



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 in the Aberdeen Room, paranaple centre, on Monday 10 September 2018, commencing at 5:15pm.

The meeting will be open to the public at 5:15pm.

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.

Paul West
GENERAL MANAGER

5 September 2018

**AGENDA FOR A MEETING OF THE PLANNING AUTHORITY COMMITTEE OF
DEVONPORT CITY COUNCIL HELD ON MONDAY 10 SEPTEMBER 2018
IN THE ABERDEEN ROOM AT PARANAPLE CENTRE AT 5:15PM**

Item	Page No.
1.0 APOLOGIES.....	1
Ald GF Goodwin	
Ald JF Matthews	
2.0 DECLARATIONS OF INTEREST	1
3.0 DELEGATED APPROVALS	2
3.1 Planning Applications approved under Delegated Authority 1 August 2018 - 31 August 2018 (D542740)	2
4.0 DEVELOPMENT REPORTS	5
4.1 PA2018.0124 Residential (multiple dwellings) - assessment against performance criteria for rail line setback for sensitive use - 65 James Street Devonport (D542543)	5
5.0 CLOSURE	15

Agenda of a meeting of the Devonport City Council's **Planning Authority Committee** to be held in the Aberdeen Room, paranaple centre, 137 Rooke Street, Devonport on Monday 10, September 2018 commencing at 5:15pm.

PRESENT

		Present	Apology
Chairman	Ald A L Rockliff (Acting Mayor)		
	Ald C D Emmerton		
	Ald G F Goodwin		✓
	Ald J F Matthews		✓
	Ald T M Milne		
	Ald L M Perry		

IN ATTENDANCE

All persons in attendance are advised that it is Council policy to record Council Meetings, in accordance with Council's Audio 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.

1.0 APOLOGIES

The following apologies were received for the meeting.

Ald J F Matthews	Leave of Absence
Ald G F Goodwin	Apology

2.0 DECLARATIONS OF INTEREST

3.0 DELEGATED APPROVALS

3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY 1 AUGUST 2018 - 31 AUGUST 2018

ATTACHMENTS

- [1.](#) Delegated Planning Approvals - 1 August 2018 - 31 August 2018

RECOMMENDATION

That the list of delegated approvals be received.

Author:	Jennifer Broomhall	Endorsed By:	Kylie Lunson
Position:	Planning Administration Officer	Position:	Acting Development & Health Services Manager

Planning Applications approved under Delegated Authority – 1 August 2018 – 31 August 2018			
Application No.	Location	Description	Approval Date
PA2018.0095	256 Waverley Road, Don	Boundary adjustment & Visitor accommodation - assessment against performance criteria for location and configuration of development (setback variation) and location of development for sensitive uses	8/08/2018
PA2018.0097	51 Sheffield Road, Spreyton	Residential (multiple dwelling and garage) - assessment against performance criteria for Residential use and location and configuration of development	2/08/2018
PA2018.0099	7 Collins Way, Tugrah	Residential (dwelling) - assessment against performance criteria for location and configuration of development (setback variations)	3/08/2018
PA2018.0100	16 Blackwood Lane, Quoiba	Residential (single dwelling extension) - assessment against performance criteria for location of development (reduced front setback)	3/08/2018
PA2018.0101	24-26 Triton Road, East Devonport (2 Tandara Place)	Residential (2 multiple dwellings)	7/08/2018
PA2018.0102	24-26 Triton Road, East Devonport (4 Tandara Place)	Residential (2 multiple dwellings)	7/08/2018
PA2018.0103	24-26 Triton Road, East Devonport (6 Tandara Place)	Residential (2 multiple dwellings)	7/08/2018
PA2018.0104	24-26 Triton Road, East Devonport (8 Tandara Place)	Residential (2 multiple dwellings)	7/08/2018
PA2018.0106	254 Melrose Road, Aberdeen	Residential (dwelling addition) – assessment against performance criteria for location and configuration of development	8/08/2018
PA2018.0107	8 Adelaide Street, Devonport	Residential (shed) – assessment against performance criteria for setbacks and building envelope	13/08/2018
PA2018.0108	83 Wright Street, East Devonport	Permitted: Residential (multiple dwellings and communal residence) & Community meeting and entertainment (community centre) including the demolition of existing buildings Discretions: Reliance on Performance Criteria for development standards: 10.4.3 - Site coverage and private open space for units 4-8 (inclusive), E9.5.1 - Provision for parking (fewer parking spaces than required for community centre + communal residence) and E9.6.1 - Design of vehicle parking and loading areas (parking layout for residential component of development)	14/08/2018
PA2018.0109	100-102 William Street, Devonport	Food services (alterations) - assessment against performance criteria for Traffic Generating Use and Parking Code	13/08/2018

