



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 February 2024, 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

06 02 2024

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 12 February 2024, in the Aberdeen Room, Level 2, paranapple centre,137
Rooke Street, Devonport at 5.15 pm**

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ATTENDEES

		Apology
Chair	Cr A Jarman (Mayor)	
	Cr S Sheehan (Deputy Mayor)	
	Cr G Enniss	
	Cr P Hollister	
	Cr L Murphy	
	Cr D Viney	
Councillors in Attendance		
Council Officers	General Manager, M Atkins	
	Deputy General Manager, J Griffiths	
	Executive Manager, K Lunson	
	Senior Town Planner, C Milnes	

ACKNOWLEDGEMENT OF COUNTRY

Devonport City Council acknowledges and pays respect to the palawa-pakana people as the traditional and original owners of lutrawita and continuing custodians of this land on which we gather.

We also acknowledge and pay our respects to the Tasmanian Aboriginal elders past and present.

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 will also be live streamed on Council's YouTube channel.

1 APOLOGIES

The following apology was received for the meeting.

Councillor's Name	Apology or Leave of Absence

2 DECLARATIONS OF INTEREST

3 DEVELOPMENT REPORTS

3.1 PA2023.0182 - 16A STEPHEN STREET EAST DEVONPORT - RESIDENTIAL (SINGLE DWELLING)

Author: **Carolyn Milnes, Senior Town Planner**

Endorser: **Kylie Lunson, Executive 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 PA2023.0182 and grant a Permit to use and develop land identified as 16A Stephen Street, East Devonport 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 Proposed Residence, Job No. Wang, Sheets A01-A05, Rev# A, dated 12.12.2023 by RFS Projects Pty Ltd, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The surface water from the driveway and/or any paved areas is to be collected and drained to the private stormwater drainage system.
3. All stormwater collected from this work is to be directed into the existing property stormwater pipe in accordance with the National Construction Code.

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.

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 waste material is to be removed and disposed of at a licensed refuse waste disposal facility.

In regard to condition 3 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 Council's Planning Scheme facilitates appropriate property use and development

SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2023.0182.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	16A Stephen Street, East Devonport
Applicant:	RFS Projects Pty Ltd
Owner:	Ms P Wang & Mr B Qiu
Proposal:	Residential (single dwelling)
Existing Use:	Vacant land
Zoning:	General Residential
Decision Due:	25 January 2024 (extension granted to 12 February 2024)

SITE DESCRIPTION

The site is located on the south-eastern corner of the intersection of Stephen and Tarleton Streets and has an area of 433m². The lot was recently subdivided from the adjoining lot to the east and falls approximately 1.5m from east to west. The site is surrounded by existing residential lots to the north, south and east with light industrial lots across Tarleton Street, to the west. Figure 1 shows an aerial view of the subject site and surrounding area.



Figure 1 - Aerial view of subject site and surrounding area (Source: DCC)

APPLICATION DETAILS

The applicant is seeking approval for a single dwelling to be constructed of brick and colorbond in the south eastern corner of the lot. Figures 2-7 show the proposed house plans.

