



*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 Council Chambers, on Wednesday 8 November 2017, commencing at 8:30am.

**The meeting will be open to the public at 8:30am.**

## 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

**3 November 2017**

**AGENDA FOR A MEETING OF THE PLANNING AUTHORITY COMMITTEE OF  
DEVONPORT CITY COUNCIL HELD ON WEDNESDAY 8 NOVEMBER 2017  
AT THE COUNCIL CHAMBERS AT 8:30AM**

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Agenda of a meeting of the Devonport City Council's **Planning Authority Committee** to be held at the Council Chambers, 17 Fenton Way, Devonport on Wednesday 8, November 2017 commencing at 8:30am.

**PRESENT**

		<b>Present</b>	<b>Apology</b>
Chairman	Ald S L Martin (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 apology was received for the meeting.

Ald G F Goodwin	Leave of Absence
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**2.0 DECLARATIONS OF INTEREST**

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### **3.0 DELEGATED APPROVALS**

#### **3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY 21 OCTOBER - 31 OCTOBER 2017**

#### **ATTACHMENTS**

- [1.](#) Delegated Planning Approvals - 21 October - 31 October 2017

#### **RECOMMENDATION**

That the list of delegated approvals be received.

Author:	Jennifer Broomhall	Endorsed By:	Brian May
Position:	Planning Administration Officer	Position:	Development Manager

Planning Applications approved under Delegated Authority – 21 October–31 October 2017			
Application No.	Location	Description	Approval Date
PA2017.0127	19 Ahernes Road, Paloona	Residential (dwelling & outbuilding) - assessment against performance criteria for Rural Resource provisions 26.3.3, 26.4.2 & 26.4.3 and Water and Waterways Code	24/10/2017
PA2017.0130	57 Morris Road, Melrose	Residential - assessment against performance criteria for required residential use	23/10/2017
PA2017.0134	1 Tedmon Street, Spreyton	Residential (shed) - assessment against performance criteria for setbacks and building envelope	30/10/2017
PA2017.0135	54 David Street, East Devonport	Residential (garage) - assessment against performance criteria for setback and building envelope	26/10/2017
PA2017.0137	47 Sheffield Road, Spreyton	Resource development (extensions to existing shed structures) – discretion to allow lesser than permitted building setback	27/10/2017
PA2017.0141	17 Oldaker Street, Devonport	Signage	23/10/2017
PA2017.0142	18 Franklin Street, Devonport	Residential (as constructed Store Room) - assessment against performance criteria for setbacks and building envelope	26/10/2017
PA2017.0145	169 Steele Street, Devonport	Demolition (existing building)	30/10/2017

## 4.0 DEVELOPMENT REPORTS

### 4.1 PA2017.0143 RESIDENTIAL (SINGLE DWELLING) - ASSESSMENT AGAINST PERFORMANCE CRITERIA FOR SETBACK AND BUILDING ENVELOPE VARIATIONS - 5 ENDERLY COURT AMBLESIDE

File: 34602 D499667

#### 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
- Strategy 2.1.2 Provide high quality, consistent and responsive development assessment and compliance processes

#### PURPOSE

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2017.0143.

#### BACKGROUND

Planning Instrument:	<i>Devonport Interim Planning Scheme 2013</i>
Applicant:	Ian Douglas Thompson
Owner:	Mr ID McPherson & Mrs MA McPherson
Proposal:	Residential (Single Dwelling) – assessment against performance criteria for setback and building envelope variations
Existing Use:	Vacant Land (CT 158388/2)
Zoning:	General Residential
Decision Due:	13/11/2017

#### SITE DESCRIPTION

Enderly Court is a cul-de-sac that runs in a westerly direction from the northern end of River Road. The subject lot is outlined in red on the following aerial photograph.



