



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 16 November 2020, commencing at 5:00 PM.

The meeting will be open to the public at 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

10 November 2020

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 16 November 2020, 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.

1 APOLOGIES**2 DECLARATIONS OF INTEREST**

3 DELEGATED APPROVALS

3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY 24 AUGUST 2020 - 31 OCTOBER 2020

Author: **Jennifer Broomhall, Planning Administration Officer**
Endorser: **Kylie Lunson, Development Services Manager**

Planning applications approved under delegated authority 24 August 2020 – 31 October 2020.

ATTACHMENTS

1. Delegated Approvals [3.1.1 - 2 pages]

RECOMMENDATION

That the list of delegated approvals be received.

4 DEVELOPMENT REPORTS

4.1 PA2020.0178 - 3 CHALMERS LANE DEVONPORT - RESIDENTIAL (SINGLE DWELLING)

Author: **Carolyn Milnes, Senior Town Planner**
Endorser: **Kylie Lunson, Development Services Manager**

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 PA2020.0178 and grant a Permit to use and develop land identified as 3 Chalmers Lane, 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 documents and plans referenced as:
 - a. Letter by Layton Design dated 1/10/2020; and
 - b. New Home, Project No. 19.06, Dwg no.s A0-000, A1-001 to 004, A2-001 to 003, A3-001 to 044 and A4-001, by Layton Design, dated 1/10/2020;copies of which are attached and endorsed as documents forming part of this planning permit.
2. Concentrated stormwater is to be discharged 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).
4. The developer is to manage any asbestos found during demolition in accordance with the How to Safely Remove Asbestos Code of Practice issued by Safe Work Australia (October 2018).

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, 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%20Water_Management_Fact%20Sheet_1.pdf

TasRail notes:

Where a building or other development is proposed to be located at a setback distance less than 50 metres from the boundary of the rail corridor, the occupants are likely to be exposed to train horn noise and vibration, noting that TasRail Freight Rail Services operate 24/7 and the configuration, frequency and time of these services is subject to change at any time. Landowners and prospective landowners should undertake appropriate due diligence to ensure they are aware of train noise and vibration, particularly train horn noise.

The train horn is a safety device that is required to be sounded twice per level crossing being on approach and on entry. The minimum duration of each train horn blow is one second. The train driver also has the discretion to sound the horn at any time he/she perceives a risk.

Stormwater or effluent is not permitted to be discharged onto rail land or into the rail drainage system. Should there be a requirement for a service or asset to be installed on rail land in order to connect into an authorised stormwater or other outlet, a separate TasRail Permit is required and will only be approved subject to terms and conditions (costs apply). A Permit Application Form is available by contacting property@tasrail.com.au

No obstruction, installation or works of any kind are permitted inside railway land for any purpose including for structures, unauthorised vehicles, drainage, water pipes, stormwater discharge, electrical or service infrastructure, storage of materials, vegetation clearing, inspections etc.

No persons should enter rail land without formal authorisation.

Rail land is not for private use and should not be encroached for any purpose including for gardens, storage, keeping of animals etc. Dumping of rubbish including green waste into the rail corridor is not permitted.

As per the *Rail Infrastructure Act 2007*, the Rail Infrastructure Manager (TasRail) may remove and dispose of unauthorised or unlawful service infrastructure and take such other action as it sees fit. Where this occurs, TasRail may recover its costs of doing so as a debt due to TasRail from that person and retain if applicable any proceeds of disposal. No action lies against TasRail for removing or disposing of the unauthorised or unlawful service infrastructure.

Using or creating an unauthorised railway crossing or stock crossing is unsafe and strictly prohibited.

All access and rail land enquiries should be directed to property@tasrail.com.au

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, acting as a Planning Authority, to make a decision regarding planning application PA2020.0178 for a single dwelling at 3 Chalmers Lane, Devonport.

BACKGROUND

Planning Instrument:	<i>Devonport Interim Planning Scheme 2013</i>
Applicant:	Layton Design
Owner:	Richard & Sharon Bovill
Proposal:	Residential (single dwelling)
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	24/11/2020

SITE DESCRIPTION

The site is located on the northern side of Chalmers Lane, approximately 85m to the west of the Percy Street intersection. The property consists of two titles, CT53375 lots 1 and 2 with areas of 670m² and 1126m² respectively. The site contains an existing single dwelling, located approximately 3.5m to the street frontage. The site falls steeply, approximately 21m, from south to north and is bound by residential development to the east and west and an unmade road reserve to the north. The property has views over Coles Beach, Don Heads and surrounding areas. Figure 1 shows an aerial view of the subject site.



Figure 1 - Aerial view of subject site

APPLICATION DETAILS

The applicant is seeking approval for a double storey, single dwelling. The proposal requires the demolition of the existing house and replacement with a larger footprint,

setback 11.25m from the street frontage. Figure 2 shows the proposed site plan and Figures 3 and 4 show the floor plans. The elevations are shown at Figures 5-8. A 1.8m high bluestone wall is proposed on the street frontage which will replace the existing 2m high brick wall.