Planning Applications approved under Delegated Authority – 1 August 2018 – 31 August 2018			
Application No.	Location	Description	Approval Date
PA2018.0111	6 Ellice Hill Drive, Spreyton	Residential (shed)	1/08/2018
PA2018.0112	90 William Street, Devonport	Service Industry (car servicing)	14/08/2018
PA2018.0113	11 Haines Place, Devonport	Residential (shed) - assessment against performance criteria for setbacks and building envelope	14/08/2018
PA2018.0114	53 Dana Drive, Devonport	Residential (shed) – assessment against performance criteria for rear setback and building envelope	6/08/2018
PA2018.0115	22 Mary Street, East Devonport	Residential (shed) - assessment against performance criteria for setbacks and building envelope	14/08/2018
PA2018.0116	5 Charlotte Gardens, Devonport	Residential (dwelling and shed) - assessment against performance criteria for setbacks and building envelope	21/08/2018
PA2018.0117	90 Stewart Street, Devonport	Demolition of existing dwelling and construction of new dwelling - assessment against performance criteria of Local Heritage Code	27/08/2018
PA2018.0118	202 Tugrah Road, Tugrah	Residential (outbuilding) - assessment against performance criteria for reduced boundary setback	24/08/2018
PA2018.0120	34a Nicholls Street, Devonport	Residential (2 outbuildings) – assessment against performance criteria for building envelope and rear setback	24/08/2018

4.0 DEVELOPMENT REPORTS

4.1 PA2018.0124 RESIDENTIAL (MULTIPLE DWELLINGS) - ASSESSMENT AGAINST PERFORMANCE CRITERIA FOR RAIL LINE SETBACK FOR SENSITIVE USE - 65 JAMES STREET DEVONPORT

File: 35496 D542543

RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

Strategy 2.1.1 Apply and review the Devonport Interim Planning Scheme as required, to ensure it delivers local community character and appropriate land use

SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding the discretionary component of planning application PA2018.0124.

BACKGROUND

Planning Instrument:	<i>Devonport Interim Planning Scheme 2013</i>
Applicant:	Nicholas John Brandsema
Owner:	Two Fish Developments Pty Ltd
Proposal:	Residential (multiple dwellings) - assessment against performance criteria for rail line setback for sensitive use
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	12/09/2018

SITE DESCRIPTION

The subject site is located on the southern side of James Street between Gunn and William Streets. The lot size is 1826m² and has a slight gradient with a general fall from the south boundary which adjoins the rail corridor and the frontage along James Street.

Figure 1 depicts the outlined subject site and its location to other urban features in the near vicinity. The rail corridor which is a comparable width to the road reservation can be observed at a distinct angle to the colonial grid of the urban street network to the immediate south of the site.



Figure 1 – Source DCC Geocortex, December 2015

APPLICATION DETAILS

The proposal is to develop the site with three new home units in addition to the refurbishment of the existing house. The three new buildings are all single storey with a floor area of approximately 140m² each. The existing house is 110m² in area. Undercover parking for two cars is integrated with the new dwellings. Figure 2 represents the proposed site plan. The rail corridor is nearest to the rear unit (Unit 3).

