ Hammersley & Ms DF Smith
Proposal:	Residential (outbuilding)
Existing Use:	Residential
Zoning:	Rural Living A
Decision Due:	21/07/2021

SITE DESCRIPTION

The irregular shaped 9121m² subject site is situated to the west of Woodland Grove at the end of the cul-de-sac. Comprising an existing dwelling towards to centre of the lot, the sloping site has retained canopy vegetation towards to rear of the lot where a seasonal creek runs through. Properties within proximity of the site are similarly irregular shape parcels with areas of canopy vegetation and existing single residential development. The subject site and surrounding area are illustrated in Figure 1.



Figure 1 – Aerial view of site (LISTmap)

APPLICATION DETAILS

The applicant is seeking approval for a 12m by 16m outbuilding to be located 10m east of the existing dwelling. The proposed outbuilding will have two sections being a garage area with a maximum height of 4.85m, and a storage area with a maximum height of 3.87m. The proposed outbuilding will have a 9.5m setback from the north-eastern boundary and a minimum 5.177m setback from the northern boundary. The siting of the proposed development is illustrated Figure 2.

The full application is contained and **appended to this report as an attachment.**

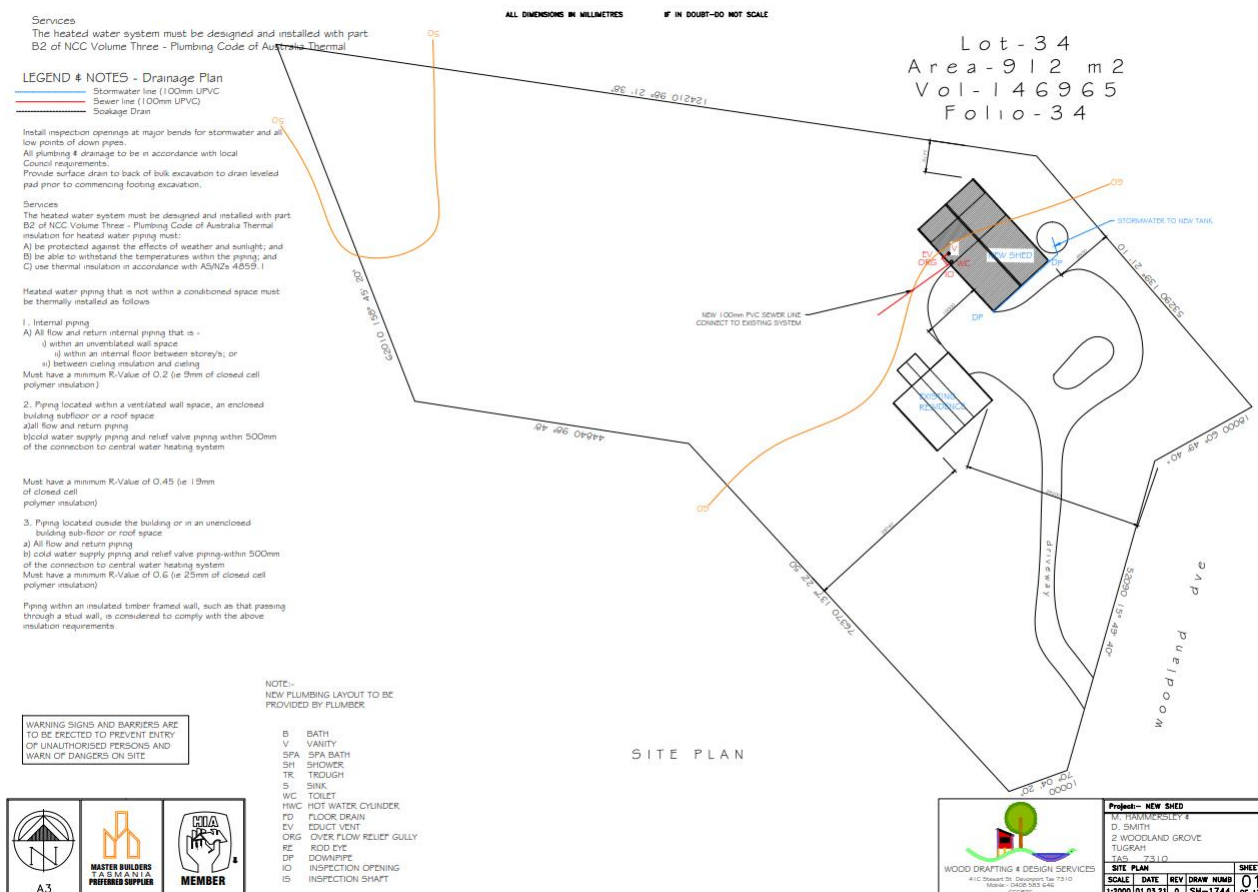


Figure 2 – Proposed site plan (Wood Design & Drafting)