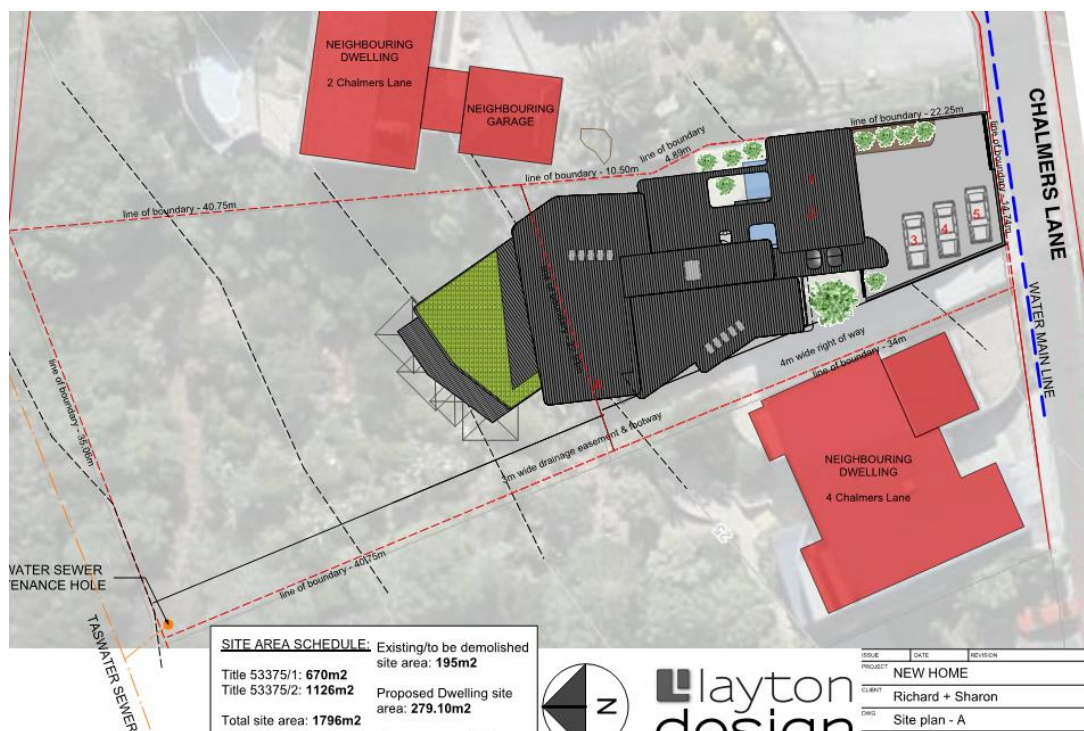


Figure 2 - Proposed site plan

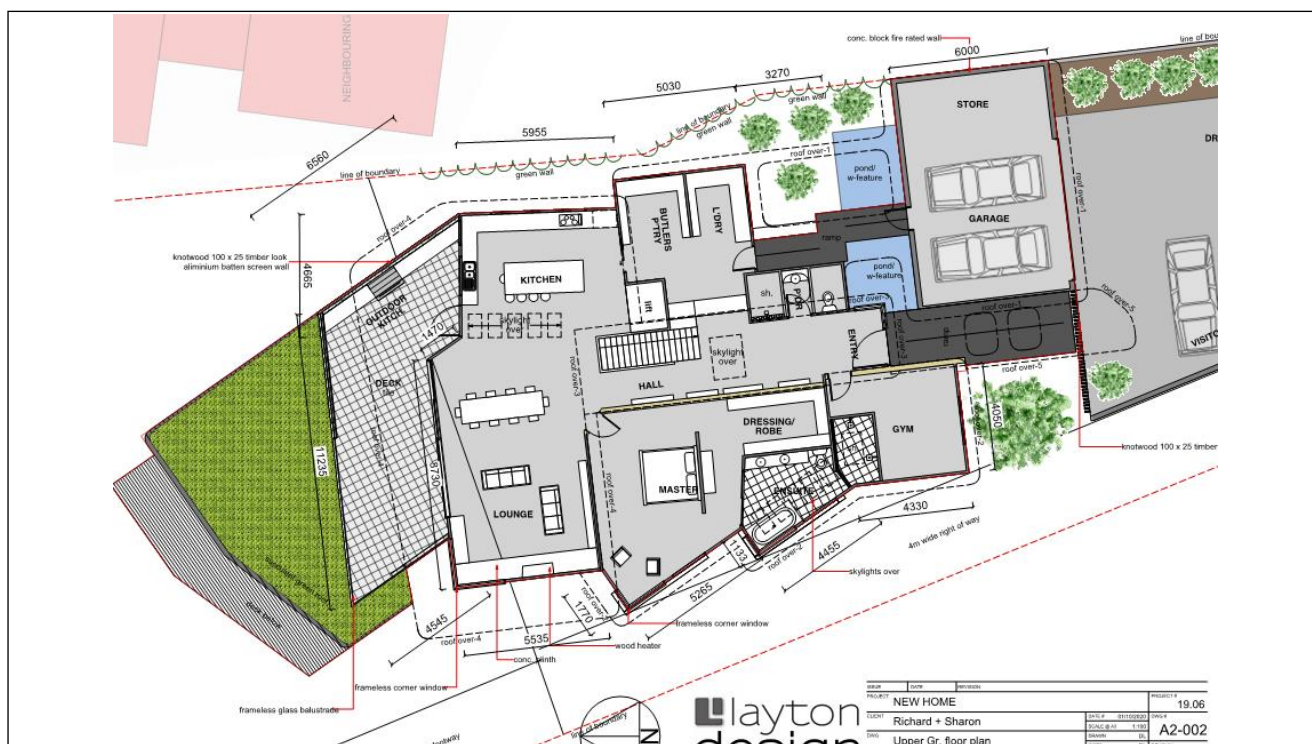


Figure 3 - Upper ground floor plan

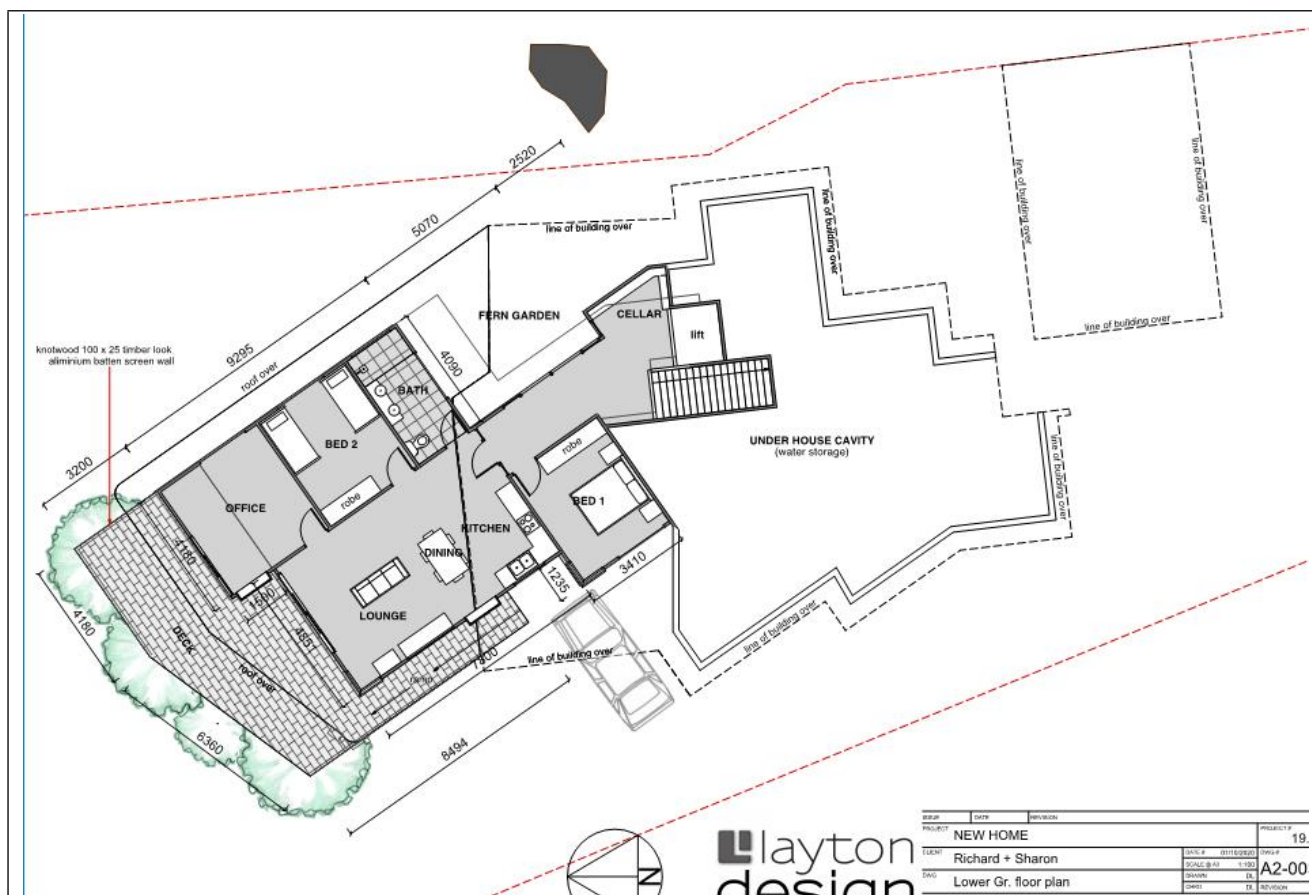


Figure 4 - Lower ground floor plan

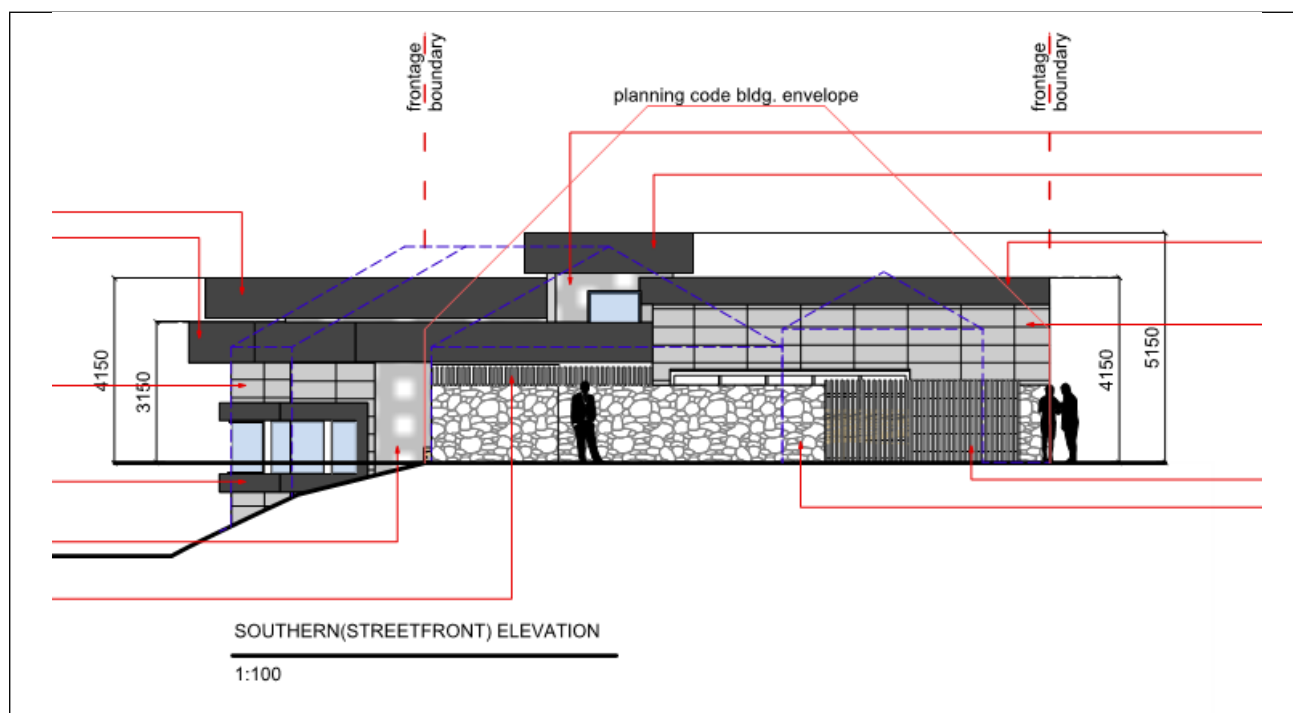


Figure 5 - Southern elevation

upper gr. floor level

lower gr. floor level

NGL

planning code bldg. envelope

rear boundary

NORTHERN ELEVATION

1:100

IL

IL

MA

HT

frameless glass balustrade

HT

frameless glass balustrade

IL

BS

planning code bldg. envelope

MA: JAMES PAINT F
IL: STRUC' PANEL COLOUR
ALL CLADDINGS IF SPECIFICATIONS
ALL COLOURS IN 1 AND RESPONSIVE
ENSURE FINISH S STRUCTURE.

Agenda - Planning Authority Committee - 16 November 2020

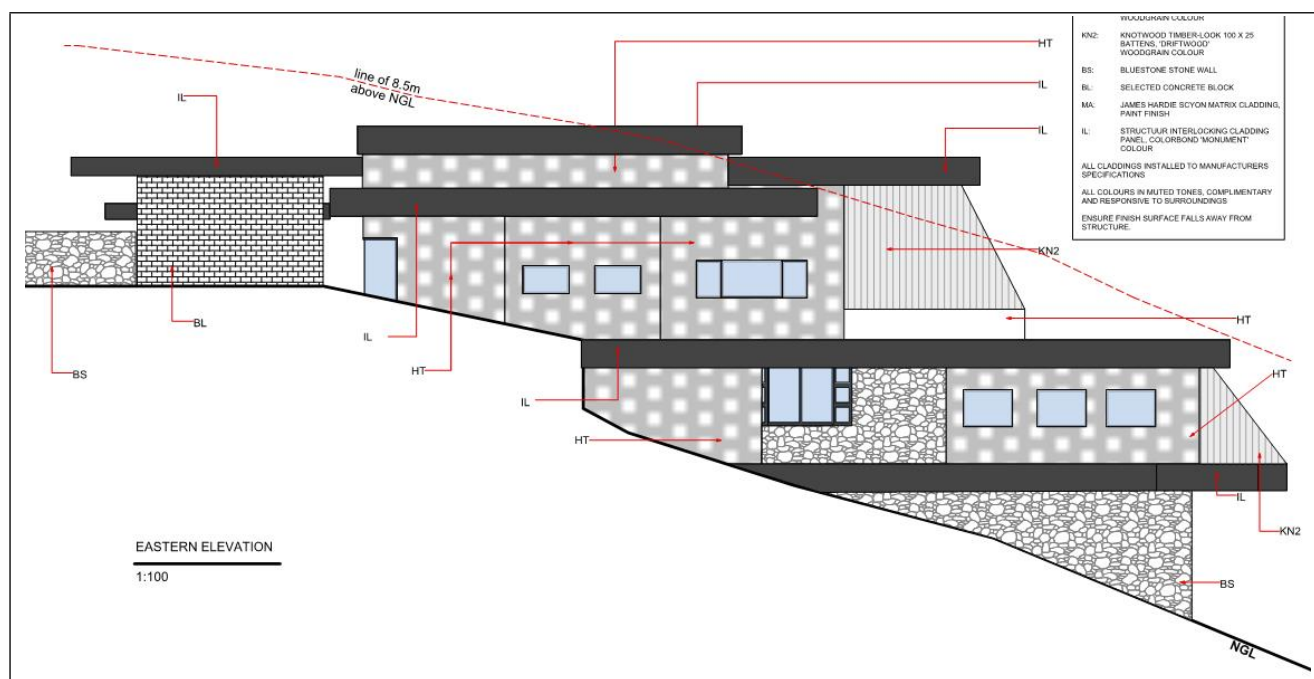


Figure 8 - Eastern elevation

PLANNING ISSUES

The land is zoned General Residential under the *Devonport Interim Planning Scheme 2013*. The intent of the zone is to provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided and to provide for compatible non-residential uses that primarily serve the local community.

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 clause 10.4.2 in regard to setbacks and building envelope and clause 10.4.7 in regard to front fences.

Each applicable standard is reproduced on the following pages, followed by comments.

General residential zone

10.4 Development Standards

10.4.2 Setbacks and building envelope for all dwellings

Objective:

To control the siting and scale of dwellings to:

- (a) provide reasonably consistent separation between dwellings on adjacent sites and a dwelling and its frontage; and
- (b) assist in the attenuation of traffic noise or any other detrimental impacts from roads with high traffic volumes; and
- (c) provide consistency in the apparent scale, bulk, massing and proportion of dwellings; and
- (d) provide separation between dwellings on adjacent sites to provide reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space.

Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Unless within a building area, a dwelling, excluding protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6 m into the frontage setback, must have a setback from a frontage that is:</p> <ul style="list-style-type: none"> (a) if the frontage is a primary frontage, at least 4.5 m, or, if the setback from the primary frontage is less than 4.5 m, not less than the setback, from the primary frontage, of any existing dwelling on the site; or (b) if the frontage is not a primary frontage, at least 3 m, or, if the setback from the frontage is less than 3 m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site; or (c) if for a vacant site with existing dwellings on adjoining sites 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 (d) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road. 	<p>P1</p> <p>A dwelling must:</p> <ul style="list-style-type: none"> (a) have a setback from a frontage that is compatible with the existing dwellings in the street, taking into account any topographical constraints; and (b) if abutting a road identified in Table 10.4.2, include additional design elements that assist in attenuating traffic noise or any other detrimental impacts associated with proximity to the road.

The proposal has a front setback greater than 4.5m, at 11.25m. The acceptable solution is met.

<p>A2</p> <p>A garage or carport must have a setback from a primary frontage of at least:</p> <ul style="list-style-type: none"> (a) 5.5 m, or alternatively 1 m behind the façade of the dwelling; or (b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or (c) 1 m, if the natural ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10 m from the frontage. 	<p>P2</p> <p>A garage or carport must have a setback from a primary frontage that is compatible with the existing garages or carports in the street, taking into account any topographical constraints.</p>
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The garage has a setback of 11.25m. The acceptable solution is met.