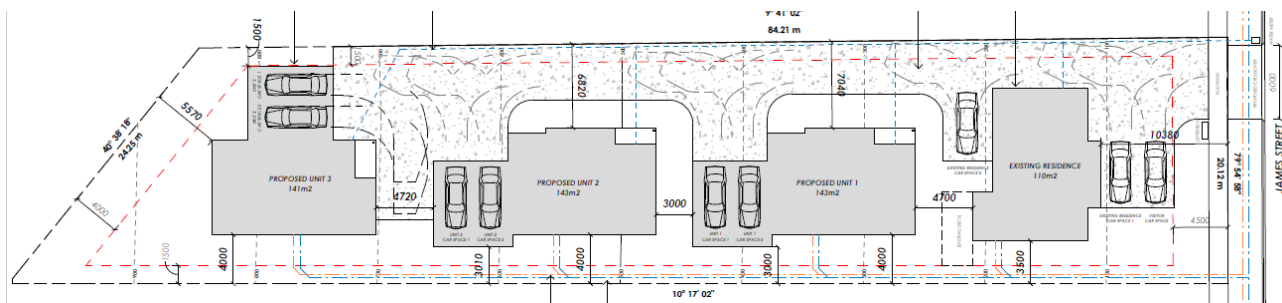


Figure 2 – Proposed Site Plan, N + B, Project P18055, dated 29/06/18

PLANNING ISSUES

The land is zoned General Residential under the *Devonport Interim Planning Scheme 2013* (DIPS). The Use Table for this zone indicates that multiple dwelling development has a permitted use status which can continue along a permitted pathway if the development satisfies the Acceptable Solutions (AS) of the zone development standards and the AS of the applicable codes. The assessment of this application has identified a particular zone standard that cannot comply with the numerical standard of the AS and therefore needs to be satisfactorily demonstrated against the Performance Criteria (PC) to achieve a permit.

In this regard, Clause 10.4.12 P2 of the General Residential zone (Setback of development for sensitive use) prescribes an AS of 50m from a railway. This cannot be achieved and the proposal has to rely upon the PC as an alternative solution. The PC are reproduced below from the DIPS.

P2 – Development for a sensitive use must –

- (a) Have minimal impact for safety and efficient operation of the transport infrastructure; and
- (b) Incorporate appropriate measures to mitigate the likely impact of light, noise, odour particulate, radiation or vibration emissions; or
- (c) Be temporary use or development for which arrangements have been made with the relevant transport infrastructure entity for removal without compensation within 3 years

The applicant is relying on (b) and has submitted the following to demonstrate how the PC can be achieved.

Clause 10.4.12 Setback of development for sensitive use

The proposed unit 3 will provide acoustic and visual screening to proposed units 1 & 2 and the existing dwelling. Unit 3 only has one window and door facing the existing railway line, these are both located in the proposed garage. Because of this it is believed that the impact of light, noise, odour, particulate, radiation or vibration emissions should provide minimal impact. All south facing habitable rooms in Unit 3 will be treated with R2.5 Bradfords Soundscreen insulation batts, this will assist to minimise noise pollution from the railway line. Please refer to the attached spec sheet for technical data.

COMMUNITY ENGAGEMENT

On 01/08/2018, 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 04/08/2018;
- (b) Making a copy of the proposal available in Council Offices from the 04/08/2018;
- (c) Notifying adjoining property owners by mail on 02/08/2018; and
- (d) Erecting a Site Notice for display from the 02/08/2018.

The period for representations to be received by Council closed on 20/08/2018.

REPRESENTATIONS

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

The first representation from the adjoining land owners has a concern that the future division of the subject property will cause some logistical issues with having to deal with different neighbours to resolve any fence maintenance and possible replacement. This representation is reproduced as **Attachment 1**.

The second representation was received from TasRail and submits points on several matters as well as some recommended conditions of approval to be included on a permit if the Planning Authority is inclined to approve the application. This representation is reproduced as **Attachment 2**.

DISCUSSION

The merits of the first representation does not require any significant discussion as Council has no jurisdiction to be involved with civil matters of this type when considering a planning permit application. Division by strata titling is not mandated by the *Land Use Planning and Approvals Act 1993*.

However, there are a couple of issues identified that require further consideration and possible incorporation of additional requirements into the design of the project following receipt and examination of the merits of the TasRail representation.

Firstly, the incorporation of appropriate measures to alleviate noise and vibration needs to be expanded to include the same design principles for the three proposed units not simply the one nearest the railway (Unit 3). This is reinforced by the development standard that requires the PC to be applied to all development for a sensitive use (dwellings) within 50m from a railway.

The designer has claimed that Unit 3 will acoustically and visually screened to shield the effects to Units 1 and 2 but has provided no such confirmation from a suitably qualified person that this can be achieved. It is submitted by the designer that specific insulation will assist in minimising noise effects. Nothing has been submitted that demonstrates how the effects of any vibration can be minimised.