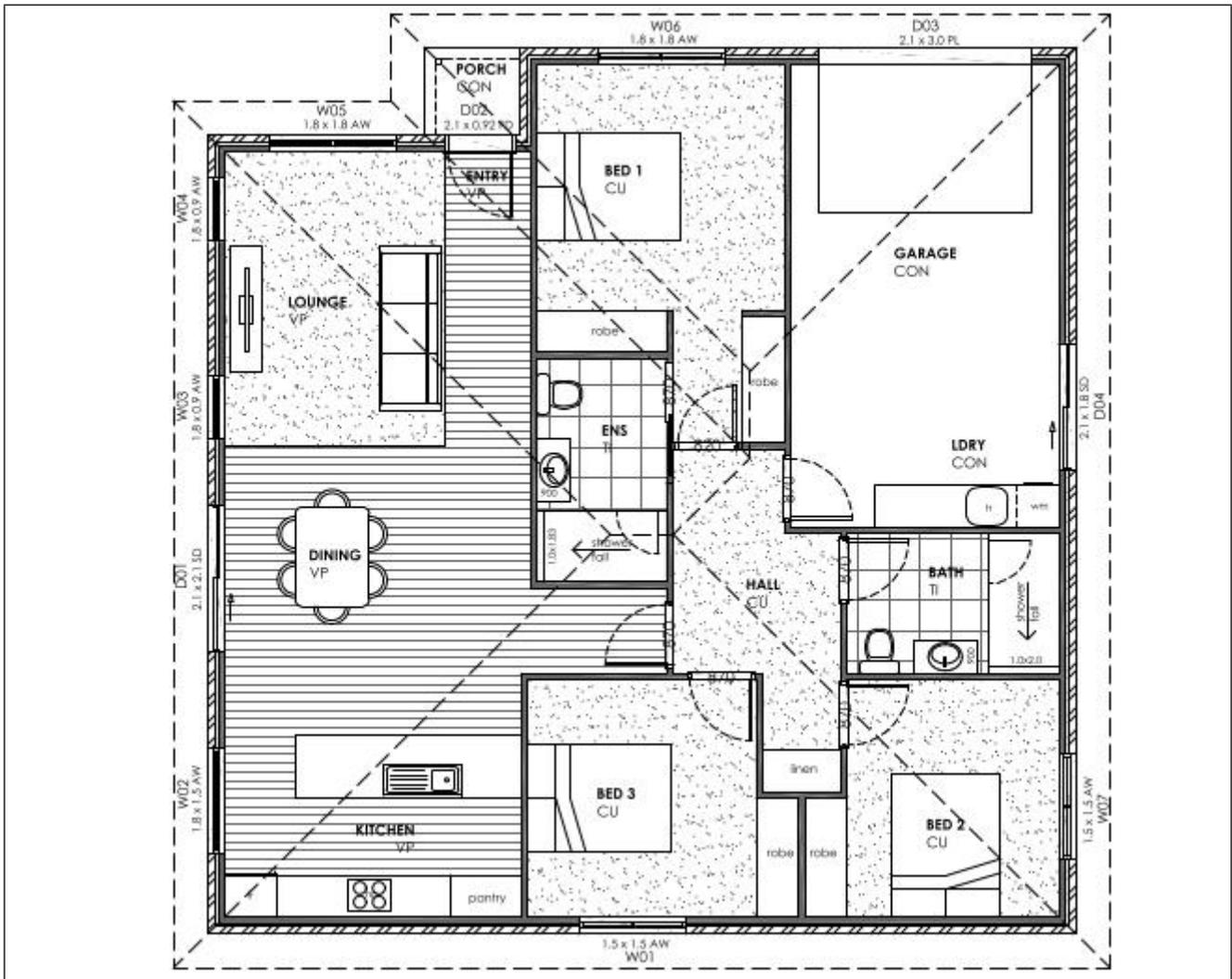


Figure 3 - Floor plan (Source: RFS Projects Pty Ltd)

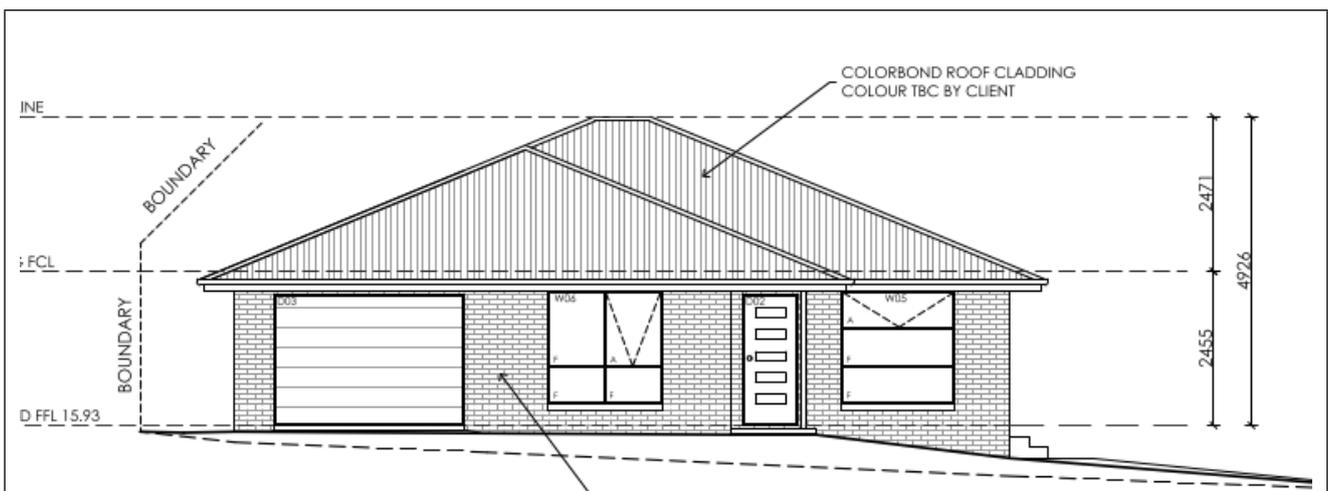


Figure 4 - Northern elevation (Source: RFS Projects Pty Ltd)