PLANNING ISSUES

The land is zoned Rural Living A under the *Tasmanian Planning Scheme – Devonport, 2020*. The purpose of the Rural Living zone is:

- 11.1.1 To provide for residential use or development in a rural setting where:
 - (a) Services are limited; or
 - (b) Existing natural landscape values are to be retained.
- 11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.
- 11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.
- 11.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Residential use for an outbuilding associated with an established single dwelling does not require a planning permit in the Rural Living zone. Where development cannot meet the relevant acceptable solutions for the design standards a planning permit can be sought under Section 57 of the *Land Use Planning and Approvals Act 1993*.

The proposed development cannot meet the relevant acceptable solutions for clause 11.4.2 A3. An assessment of the applicable performance criteria of the Development Standards under the Rural Living zone follows.

11.4.2 Building height, setback and siting

Objective: That height, setback and siting of buildings: <ul style="list-style-type: none">(a) is compatible with the character of the area;(b) does not cause an unreasonable loss of amenity;(c) minimises the impact on the natural values of the area; and(d) minimises the impact on adjacent uses.	
Acceptable Solution	Performance Criteria
A3 Buildings must have a setback from side and rear boundaries of not less than 10m.	P3 Buildings must be sited to not cause an unreasonable loss of amenity to adjoining properties, having regard to: <ul style="list-style-type: none">(a) the topography of the site;(b) the size, shape and orientation of the site;(c) the setbacks of surrounding buildings;(d) the height bulk and form of existing and proposed buildings;(e) the character of the development existing on established properties in the area; and(f) any overshadowing of adjoining properties or public places.

The proposed outbuilding will have a 9.5m setback from the north-eastern side boundary, and a minimum 5.177m from the northern side boundary.

The siting of the proposed outbuilding will have minimal impact to the northern adjoining properties amenity as the encroachment of 0.5m will be suitably buffered by existing vegetation. The proposed outbuilding has been sited to maintain turning room within the existing vehicle access for fire trucks and provides suitable separation from the existing dwelling to meet Bushfire Hazard Management requirements.

The dwelling within the adjoining northern boundary is situated at least 85m north of the proposed outbuilding which ensures any amenity impact such as overshadowing will not be an issue. The north-western adjoining property is a large, treed parcel of land with no existing dwellings. Impact to amenity of this property will similarly be negligible.

COMMUNITY ENGAGEMENT

On 09/06/2021, 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 16/06/2021;
- (b) Making a copy of the proposal available in Council Offices from the 16/06/2021;
- (c) Notifying adjoining property owners by mail on 15/06/2021; and
- (d) Erecting a Site Notice for display from the 15/07/2021.

The period for representations to be received by Council closed on 29/06/2021.

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 questions as to the reduced setback of the proposed outbuilding.



To Devonport City Council

Tue 29/06/2021 4:02 PM

To General Manager,

My question is regarding the property development listed above. The people are good people and I do not want to upset them but...

I would like to see the proposed building moved closer to Woodland Grove, towards the top of the block. It is only 5.177m from one of the boundaries.

I know that there are rules relating to this that can be altered by Council but I can not see why it should not just be moved further up the block?

Kindest regards
Vicki Ward

The representor has not identified any specific concerns with the reduced setback or likely impacts it could have to their property. As discussed earlier, the adjoining property has separation of at least 85m from the existing dwelling to the proposed outbuilding. This is not regarded likely to result in any amenity impacts.

The proposal is considered to satisfy clause 11.4.2 P3 with regards to the typography and bushfire hazard management constraints, existing vegetation providing an effective buffering of the proposed development and proximity of neighbouring dwellings reduces amenity impacts.

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 application satisfies the relevant acceptable solutions and performance criteria under the Tasmanian Planning Scheme – Devonport 2020 and a permit can be issued, subject to

conditions. 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 - PA2021.0077 - 2 Woodland Grove [**4.3.1** - 21 pages]

5 CLOSURE