<p>A3</p> <p>A dwelling, excluding outbuildings with a building height of not more than 2.4 m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6 m horizontally beyond the building envelope, must:</p> <ul style="list-style-type: none"> (a) be contained within a building envelope (refer to Diagrams 10.4.2A, 10.4.2B, 10.4.2C and 10.4.2D) determined by: <ul style="list-style-type: none"> (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5 m from the rear boundary of a lot with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3 m above natural ground level at the side boundaries and a distance of 4 m from the rear boundary to a building height of not more than 8.5 m above natural ground level; and (b) only have a setback within 1.5 m of a side boundary if the dwelling: <ul style="list-style-type: none"> (i) does not extend beyond an existing building built on or within 0.2 m of the boundary of the adjoining lot; or (ii) does not exceed a total length of 9 m 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> <ul style="list-style-type: none"> (a) not cause unreasonable loss of amenity by: <ul style="list-style-type: none"> (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or (ii) overshadowing the private open space of a dwelling on an adjoining lot; or (iii) overshadowing of an adjoining vacant lot; or (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and (b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.
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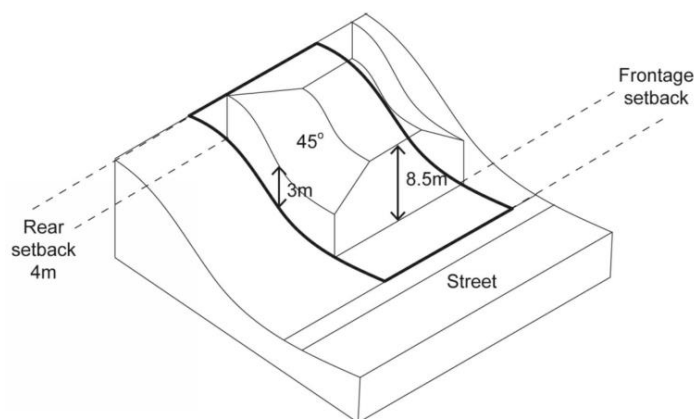


Diagram 10.4.2B. Building envelope for sloping sites as required by subclause 10.4.2 A3(a).

The proposed dwelling will be located within the required setbacks but outside the building envelope as shown in diagram 10.4.2B.

The height of the proposed dwelling will be similar to the existing dwelling when viewed from the street (southern boundary) however the building exceeds the 8.5m height limit by 2.845m at its highest point above natural ground level and therefore falls outside the building envelope. This can be seen most easily in the eastern and western elevations. Given the acceptable solution cannot be met the proposal must be assessed against the corresponding performance criteria.

The proposal will not cause an unreasonable loss of amenity by a reduction in sunlight to the habitable rooms or private open space of an adjoining dwelling as it is not located to the north of either neighbour. A minimum of 3 hours of access to sunlight is the rule of thumb for residential areas and both properties adjacent to the subject site will receive well in excess of this on the shortest day of the year. The house to the west will be subject to some overshadowing in the morning in winter however the house to the east will only experience overshadowing in summer as it is located further north than the proposed dwelling.

Figure 9, on the following page, shows the shadow diagrams for the proposal for both the shortest and longest days of the year.

The visual impact caused by the scale and proportions of the building will be minimised by its stepped design and through the use of a variety of materials. In addition the focus of the residents of both neighbouring dwellings will be to the north, which encompasses the view.

The separation between dwelling will be similar to that in the surrounding area.

The proposal is deemed to satisfy the performance criteria.



Figure 9 - Shadow diagrams for 21st of June and 21st of December

10.4.3 Site coverage and private open space for all dwellings

Objective:

To provide:

- (a) for outdoor recreation and the operational needs of the residents; and
- (b) opportunities for the planting of gardens and landscaping; and
- (c) private open space that is integrated with the living areas of the dwelling; and
- (d) private open space that has access to sunlight.

Acceptable Solutions	Performance Criteria
A1 Dwellings must have: <ul style="list-style-type: none"> (a) a site coverage of not more than 50% (excluding eaves up to 0.6 m); and (b) for multiple dwellings, a total area of private open space of not less than 60 m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and (c) a site area of which at least 25% of the site area is free from impervious surfaces. 	P1 Dwellings must have: <ul style="list-style-type: none"> (a) private open space that is of a size and dimensions that are appropriate for the size of the dwelling and is able to accommodate: <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 communal open space provided for this purpose within the development; and (ii) operational needs, such as clothes drying and storage; and (b) reasonable space for the planting of gardens and landscaping.

Site coverage is less than 50% and more than 25% of the site will be free from impervious surfaces. The acceptable solution is met.

<p>A2</p> <p>A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p> <p>(i) 24 m²; or</p> <p>(ii) 12 m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(b) has a minimum horizontal dimension of:</p> <p>(i) 4 m; or</p> <p>(ii) 2 m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least 3 hours of sunlight to 50% of the area between 9.00am and 3.00pm on the 21st June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p>	<p>P2</p> <p>A dwelling must have private open space that:</p> <p>(a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and that is:</p> <p>(i) conveniently located in relation to a living area of the dwelling; and</p> <p>(ii) orientated to take advantage of sunlight.</p>
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The property has private open space well in excess of that required. The acceptable solution is met.

10.4.4 Sunlight and overshadowing for all dwellings

<p>Objective:</p> <p>To provide:</p> <p>(a) the opportunity for sunlight to enter habitable rooms (other than bedrooms) of dwellings; and</p> <p>(b) separation between dwellings on the same site to provide reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space.</p>	
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).</p>	<p>P1</p> <p>A dwelling must be sited and designed so as to allow sunlight to enter at least one habitable room (other than a bedroom).</p>

The living areas have north facing windows. The acceptable solution is met.

10.4.5 Width of openings for garages and carports for all dwellings

Objective:	
To reduce the potential for garage or carport openings to dominate the primary frontage.	
Acceptable Solutions	Performance Criteria
A1	P1
A garage or carport within 12 m 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 6 m or half the width of the frontage (whichever is the lesser).	A garage or carport 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.

The garage door has a width of 5.4m. The acceptable solution is met.

10.4.6 Privacy for all dwellings

Objective:	
To provide reasonable opportunity for privacy for dwellings.	
Acceptable Solutions	Performance Criteria
A1	P1
A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1 m above natural ground level must have a permanently fixed screen to a height of at least 1.7 m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:	A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1 m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:
(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3 m from the side boundary; and	(a) a dwelling on an adjoining lot or its private open space; or
(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 4 m from the rear boundary; and	(b) another dwelling on the same site or its private open space; or
(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is at least 6 m:	(c) an adjoining vacant residential lot.
(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.	

The proposed decks are to be screened on the eastern side to prevent overlooking. The acceptable solution is met.

A2	P2
A window or glazed door, to a habitable room, of a dwelling, that has a floor level more than 1 m above the natural ground level, must be in accordance with (a), unless it is in accordance with (b):	A window or glazed door, to a habitable room of dwelling, that has a floor level more than 1 m above the natural ground level, must be screened, or otherwise located or designed, to minimise direct views to:
(a) The window or glazed door:	(a) window or glazed door, to a habitable room of another dwelling; and
(i) is to have a setback of at least 3 m from a side boundary; and	(b) the private open space of another dwelling; and
(ii) is to have a setback of at least 4 m from a rear boundary; and	(c) an adjoining vacant residential lot.
(iii) if the dwelling is a multiple dwelling, is to be at least 6 m 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 at least 6 m from the private open space of another dwelling on the same site.	

- | |
|---|
| <p>(b) The window or glazed door:</p> <ul style="list-style-type: none"> (i) is to be offset, in the horizontal plane, at least 1.5 m from the edge of a window or glazed door, to a habitable room of another dwelling; or (ii) is to have a sill height of at least 1.7 m above the floor level or has fixed obscure glazing extending to a height of at least 1.7 m above the floor level; or (iii) is to have a permanently fixed external screen for the full length of the window or glazed door, to a height of at least 1.7 m above floor level, with a uniform transparency of not more than 25%. |
|---|

The window for the kitchen and butler's pantry are closer than 3m to the eastern boundary however they are offset, in the horizontal plane, more than 1.5m from the edge of windows to habitable rooms on the neighbouring property. The acceptable solution is met.