Consequently, any permit condition needs to include appropriate noise and vibration measures to be applied to all the new construction with particular attention being made to installation of any materials and general building construction techniques to ensure that these measures are not compromised and Council is not implicated in any future liability.

Secondly, TasRail have suggested a Part 5 Agreement be applied to the site between Council and future occupants acknowledging the minimum attenuation from the rail line as well as the train horn which may also impact on the residential amenity.

FINANCIAL IMPLICATIONS

No financial implications are predicted.

RISK IMPLICATIONS

The noise and vibration attenuation materials, their application and general building techniques are important considerations that must be enforced during construction to limit Council's risk exposure to any future claim.

CONCLUSION

In conclusion, sufficient merit has been demonstrated to warrant a positive recommendation. The application has been referred to others with an interest in the outcome and their responses form part of the final recommended list of permit conditions and notes. This includes TasRail and TasWater.

The discretionary component of the application deals with a reasonably significant departure to the compliant numerical standard of 50m to less than 6m. The Performance Criteria allow for alternative designs and what has been submitted for appraisal is deemed to satisfactorily perform to these development standards in addition to the recommendations by the rail authority.

ATTACHMENTS

- [1.](#) Representation - Dianne and John Traill - PA2018.0124 - 65 James Street
- [2.](#) Representation - TasRail - PA2018.0124 - 65 James Street

RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Devonport Interim Planning Scheme 2013* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2018.0124 and grant a Permit to use and develop land identified as 65 James Street, Devonport for the following purposes:

- Residential (multiple dwellings) - assessment against performance criteria for rail line setback for sensitive use

Subject to the following conditions:

1. Unless requiring modification by subsequent conditions of this permit, the use and development is to proceed generally in accordance with the submitted plans referenced as Proposed Unit Development at 65 James Street, Project P18055, dated 29.06.18 by n + b, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The developer is to obtain appropriate advice from a suitably qualified person to ensure noise and vibration measures are applied to all proposed units. All materials required, and relevant installation techniques are to be incorporated into the building construction specification to enable subsequent installation certification prior to occupancy.
3. The developer is to enter into a Part 5 Agreement under Section 71 of the *Land Use Planning and Approvals Act 1993* with Council to acknowledge:
 - a. the proximity of the TasRail line and the potential effects on amenity that may occur from vibration and noise; and
 - b. prohibition and access limitations into and onto the rail corridor including stormwater discharge (see note below).
4. The developer is to comply with the conditions contained 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*.
5. The developer is to take all reasonable steps during construction to minimise off site environmental effects occurring that might result in a nuisance. This includes air, noise and water pollution and does not allow for burning of any waste materials.
6. The developer is to construct the proposed driveway generally in accordance with Tasmanian Standard Drawing TSD-R09v1. The existing driveway is to be demolished and the new driveway constructed to suit the proposed development in accordance with this standard.
7. The developer is to provide an onsite stormwater detention system (OSD) to manage the stormwater discharge. This is to be adequately 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 adequately identify peak discharge flows. As part of the design the hydraulic engineer is to limit discharge from the development site to that

equivalent to only 50% of the existing lot being impervious. All design calculations are to be submitted as part of the building and plumbing permit application.

8. The developer is to provide a new 150mm dia stormwater service connection to the existing stormwater main in James Street, generally in accordance with the relevant Tasmanian Standard Drawings.

EXPLANATORY NOTES

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

In regard to condition 3 the developer is to acknowledge that:

- a. The dwellings will be sited at a setback distance that is significantly less than the recommended 50 metre attenuation zone, exposing the buildings and inhabitants to vibration and noise;
- b. TasRail's Train Horn is a safety device that is required to be sounded in accordance with operating procedures and at any time the train driver perceives a risk;
- c. In addition to amenity factors the developer and future occupants are not permitted to obstruct the railway land for any purpose including vegetation/trees, structures, drainage, water pipes, electrical or service infrastructure; and
- d. TasRail does not give authorisation for any stormwater or other form of discharge to enter the rail corridor or to connect into the rail drainage system.

In regard to condition 4 the developer should contact TasWater – Ph 136 992 with any enquiries.

In regard to condition 5 this includes ensuring that noise emitted from portable apparatus and hours of operation are within the scope indicated by the *Environmental Management and Pollution Control (Noise) Regulations 2016*.