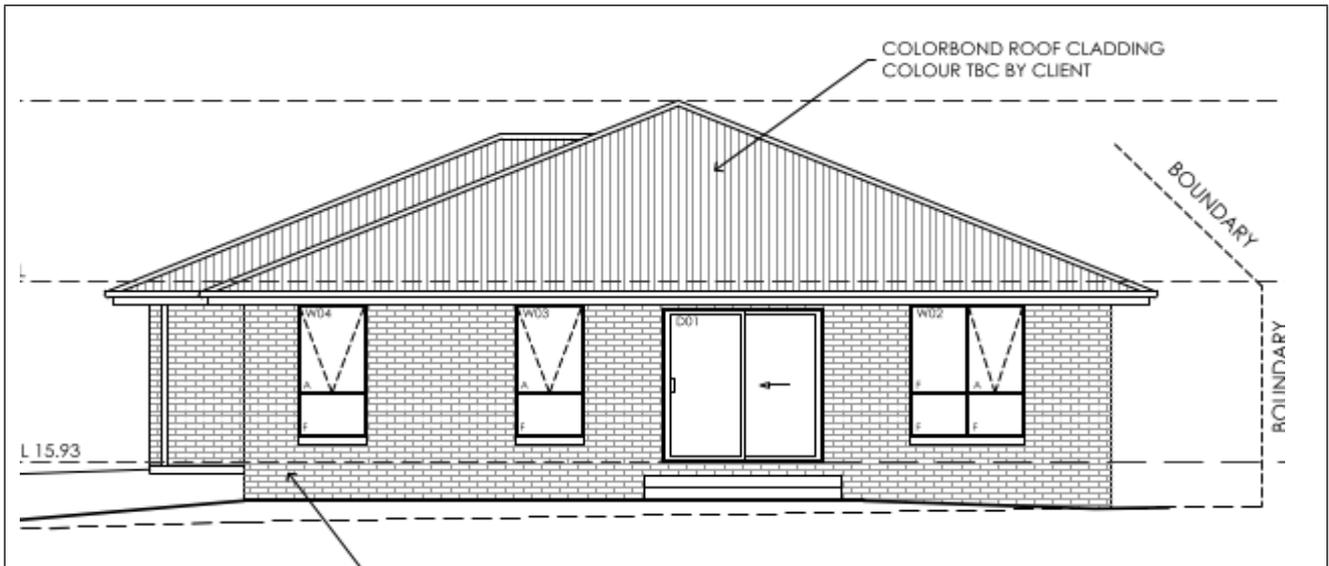


Figure 5 - Western elevation (Source: RFS Projects Pty Ltd)