Note: the laundry window is no longer proposed. It has been removed from the floor plan but not the elevations.

10.4.7 Frontage fences for all dwellings

Objective: To control the height and transparency of frontage fences to:	
(a) provide adequate privacy and security for residents; and (b) allow the potential for mutual passive surveillance between the road and the dwelling; and (c) provide reasonably consistent height and transparency.	
Acceptable Solutions	Performance Criteria
A1 A fence (including a free-standing wall) within 4.5 m of a frontage must have a height above natural ground level of not more than: <ul style="list-style-type: none"> (a) 1.2 m if the fence is solid; or (b) 1.8 m, if any part of the fence that is within 4.5 m of a primary frontage has openings above a height of 1.2 m which provide a uniform transparency of not less than 30% (excluding any posts or uprights). 	P1 A fence (including a free-standing wall) within 4.5 m of a frontage must: <ul style="list-style-type: none"> (a) provide for the security and privacy of residents, while allowing for mutual passive surveillance between the road and the dwelling; and (b) be compatible with the height and transparency of fences in the street, taking into account the: <ul style="list-style-type: none"> (i) topography of the site; and (ii) traffic volumes on the adjoining road.

The front fence is proposed to be a solid, 1.8m bluestone wall. This will replace an existing 2m high brick wall so the status quo remains, which is in keeping with the area. The acceptable solution is met.

10.4.9 Suitability of a site or lot for use or development

Objective: The minimum properties of a site and of each lot on a plan of subdivision are to – <ul style="list-style-type: none"> (a) provide a suitable development area for the intended use; (b) provide access from a road; and (c) make adequate provision for connection to a water supply and for the drainage of sewage and stormwater 	
Acceptable Solutions A1 A site or each lot on a plan of subdivision must – <ul style="list-style-type: none"> (a) have an area of not less than 330m² excluding any access strip; and (b) if intended for a building, contain a building area of not less than 10.0m x 15.0m <ul style="list-style-type: none"> (i) clear of any applicable setback from a frontage, side or rear boundary; (ii) clear of any applicable setback from a zone boundary; (iii) clear of any registered easement; (iv) clear of any registered right of way benefiting other land; (v) clear of any restriction imposed by a utility; (vi) not including an access strip; (vii) accessible from a frontage or access strip; and (viii) if a new residential lot, with a long axis within the range 30° east of north and 20° west of north 	Performance Criteria P1 A site or each lot on a plan of subdivision must – <ul style="list-style-type: none"> (a) be of sufficient area for the intended use or development without likely constraint or interference for – <ul style="list-style-type: none"> (i) erection of a building if required by the intended use; (ii) access to the site; (iii) use or development of adjacent land; (iv) a utility; and (v) any easement or lawful entitlement for access to other land; and (b) if a new residential lot, be orientated to maximise opportunity for solar access to a building area

The site has an area of 1796m². The acceptable solution is met.

A2 A site or each lot on a subdivision plan must have a separate access from a road – <ul style="list-style-type: none"> (a) across a frontage over which no other land has a right of access; and (b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or (c) by a right of way connecting to a road – <ul style="list-style-type: none"> (i) over land not required as the means of access to any other land; and (ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and (d) with a width of frontage and any access strip or right of way of not less than – <ul style="list-style-type: none"> (i) 3.6 m for a single dwelling development; or (ii) 6.0 m for multiple dwelling development or development for a non-residential use; and (e) the relevant road authority in accordance with the <i>Local</i> 	P2 <ul style="list-style-type: none"> (a) A site must have a reasonable and secure access from a road provided – <ul style="list-style-type: none"> (i) across a frontage; or (ii) by an access strip connecting to a frontage, if for an internal lot; or (iii) by a right of way connecting to a road over land not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and (iv) the dimensions of the frontage and any access strip or right of way must be adequate for the type and volume of traffic likely to be generated by – <ul style="list-style-type: none"> a. the intended use; and b. the existing or potential use of any other land which requires use of the access as the means of access for that land; and (v) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular
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<p><i>Government (Highways) Act 1982 or the Roads and Jetties Act 1935 must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan</i></p>	<p>access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a subdivision plan; or</p> <p>(b) It must be unnecessary for the development to require access to the site or to a lot on a subdivision plan</p>
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The lot has a separate access of sufficient width. The acceptable solution is met.

<p>A3</p> <p>A site or each lot on a plan of subdivision must be capable of connecting to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i></p>	<p>P3</p> <p>It must be unnecessary to require a water supply</p>
<p>A4</p> <p>A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and waste water to a sewage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i></p>	<p>P4</p> <p>It must be unnecessary to require the drainage and disposal of sewage or waste water</p>
<p>A5</p> <p>A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i></p>	<p>P5</p> <p>It must be unnecessary to require the drainage of stormwater</p>

The lot has water, sewer and stormwater connections. The acceptable solution is met.

COMMUNITY ENGAGEMENT

On 13/10/2020, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 17/10/2020;
- (b) Making a copy of the proposal available in Council Offices from the 17/10/2020;
- (c) Notifying adjoining property owners by mail on 15/10/2020; and
- (d) Erecting a Site Notice for display from the 15/10/2020.

The period for representations to be received by Council closed on 03/11/2020.

REPRESENTATIONS

One representation was received within the prescribed 14 day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. The representation was received from the property owner to the east who is concerned with the potential impacts caused by overlooking of their only flat area of private open space which is located east of their carport/garage.

The potential for overlooking will be mitigated by the design of the proposed dwelling which will draw the eye to the view to the north. The kitchen window on the eastern side is of most concern. This window is to serve as a splashback and its position complies with the planning scheme requirements as it is not on the same horizontal plane as any windows in the neighbouring dwelling.

Compliance with the scheme however, does not take into account overlooking of private open space unless compliance with the acceptable solution is not met, in which case the

private open space is considered as part of the assessment against the performance criteria (see clause 10.4.6 A2 & P2 above).

The existing dwelling at 3 Chalmers Lane can be easily viewed from the flat area of private open space (east of the garage/carport) on the adjacent property, however there is much less impact when looking from 3 Chalmers Lane to the east as the garage and landscaping block the view. The impact will be lessened by the proposed dwelling, which will be located further north, as the view from the house will be blocked further by the garage. Figure 10 shows the position of the existing house in relation to the neighbouring garage and private open space area to the east (with east being at the top of the picture).



Figure 10 - Position of existing dwelling in relation to neighbouring property

Figure 11 shows the position of the proposed dwelling in proximity to the garage (with east being to the left of the picture). Figure 12 shows the view when standing at the sink and when standing 5m back in the room. The diagram indicates that the flat area of private open space will not be visible due to the location of the garage.

The owners of 3 Chalmers Lane have amended the window so it will be only 500mm high, further reducing the likelihood of people standing at the window to look out over the adjoining property.