In regard to conditions 6, 7 & 8 the developer should contact Council's City Infrastructure Department – Ph 6424 0511 with any enquiries.

Any existing Council infrastructure impacted by the works is to be reinstated in accordance with the relevant standards.

A permit to work within the road reserve must be sought and granted prior to any works being undertaken within the road reserve.

In regard to condition 8 the developer is to note that the existing stormwater main is located under the road pavement in James Street and not the nature strip as shown on the submitted drawings. All connection costs, including reinstatement, is at the developer's expense.

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

Author:	Shane Warren	Endorsed By:	Kylie Lunson
Position:	Planning Coordinator	Position:	Acting Development & Health Services Manager

FILE: 35496

08/08/2018

General Manager

As property owners of 63 James St, we have reservations with the division of the adjacent block into separate residences.

Previously replacement and maintenance of the boundary fence was an equally shared expense, but it appears that these plans will involve an uneven ratio 1:4. This is one neighbourhood experience we have no wish to repeat.

Currently the fence has an existing concrete plinth the entire length, with metal or cement posts. The wooden rails and palings require the maintenance.

We are aware there are sections of the fence that are close to requiring repair, therefore, should it be possible to amend the plans to include construction of a more sturdy low to no maintenance boundary fence, then we feel confident in withdrawing our objections to the project.

Regards

Dianne and John Traill

From: Jennifer Jarvis <Jennifer.Jarvis@tasrail.com.au>
Sent: Monday, 20 August 2018 11:26 AM
To: council
Subject: RE: Planning Permit PA2018-0124 65 James Street, Devonport

I write with respect to Planning Permit 2018-0124 (file 35496) at 65 James Street, Devonport.

TasRail submits the following response:

- Based on a review of the documents TasRail notes the proposal is for multiple dwellings on the title with a setback distance from the rail corridor and the closest dwelling shown as only 5.570 metres. TasRail considers this to be insufficient setback distance, noting the recommended attenuation zone is 50 metres as per the Road and Rail Assets Code. If the permit application is approved, the establishment of further/continuing precedent for dwellings to be located this close to the rail line is a concern to TasRail, and these concerns will only be further exacerbated if neighbouring properties seek to do likewise.
- There is no evidence to show that the applicant has incorporated appropriate engineering and design measures so as to mitigate potential vibration damage and noise exposure that will likely occur as a consequence of the dwelling being sited so close to the railway line. Council is aware that TasRail freight services operate 24/7 and its operating procedures require the train horn to be sounded twice per level crossing (on approach and on entry) and at any time the driver perceives there to be a risk.
- TasRail notes there is a level crossing at William/James Street and at Gunn/George Street and asks what consideration has been given to understanding whether or not the siting of a dwelling only 5.570 metres from the rail boundary will reduce or obstruct clear line of sight for the railway as is required under the *Rail Infrastructure Act 2007*. TasRail notes that there are an increasing number of locations where development has been permitted in close proximity to the rail line with a resulting sight obstruction. For this reason, TasRail recommends that Council and TasRail conduct a Risk Assessment to assess/identify any issues that may arise from the development.
- TasRail notes the application proposes to connect to stormwater drainage located at the front of the property (James Street). It is TasRail's view that this be stipulated in the permit conditions, noting that TasRail will not authorise discharge into or via the rail corridor.
- Should Council be inclined to approve this application in its current form, TasRail recommends the conditions of the permit include provision for the following:
 - (1) An acknowledgement by the applicant that the dwellings will be sited at a setback distance that is significantly less than the recommended 50 metre attenuation zone, exposing the buildings and inhabitants to vibration and noise; and
 acknowledging TasRail's Train Horn is a safety device that is required to be sounded in accordance with operating procedures and at any time the train driver perceives a risk. This may best be achieved through a Part V Agreement.
 - (2) An acknowledgement by the applicant (to apply to future inhabitants of the dwellings) that no obstruction is permitted inside railway land for any purpose including vegetation/trees, structures, drainage, water pipes, electrical or service infrastructure etc.
 - (3) TasRail does not give authorisation for any stormwater or other form of discharge to enter the rail corridor or to connect into the rail drainage system.

Please don't hesitate to contact me if you have any questions or require any additional information.

Kind regards



Jennifer Jarvis



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5.0 CLOSURE

There being no further business the Acting Mayor declared the meeting closed at pm.