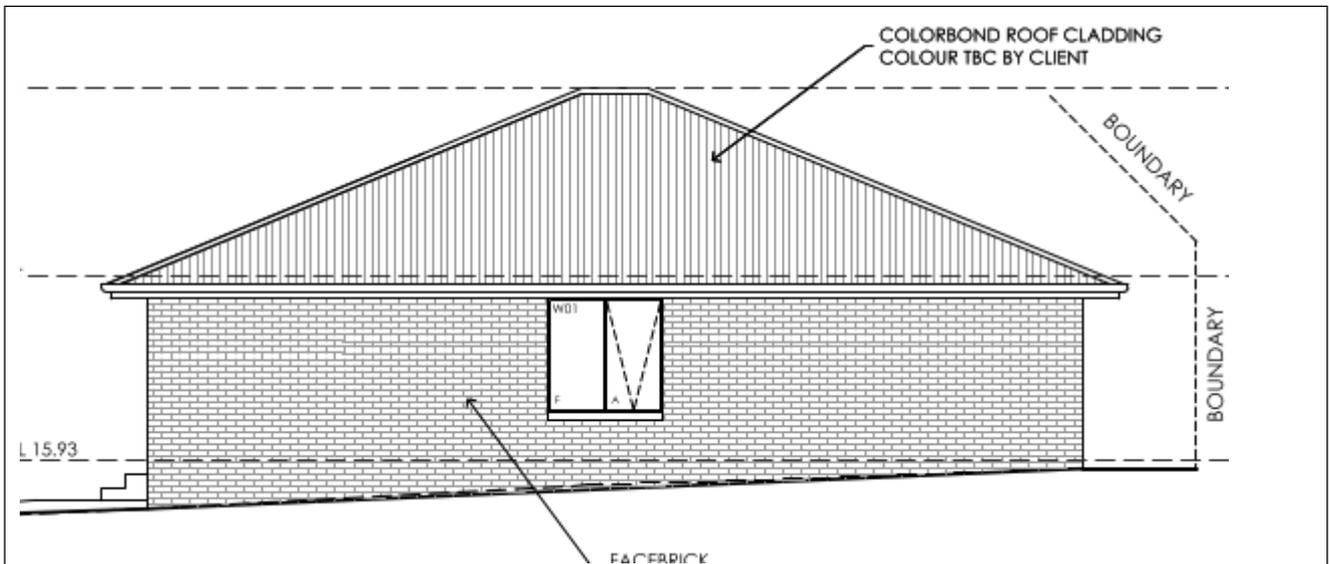


Figure 6 - Southern elevation (Source: RFS Projects Pty Ltd)

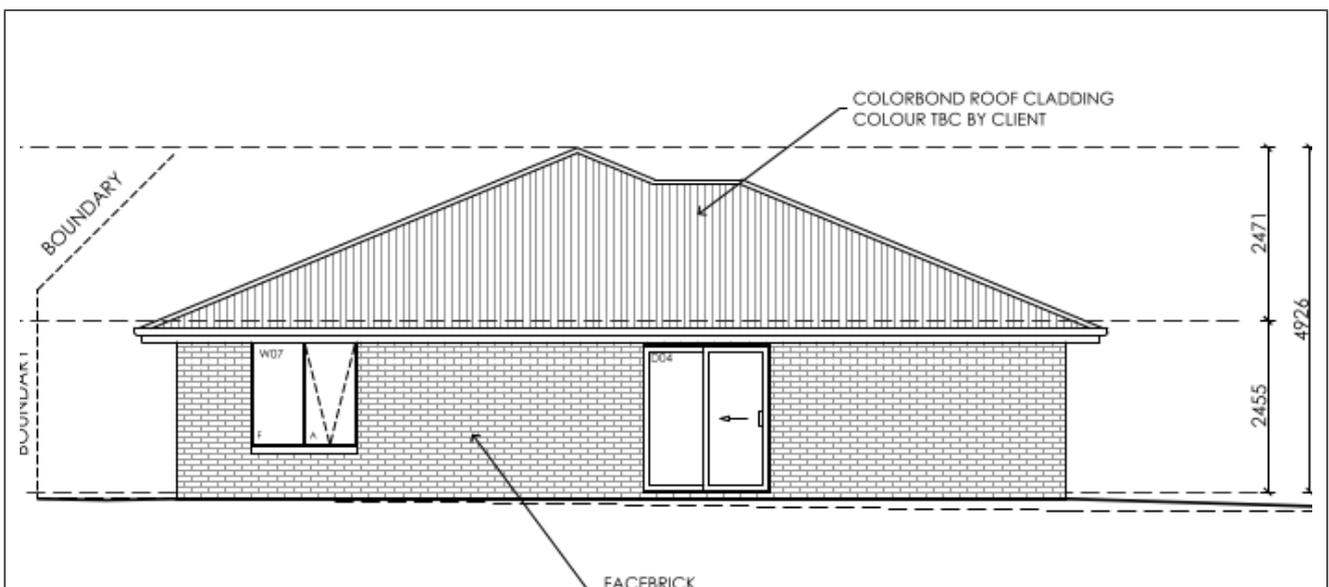


Figure 7 - Eastern elevation (Source: RFS Projects Pty Ltd)

PLANNING ISSUES

The land is zoned General Residential under the *Tasmanian Planning Scheme – Devonport, 2020*. The intent of the zone is:

- 8.1.1 To provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided.
- 8.1.2 To provide for the efficient utilisation of available social, transport and other service infrastructure.
- 8.1.3 To provide for non-residential use that:
 - (a) primarily serves the local community; and
 - (b) 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.
- 8.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Residential use, which includes single dwellings, does not require a planning permit in the zone, provided all development standards for the zone and any applicable codes are met at the acceptable solutions level. Where the standards are not met the corresponding performance criteria must be satisfied and the application is assessed in accordance with the requirements of s.57 of the *Land Use Planning and Approvals Act 1993* (LUPAA).