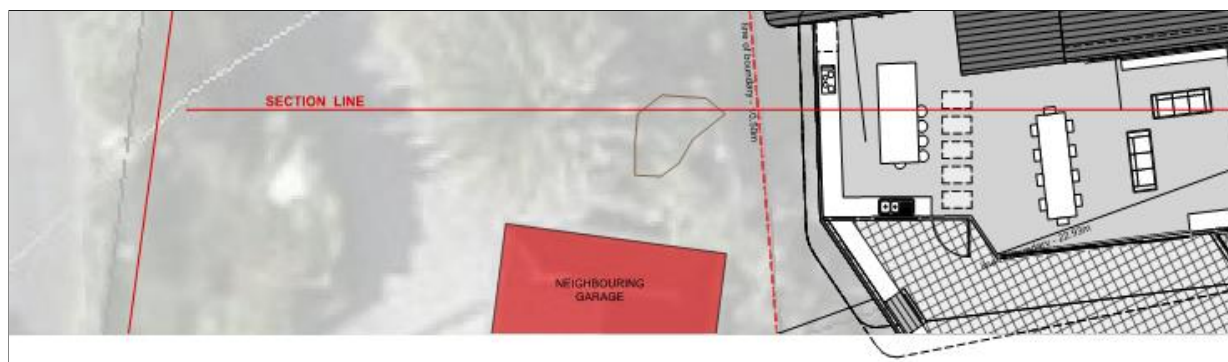


Figure 11 - Location of proposed kitchen window in regard to adjoining garage

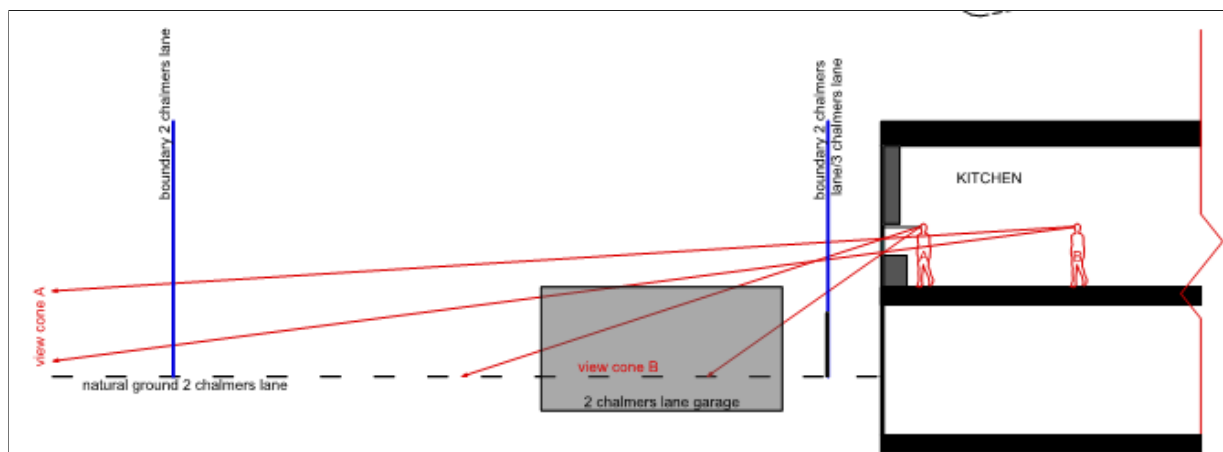


Figure 12 - Sight lines from kitchen window

Given the location of the window in proximity to the private open space and the changes made to the window it is likely that the impact of the proposed dwelling will be less than that of the existing. No changes are recommended to the permit as a result of the representation.

FINANCIAL IMPLICATIONS

No financial implications are predicted.

RISK IMPLICATIONS

No risk to Council is foreseen.

CONCLUSION

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

ATTACHMENTS

1. Application - P A 2020.0178 - 3 Chalmers Lane [4.1.1 - 24 pages]

4.2 PA2020.0170 - 89 NORTH STREET DEVONPORT - RESIDENTIAL (SINGLE DWELLING ALTERATIONS AND ADDITIONS)

Author: **Alex Mountney, Planning Officer**

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

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 PA2020.0170 and grant a Permit to (use and develop or use) land identified as 89 North Street, Devonport for the following purposes:

- Residential (single dwelling alterations and additions)

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans reference as Alterations & Additions – Project No.00735 (Drawings – DA.01B, DA.02B, DA.03B, DA.04B, DA.05B, DA.06B, DA.07B, DA.08B, DA.09B, DA.10B, DA.11B, DA.12B, DA.13B, DA.14B, DA.15B, DA.16B, DA.17B) dated 05.10.2020 by andrew smith architects, a copy of which is attached and endorsed and documents forming part of this Planning Permit.
2. The owner must, at their expense, repair any Council services (eg pipes, drains) and any road, crossover, footpath or other Council infrastructure that is damaged as a result of any works carried out by the developer, or their contractors or agents pursuant to this permit. These repairs are to be in accordance with any directions given by the Council.

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*.

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

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.

The developer is to manage any asbestos found during demolition in accordance with the *How to Safely Remove Asbestos Code of Practice* issued by Safe Work Australian (October 2018).

In regard to condition 2 the applicant should contact Council's Infrastructure & Works Department – 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, acting as a Planning Authority to make a decision regarding planning application PA2020.0170.

BACKGROUND

Planning Instrument:	<i>Devonport Interim Planning Scheme 2013</i>
Applicant:	Andrew Smith Architects
Owner:	Owen Johnston & Nicole Perry
Proposal:	Residential (single dwelling alterations and additions)
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	17/11/2020

SITE DESCRIPTION

The site is a 1745m² internal residential lot located on the southern side of North Street, approximately 40m west of the North Street and Jingella Place intersection. Located on the site is an existing weatherboard dwelling constructed in 1955 and an outbuilding situated south-west of the dwelling. The property falls from the south to the north and is surrounded by established residential development.

Figure 1 is an aerial image of the site and the surrounding locality. Figure 2 is a recent photo of the existing dwelling and outbuilding. Figure 3 is a copy of the property's title plan. These figures are reproduced respectively from the next page.



Figure 1 - Aerial image of subject site and surrounding locality (The List, 2013)



**Figure 2 - Photo of existing dwelling and shed taken from the northern section of the property
(DCC, 2020)**

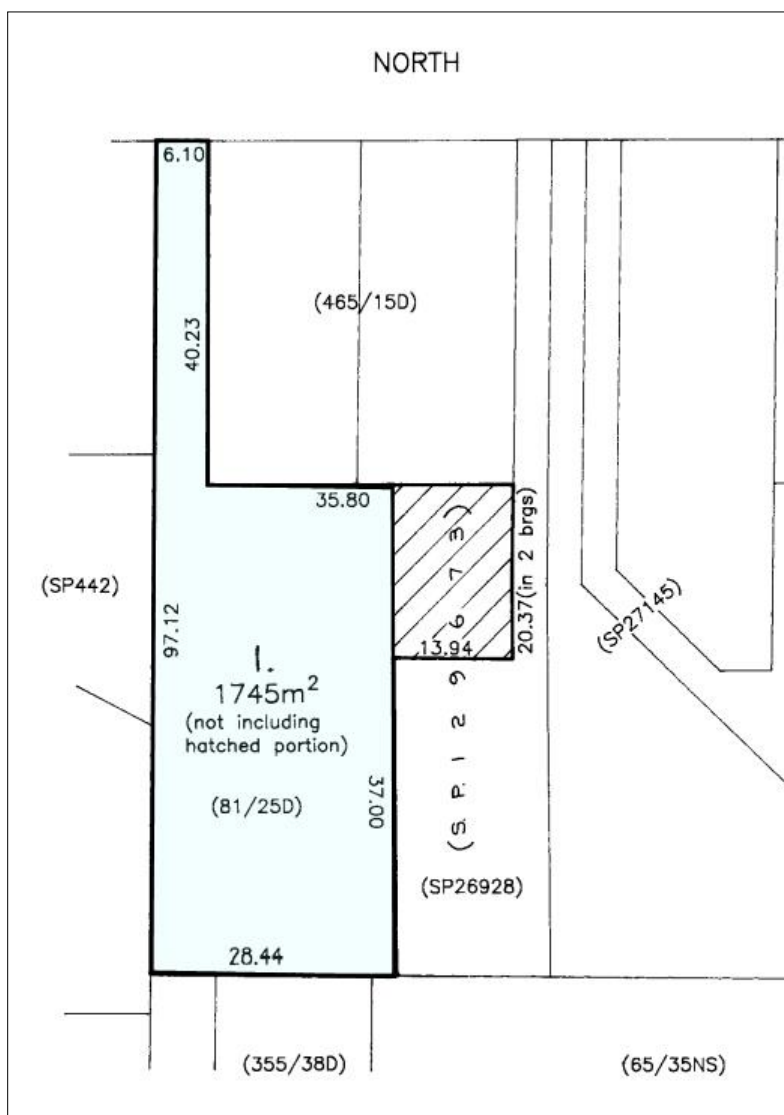


Figure 3- Title Plan of subject site – CT129674/1 (The List, 1998)

APPLICATION DETAILS

The applicant is seeking approval to undertake alterations and additions to the existing dwelling. The primary aspect of the proposal is a two-storey addition located between the existing dwelling and western boundary. The addition will have a footprint of approximately 300m² (over both levels) and is generally sited greater than 2m to the western side boundary except for a lower porch roof and blade wall. A link is provided between the addition and the existing dwelling. Internal modifications are proposed to the existing dwelling as well as a new roofed deck along the north elevation.