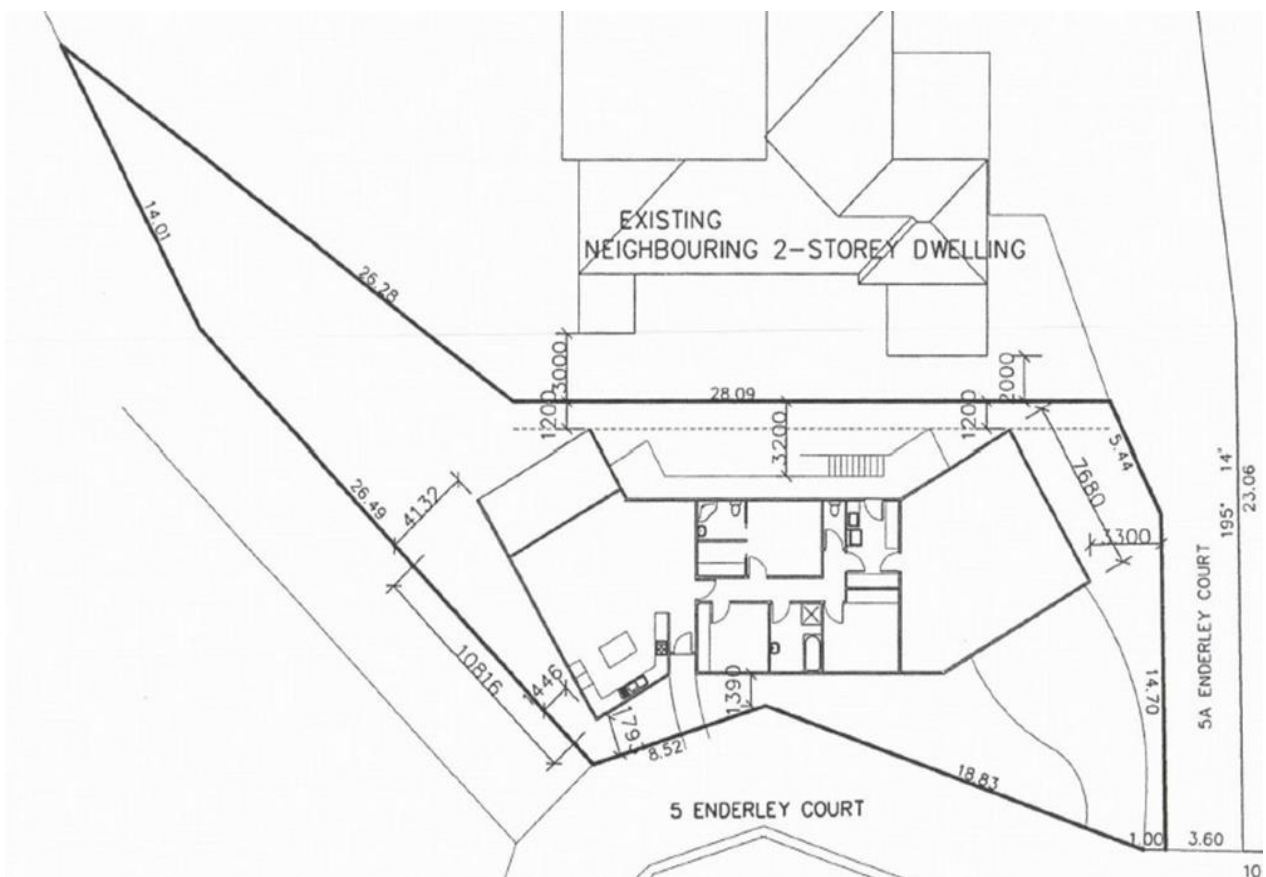
Photo Source: DCC Geocortex December 2015

The 668m<sup>2</sup> lot is an irregular shaped polygon that was originally approved in 2007 (SA2007.0011).

This application for subdivision attracted seven (7) representations from residents within the street with a general concern on whether the on-street visitor parking arrangements could cope with an additional lot being created and the subsequent development on it. After consideration of those representations the subdivision was approved.

### APPLICATION DETAILS

The application is for a site specific designed single dwelling. The building has one floor level however due to the topography the northern elevation is virtually '2 storeys' in height. The building form is a light weight clad structure, 195m<sup>2</sup> in area with a gable roof. The following diagram depicts the site plan and the separation between adjacent land to the north and the road frontage to the south which has triggered the discretion.



Plan source: Tas Laughlin, Job No 0917-14, 28/09/2017

### PLANNING ISSUES

The land is zoned General Residential under the *Devonport Interim Planning Scheme 2013* (the DIPS). In general terms any development for residential use can potentially achieve a 'no permit required' status if the proposal satisfies the Acceptable Solutions (AS) of the relevant zone and code standards of the DIPS. If the AS of an identified development standard cannot be satisfied, then reliance on the Performance Criteria (PC) is required to achieve a permit by these alternative provisions.

If the PC cannot be satisfactorily demonstrated then the application must be refused. The PC are reasonably subjective in nature and any proposal would be unlikely to reach this stage of the assessment process if a preliminary enquiry could not favour the proposal.