In this case the proposal meets all applicable acceptable solutions contained within the General Residential Zone, however, the site falls within the David Street Local Heritage Precinct and must therefore be assessed against the Local Historic Heritage Code.

The site also falls within the Airport obstacle limitation area however the Safeguarding of Airports Code need not be assessed as the proposal is less than the 55m height restriction.

The relevant clauses from the planning scheme are reproduced below, followed by comment.

8.0 General Residential Zone

8.4.2 Setbacks and building envelope for all dwellings

Objective:

The siting and scale of dwellings:

- (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
A1 Unless within a building area on a sealed plan, a dwelling, excluding	P1 A dwelling must have a setback from a frontage that is compatible with the

<p>garages, carports and protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage that is:</p> <p>(a) if the frontage is a primary frontage, not less than 4.5m, or, if the setback from the primary frontage is less than 4.5m, not less than the setback, from the primary frontage, of any existing dwelling on the site;</p> <p>(b) if the frontage is not a primary frontage, not less than 3m, or, if the setback from the frontage is less than 3m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site;</p> <p>(c) if for a vacant site and there are existing dwellings on adjoining properties on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p> <p>(d) if located above a non-residential use at ground floor level, not less than the setback from the frontage of the ground floor level.</p>	<p>streetscape, having regard to any topographical constraints.</p>
<p>A2</p> <p>A garage or carport for a dwelling must have a setback from a primary frontage of not less than:</p> <p>(a) 5.5m, or alternatively 1m behind the building line;</p> <p>(b) the same as the building line, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> <p>(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.</p>	<p>P2</p> <p>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.</p>
<p>A3</p> <p>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more</p>	<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,</p>

<p>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>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>(a) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(b) 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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A1 – The setbacks for the primary and secondary frontages are met, being 8.2m and 5.5m respectively. The acceptable solution is met.

A2 – The setback for the garage is 5.5m. The acceptable solution is met.

A3 – The side and rear setbacks are 1.966m and 1.5m respectively and the dwelling falls within the acceptable building envelope. The acceptable solution is met.

8.4.3 Site coverage and private open space for all dwellings

<p>Objective:</p> <p>That dwellings are compatible with the amenity and character of the area and provide:</p> <ul style="list-style-type: none"> (a) for outdoor recreation and the operational needs of the residents; (b) opportunities for the planting of gardens and landscaping; and (c) private open space that is conveniently located and has access to sunlight. 	
<p>Acceptable Solutions</p>	<p>Performance Criteria</p>

<p>A1 Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m wide); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer).</p>	<p>P1 Dwellings must have:</p> <p>(a) site coverage consistent with that existing on established properties in the area;</p> <p>(b) private open space that is of a size and with dimensions that are appropriate for the size of the dwelling and is able to accommodate:</p> <ul style="list-style-type: none"> i. outdoor recreational space consistent with the projected requirements of the occupants and, for multiple dwellings, take into account any common open space provided for this purpose within the development; and ii. operational needs, such as clothes drying and storage; and <p>(c) reasonable space for the planting of gardens and landscaping.</p>
<p>A2 A dwelling must have private open space that:</p> <p>(a) is in one location and is not less than:</p> <ul style="list-style-type: none"> i. 24m²; or ii. 12m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); <p>(b) has a minimum horizontal dimension of not less than:</p> <ul style="list-style-type: none"> i. 4m; or ii. 2m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); <p>(c) is located between the dwelling and the frontage only if the</p>	<p>P2 A dwelling must have private open space that includes an area capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and is:</p> <p>(a) conveniently located in relation to a living area of the dwelling; and</p> <p>(b) orientated to take advantage of sunlight.</p>

frontage is orientated between 30 degrees west of true north and 30 degrees east of true north; and (d) has a gradient not steeper than 1 in 10.	
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A1 – Site coverage is 35%. The acceptable solution is met.

A2 – The site has private open space in excess of 250m² with a minimum dimension of 8.2m. The private open space area is orientated to the north and is relatively flat. The acceptable solution is met.