A copy of the site plan is reproduced as Figure 4. Figure 5 is a visual depiction of the development looking from the north of the site. A full copy of the development application including plans, planning compliance statement and overshadowing details are appended as **Attachments 4.2.1 and 4.2.2.**



Figure 4 - Site plan (andrew smith architects, 2020)



Figure 5- Visual depiction (andrew smith architects, 2020)

PLANNING ISSUES

The land is zoned General Residential under the *Devonport Interim Planning Scheme 2013* (the DIPS).

The purpose statements of the zone are as follows:

"To provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided." and:

"To provide for compatible non-residential uses that primarily serve the local community."

The proposal is for alterations and additions to a single dwelling which falls under the use class Residential. This use class is defined under the DIPS as:

"use of land for self contained or shared living accommodation. Examples include an ancillary dwelling, boarding house, communal residence, homebased business, hostel, residential aged care home, residential college, respite centre, retirement village and single or multiple dwellings."

Single dwelling development within the General Residential zone is categorised as No Permit Required - subject to the proposal satisfying the relevant zone and code development standards at the acceptable solutions level.

If the acceptable solutions of an identified development standard cannot be achieved, reliance is placed on the corresponding performance criteria to determine if a permit pathway is achievable. This process invokes the requirement for a discretionary planning permit.

With respect to this application, the dwelling satisfies all applicable development standards at the acceptable solutions level apart from development standard 10.4.2 A3 - *Setbacks and building envelope for all dwellings*. This standard is reproduced on the next page as Figure 6 along with further comment, including assessment against the performance criteria.

10.4.2 Setbacks and building envelope for all dwellings

Objective:	
To control the siting and scale of dwellings to:	
(a) provide reasonably consistent separation between dwellings on adjacent sites and a dwelling and its frontage; and (b) assist in the attenuation of traffic noise or any other detrimental impacts from roads with high traffic volumes; and (c) provide consistency in the apparent scale, bulk, massing and proportion of dwellings; and (d) provide separation between dwellings on adjacent sites to provide reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space.	
Acceptable Solutions	Performance Criteria
A3 A dwelling, excluding outbuildings with a building height of not more than 2.4 m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6 m horizontally beyond the building envelope, must: <ul style="list-style-type: none"> (a) be contained within a building envelope (refer to Diagrams 10.4.2A, 10.4.2B, 10.4.2C and 10.4.2D) determined by: <ul style="list-style-type: none"> (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5 m from the rear boundary of a lot with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3 m above natural ground level at the side boundaries and a distance of 4 m from the rear boundary to a building height of not more than 8.5 m above natural ground level; and (b) only have a setback within 1.5 m of a side boundary if the dwelling: <ul style="list-style-type: none"> (i) does not extend beyond an existing building built on or within 0.2 m of the boundary of the adjoining lot; or (ii) does not exceed a total length of 9 m or one-third the length of the side boundary (whichever is the lesser). 	P3 The siting and scale of a dwelling must: <ul style="list-style-type: none"> (a) not cause unreasonable loss of amenity by: <ul style="list-style-type: none"> (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or (ii) overshadowing the private open space of a dwelling on an adjoining lot; or (iii) overshadowing of an adjoining vacant lot; or (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and (b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.