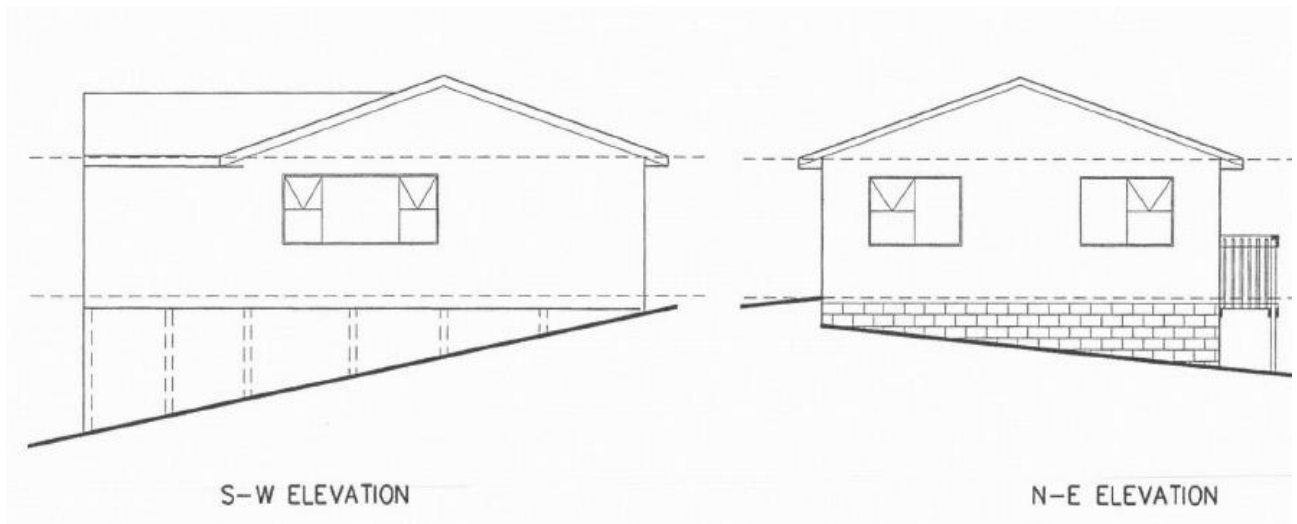
In this proposal there is reliance on the PC because the AS for the prescribed rear and frontage setback cannot be met. By default this also includes non-compliance with the building envelope component.

The frontage setback variation from the compliant setback is 4.5m. This proposal is 1.39m at the closest point. The PC includes reliance upon topographical constraints as a consideration. In this situation it is clearly a factor to favourably consider as evidenced by the following contour map. The contours are at intervals of .5m. This indicates a cross fall of 4m over the proposed building footprint.



Photo Source: DCC Geocortex December 2015

The indicative elevations of the proposed building provides an alternative view below to demonstrate the gradient.



Plan source: Tas Laughlin, Job No 0917-14, 28/09/2017

The PC for a variation from the compliant 4m rear setback to a minimum 1.2m relies upon the siting and scale of the application not causing unreasonable loss of amenity to the habitable rooms and private open space on adjoining land due to overshadowing, loss of sunlight and the bulk and scale of the development. The land affected by any unreasonable overshadowing is clearly the roadway to the south. Some measure of sensibility is also submitted on the understanding that at the time of subdivision the



compliant rear setback was 1.5m. Interestingly the Interim Planning Scheme AS of 4m has been reviewed as part of the Tasmanian Planning Scheme and when that scheme is finally introduced 1.5 metres will again be the compliant rear setback.

### COMMUNITY ENGAGEMENT

On 02/10/2017, 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 04/10/2017;
- (b) Making a copy of the proposal available in Council Offices from the 04/10/2017;
- (c) Notifying adjoining property owners by mail on 03/10/2017; and
- (d) Erecting a Site Notice for display from the 03/10/2017.

The period for representations to be received by Council closed on 17/10/2017.

### REPRESENTATIONS

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

The matters submitted are reproduced below from the correspondence emailed to Council on 17 October.