8.4.5 Width of openings for garages and carports for all dwelling

Objective: To reduce the potential for garage or carport openings to dominate the primary frontage.	
Acceptable Solutions	Performance Criteria
A1 A garage or carport for a dwelling within 12m of a primary frontage, whether the garage or carport is free-standing or part of the dwelling, must have a total width of openings facing the primary frontage of not more than 6m or half the width of the frontage (whichever is the lesser).	P1 A garage or carport for a dwelling must be designed to minimise the width of its openings that are visible from the street, so as to reduce the potential for the openings of a garage or carport to dominate the primary frontage.

A1 – The garage is more than 12m from the primary frontage. The acceptable solution is met.

8.4.6 Privacy for all dwellings

Objective: To provide a reasonable opportunity for privacy for dwellings.	
Acceptable Solutions	Performance Criteria
A1 A balcony, deck, roof terrace, parking space, or carport for a dwelling (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above existing ground level must have a permanently fixed screen to a height of not less than 1.7m above the finished surface or floor level, with a uniform transparency of not more than 25%, along the sides facing a:	P1 A balcony, deck, roof terrace, parking space or carport for a dwelling (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above existing ground level, must be screened, or otherwise designed, to minimise overlooking of: (a) a dwelling on an adjoining property or its private open space; or (b) another dwelling on the same site or

<p>(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 3m from the side boundary;</p> <p>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 4m from the rear boundary; and</p> <p>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is not less than 6m:</p> <ol style="list-style-type: none"> i. from a window or glazed door, to a habitable room of the other dwelling on the same site; or ii. from a balcony, deck, roof terrace or the private open space of the other dwelling on the same site. 	<p>its private open space.</p>
<p>A2</p> <p>A window or glazed door to a habitable room of a dwelling, that has a floor level more than 1m above existing ground level, must satisfy (a), unless it satisfies (b):</p> <p>(a) the window or glazed door:</p> <ol style="list-style-type: none"> i. is to have a setback of not less than 3m from a side boundary; ii. is to have a setback of not less than 4m from a rear boundary; iii. if the dwelling is a multiple dwelling, is to be not less than 6m from a window or glazed door, to a habitable room, of another dwelling on the same site; and iv. if the dwelling is a multiple dwelling, is to be not less than 6m from the private open space of another dwelling on the same site. <p>(b) the window or glazed door:</p> <ol style="list-style-type: none"> i. is to be offset, in the horizontal plane, not less than 1.5m from the edge of a window or glazed door, to a habitable ii. room of another dwelling; iii. is to have a sill height of not less than 1.7m above the floor level or have fixed obscure glazing extending to a height of not less than 1.7m above 	<p>P2</p> <p>A window or glazed door to a habitable room of a dwelling that has a floor level more than 1m above existing ground level, must be screened, or otherwise located or designed, to minimise direct views to:</p> <ol style="list-style-type: none"> (a) a window or glazed door, to a habitable room of another dwelling; and (b) the private open space of another dwelling.

<p>the floor level; or</p> <p>iv. is to have a permanently fixed external screen for the full length of the window or glazed door, to a height of not less than 1.7m above floor level, with a uniform transparency of not more than 25%.</p>	
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A1 – The proposal does not include a balcony, deck, roof terrace or carport. Parking spaces will not be more than 1m above ground level. The acceptable solution is met.

A2 – The proposal does not have a finished floor level more than 1m above ground level. The acceptable solution is met.

8.4.7 Frontage fences for all dwellings

<p>Objective: The height and transparency of frontage fences:</p> <p>(a) provides adequate privacy and security for residents;</p> <p>(b) allows the potential for mutual passive surveillance between the road and the dwelling; and</p> <p>(c) is reasonably consistent with that on adjoining properties.</p>	
Acceptable Solutions	Performance Criteria
<p>A1 No Acceptable Solution.¹</p>	<p>P1 A fence (including a free-standing wall) for a dwelling within 4.5m of a frontage must:</p> <p>(a) provide for security and privacy while allowing for passive surveillance of the road; and</p> <p>(b) be compatible with the height and transparency of fences in the street, having regard to:</p> <p>i. the topography of the site; and</p> <p>ii. traffic volumes on the adjoining road.</p>

¹ An exemption applies for fences in this zone

No fences are proposed.

C6.0 Local Historic Heritage Code

C6.7.3 Buildings and works, excluding demolition

Objective:	That development within a local heritage precinct or a local historic landscape precinct is sympathetic to the character of that particular precinct.	
Acceptable Solutions	Performance Criteria	
A1 Within a local heritage precinct or local historic landscape precinct, building and works, excluding demolition, must: (a) not be on a local heritage place; (b) not be visible from any road or public open space; and (c) not involve a value, feature or characteristic specifically part of a local heritage precinct or local historic landscape precinct listed in the relevant Local Provisions Schedule.	P1.1 Within a local heritage precinct, design and siting of buildings and works, excluding demolition, must be compatible with the local heritage precinct, except if a local heritage place of an architectural style different from that characterising the precinct, having regard to: (a) the streetscape or townscape values identified in the local historic heritage significance of the local heritage precinct, as identified in the relevant Local Provisions Schedule; (b) the character and appearance of the surrounding area; (c) the height and bulk of other buildings in the surrounding area; (d) the setbacks of other buildings in the surrounding area; and (e) any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.	

Comment – As the dwelling will be visible from the street the proposal must be assessed against the performance criteria.

The proposal is compatible with the local heritage precinct as it does not attempt to mimic heritage architecture. This is seen to be an appropriate method for dealing with new development, whether stand alone or extensions to existing heritage buildings, as it ensures it is easy to distinguish between old and new.

The performance criteria are satisfied.

COMMUNITY ENGAGEMENT

On 14/12/2023, 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 06/01/2024;
- (b) Making a copy of the proposal available in Council Offices from the 06/01/2024;
- (c) Notifying adjoining property owners by mail on 04/01/2024; and
- (d) Erecting a Site Notice for display from the 04/01/2024.

The period for representations to be received by Council closed on 22/01/2024.

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 was submitted by the adjoining owner to the south of the site and is reproduced below.

To The General Manager, Devonport City Council My Name is Ms Ann Michelle Greaves Owner and Council Payer from
127 Tarleton Street East Devonport 7310
This Email is in Regards to A Public Notice Application For Planning Permit for 16a Stephen Street East Devonport 7310 Application Number PA2023.0812 Residential (Single Dwelling) Date Notice 06/01/2024

Here Are My Thoughts After looking at the Building Plan I have Some View Points And Concerns due to the Back of the Residential Single Dwelling being Very Close to the Fence Line.

The Distances of My Side of the Fence And their Fence line on their side is Only 23.5 Inches or 60cm from My Actual House with A Tape Measure.
By Law Can You Please check the Boundaries of the Fence Line then the Distance of the back of their Dwelling Property Building Plan.
The House Start of New Residential should be of The Lawful Distance.
Due to the Light And Air Rights
Into My Lounge Room And Kitchen Windows of My Property.
Moving back to the Fence Line I do not Want the Fence Line Any taller than what is their Now or Lawful height and I'm happy with fence now and will not be wanting to Pay half for A new One.
I have Taken the time With Honesty to My View And Would like the Council to Make Sure that All the Land Boundaries belong Honestly to Each Owner.
Kind Regards 127 Tarleton Street East Devonport Tasmania 7310 Ann Michelle Greaves

Figure 8 - Representation

The representation raises concerns regarding the proposed setback to the southern boundary, privacy to the existing property's lounge and kitchen and the height of any proposed fence.

The proposed dwelling has a setback of 2m to the southern boundary which exceeds the 1.5m requirement.

Privacy standards do not apply to development that is less than 1m above ground level as it does not lead to one property looking down on another. Given the dwelling is proposed to be built at ground level all requirements are met in this regard.

No new fences are proposed, however, should the landowner wish to install a new fence in the future between the two properties the only planning scheme requirement is that it must not be over 2.1m high. Any discussion regarding fencing must be had between the neighbours.

The planning scheme states the following in regard to 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.

Given the representation does not raise any concerns regarding the heritage aspects of the area, the issues raised cannot be seen as relevant and therefore cannot be considered when making a decision.

No changes are warranted as a result of the representation.

FINANCIAL IMPLICATIONS

No financial implications are predicted, unless an appeal is made against the Council's decision to the Tasmanian Civil and Administrative 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 has been assessed against the relevant sections of the planning scheme and can be shown to meet all applicable standards. The representation received does not raise any issues that warrant changes to the proposal and a permit can be issued with conditions.

ATTACHMENTS

1. Application PA2023.0182 -16a Stephen Street - Residential (single dwelling) [3.1.1 - 11 pages]

4 CLOSURE