*"I have a few concerns regarding the proposed development on the sub-divided property at the above address.*

- 1) *Enderly Court is approximately 70m long and currently has 11 dwellings (1/1, 2/1, 1A, 1B, 2, 3, 4B, 5A, 6, 7, 8) with vacant lots at 2A, 5 and 9. Enderly Court has a maximum of 5 street parking spaces. On numerous occasions I have come home to find a car parked across my driveway and there is no feasible way for me to park on my property. The available parking facilities on this street are already grossly inadequate and another dwelling being built in this Court is only going to exacerbate the situation.*
- 2) *Recently when several trees located at 5 Enderly Court, were felled, the trucks associated with these works caused damage to my new driveway. Concern for this damage and further damage being caused to my property (or anyone else's) is a major issue that should be addressed. My property has already been damaged in the lead-up to this building taking place – this is unacceptable.*
- 3) *With so few street parking spaces and with most of them being relatively small, where are these trucks going to stop to deliver the proposed building items? I believe they will either have to park on allotted parking spaces that are too small for trucks or park on the roadway. It is highly likely that the positioning of 5 Enderly Court will not allow for vehicles to pass if a truck is parked on the road. This is not only an inconvenience to residents, but it is also a danger to both pedestrians and drivers alike.*
- 4) *These trucks have also caused clearly visible damage to the road (tarmac) in front of the 5 Enderly Court. It is my concern that the machinery and trucks involved with the building of the proposed dwelling will cause further damage, both to public property and private property alike.*

- 5) *Enderly Court is a very small Court and the manoeuvrability of contractors and their machinery/trucks etc is concerning. The 'green space' in the centre of the turnaround in Enderly Court clearly shows that there just isn't enough space to turn these vehicles around without causing damage to either the green space and/or the kerbing. As a ratepayer, the damage to this area is unattractive. If it is ever repaired, it will reflect in my Council Rate charges, so it's an unfavourable double-edged sword. I welcome the Council to come and look at the size of this Court. Even the council rubbish truck and the recycling truck have difficulty turning around without having to reverse at one point so it can complete the turnaround at the end of the Court. Construction/building delivery trucks and vehicles etc are mostly going to be larger than these trucks and deliveries are going to cause further issues and/or damage. The aerial shot submitted with the Planning Application PA2017.0143, although not up-to-date, (pre recent tree-felling) clearly shows the issues I have stated.*
- 6) *Traffic congestion is another serious concern. Most houses in this street have at a minimum of 2 vehicles per house, some up to 4 vehicles. This has become a problem, and I believe the traffic situation should be given consideration. Given the fact that the Court has bends in it, this at time hinders vision from vehicles when exiting driveways. This is a matter of safety and I believe should not be taken lightly.*
- 7) *The lot shape is out of character compared to the streetscape and the density of dwellings in such a small court is increasing beyond an acceptable level. The building of this house is only going to make this issue worse.*
- 8) *I also have concern for the people residing in the house at 5a. This new construction will completely overshadow that dwelling, blocking all afternoon sun.*
- 9) *The proposed new structure will also encroach on the privacy of the residents in 5a as the proposed new building will virtually look straight into the entire length of the house. It virtually envelopes two sides of that dwelling.*

*As a long term resident of Enderly Court, I ask that you address these issues. The issue of safety and damage to both private and public property are paramount. It is unreasonable that anyone should have had to tolerate damage caused to their property through no fault of their own."*

## **DISCUSSION**

The matters submitted in the representation are not primarily focussed, nor do they provide commentary on why it is considered the Performance Criteria do not demonstrate an acceptable alternative solution.

The design of the existing cul de sac and how traffic within it is managed is not an issue that can affect the outcome of this application.

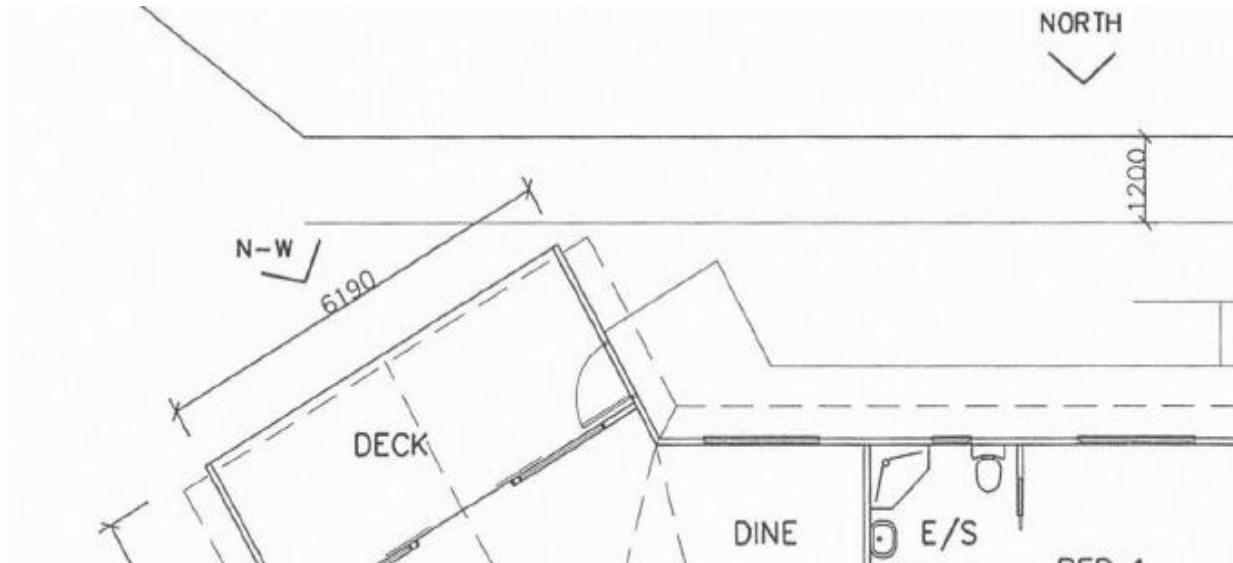
The last three points discuss the planning merits but can be discounted due to the following reasons.

1. Although the lot shape is purportedly out of character it is a registered title and the zoning allows the development of the lot for a residential purpose.
2. The land at 5a Enderly Court is sited to the north. No overshadowing can occur.
3. The privacy standard in the interim planning scheme requires 3m separation from the portion of a proposed residence if the floor level is 1m or higher above natural ground

level. This applies to windows and glazed doors to habitable rooms as well as balconies, decks and parking spaces.

There is a deck that extends northward from the lounge room that falls within this space. The AS allow for that portion of the deck to achieve compliance by having at least a 1.7m high, 25% transparent permanently fixed screen where that deck encroaches within 3m. This can be conditioned on the permit as required.

An enlarged copy of the floor plan provides an alternative to the previous text to demonstrate the separation issue. (Please note that the 'north' identifies the elevation and not the direction.)



Plan source: Tas Laughlin, Job No 0917-14, 28/09/2017

**FINANCIAL IMPLICATIONS**

No financial implications are predicted.

**RISK IMPLICATIONS**

No risk implications are predicted.

**CONCLUSION**

In summary any development on this lot following the 2007 subdivision would most likely find it difficult to achieve compliance without some discretionary components being identified and requiring additional consideration. The scale of the building as depicted is not extraordinary and has been designed as a best fit for the lot. It would be unreasonable to decline the application.

**ATTACHMENTS**

Nil

**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 PA2017.0143 and grant a Permit to use and develop land identified as 5 Enderly Court, Ambleside for the following purposes:

- Residential (single dwelling) – assessment against performance criteria for setback and building envelope variations

Subject to the following conditions:

1. The use and development is to be located generally in accordance with the submitted plans referenced as Proposed Light-Weight clad, 3 – bed dwelling for Mr I Thompson at 5 Enderly Court, East Devonport. Job No 0917-14 dated 28/9/2017 by Tas Laughlin copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The developer is to utilise the existing stormwater service connection for the purposes of this development.
3. The developer is to utilise the existing access driveway for the purposes of this proposed development.
4. The developer is to take all reasonable steps during construction to prevent environmental effects occurring that might result in a nuisance. This includes no immediate off site storage of associated building equipment and materials on public land during construction and the pollutant effects of noise and water as well as air pollution from the result of any burning of waste.
5. The developer is to incorporate a minimum 1.7m high and 25% transparent permanently fixed screen where the lounge deck is situated within 3m of the northern boundary.

Note: The following is provided for information purposes.

The development is to comply with the requirements of the current NCC. 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 4 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.

Should any works occur within the road reserve then a permit to work within the road reserve must be sought and granted prior to any works being undertaken.

The developer is responsible to repair/re-instate any damage incurred to Council or third party assets, as a result of executing this permit.

Author:	Shane Warren	Endorsed By:	Brian May
Position:	Planning Coordinator	Position:	Development Manager

## **5.0 CLOSURE**

There being no further business the Chairman declared the meeting closed at      am.