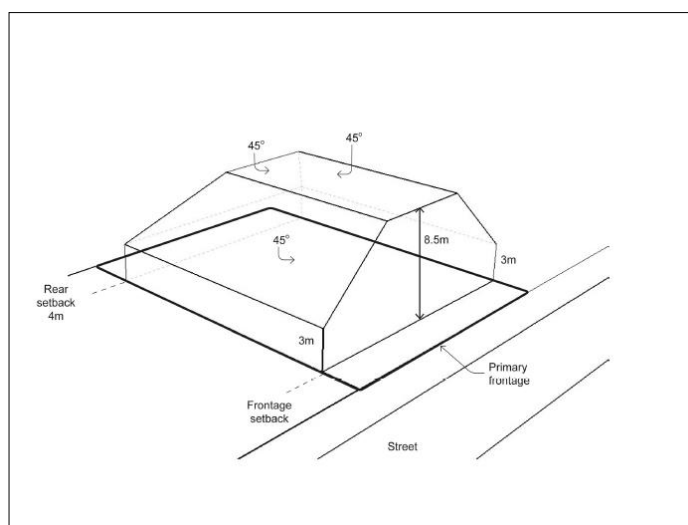
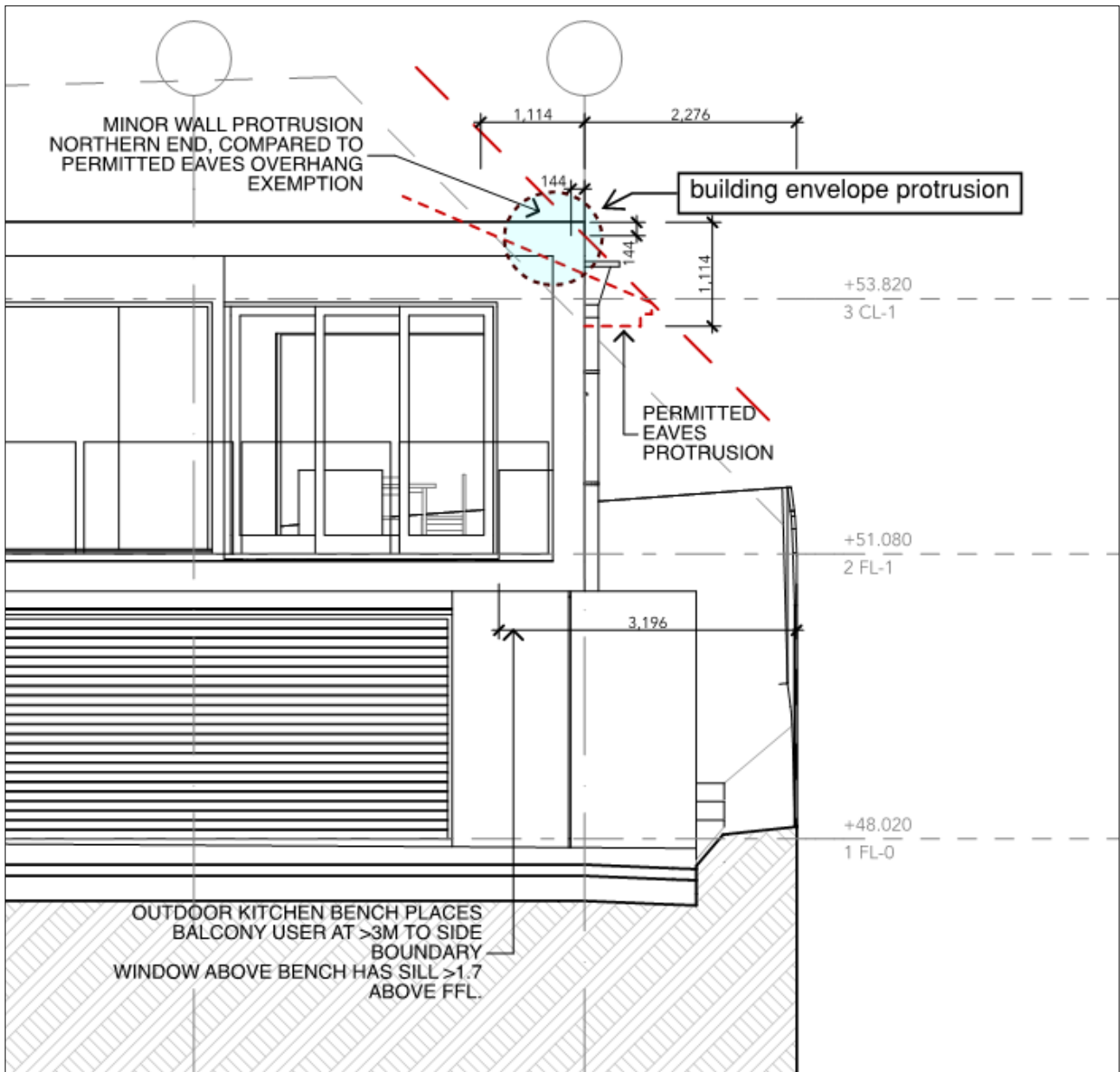
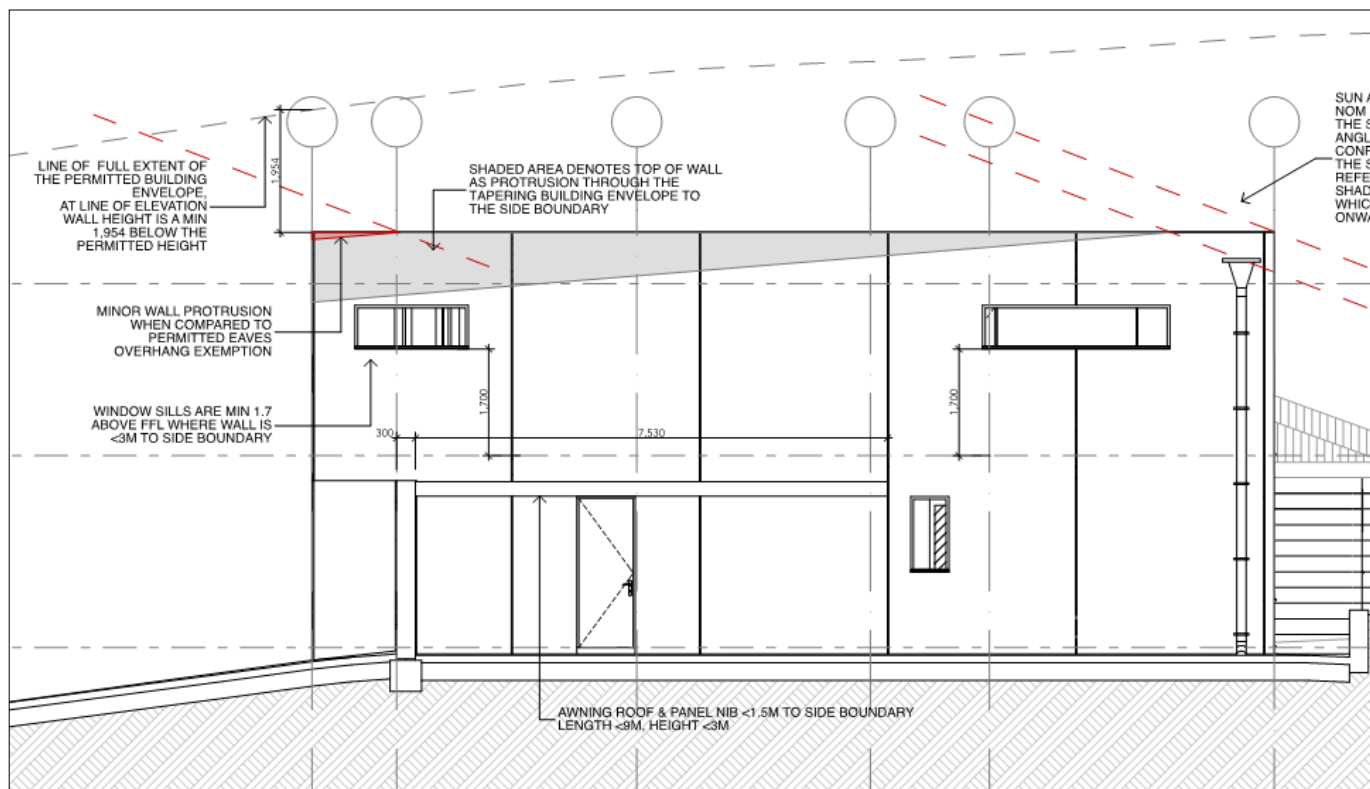


Figure 6 - Development standard 10.4.2 A3/P3 including building envelope diagram (DIPS, 2013)

The second storey addition adjacent to the western side boundary falls outside the acceptable 3-dimensional building envelope. Figures 7 and 8 below demonstrate the building envelope protrusion.



**Figure 7 – Section of north elevation with building envelope protrusion circled
(andrew smith architects, 2020)**



**Figure 8 –West elevation with building envelope protrusion shaded in grey
(andrew smith architects, 2020)**

For information purposes, the designer has referred to permitted protrusions on the submitted plans which are shown in red. Under the DIPs, protrusions include eaves, steps, porches and awnings and are exempt from consideration of the acceptable 3-dimensional building envelope.

Due to the building envelope intrusion, the performance criteria prescribed within 10.4.2 P3 is required to be assessed.

Regarding P3 (a)(i) and (ii), shadow diagrams for the proposed development have been included within the application documentation and can be seen within **Attachment 4.2.2**. The shadowing diagrams depict the shadow from 7.40am to 3.40pm on the 21st June. Shadows are depicted on the 21st June (winter solstice) as shadows are at their longest. The shadow diagrams focus specifically on the overshadowing impact to 3 Jingella Place. This property is located to the immediate west and is located adjacent to the two-storey addition. This property is most likely to be impacted by proposal.

The shadow diagrams illustrate that 3 Jingella Place is afforded full access to sunlight after 10am. As a result, the proposed two-storey addition is not considered to result in or contribute to an unreasonable or permanent reduction in sunlight or overshadowing upon habitable rooms of this dwelling or its private open space. Other adjoining properties are negligibly impacted by the proposal with respect to overshadowing. The performance criteria is met for P3 (a)(i) and (ii).

P3 (a) (iii) is not applicable as no vacant lot adjoins the development site.

In response to P3 (a)(iv), the bulk and scale of the two-storey addition is not considered to be detrimental when viewed from adjoining lots. Only a small section of the two-storey addition falls outside the acceptable building envelope as can be seen in Figures 7 and 8. The second storey of the proposed addition is setback greater than 2m to the western side boundary and has been purposely set into the site to mitigate the bulk and scale impact to 3 Jingella Place. Upon site inspection it was noticed this property has habitable rooms and a balcony orientated along its eastern elevation that will be somewhat compromised by the proposal. However, it is important to recognise a dwelling addition fully contained within the permitted building envelope would result in a similar aesthetic impact. Undertaking a balanced assessment, the performance criteria is satisfied for P3 (a)(iv).

With respect to P3 (b), it is noted that most dwellings within the site's vicinity have a two-storey profile to take advantage of the coastal landscape. The building setbacks of these dwellings vary from property to property and this proposal's setback of generally 2m to the closest side boundary (western boundary) is considered compatible and consistent with development within the surrounding area. The performance criteria is satisfied for 10.4.2 P3 (b).

The above commentary has demonstrated that the two-storey addition has merit to be supported under the performance criteria prescribed within 10.4.2 P3.

COMMUNITY ENGAGEMENT

On 06/10/2020, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 21/10/2020;
- (b) Making a copy of the proposal available in Council Offices from the 21/10/2020;
- (c) Notifying adjoining property owners by mail on 19/10/2020; and
- (d) Erecting a Site Notice for display from the 20/10/2020.

The period for representations to be received by Council closed on 04/11/2020.

REPRESENTATIONS

One representation was received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. The representation was received from the landowners of 3 Jingella Place and is appended as **Attachment 4.2.3**.

In general, the representation outlines the following concerns:

- loss of privacy;
- loss of exposure to direct sunlight, particularly along the eastern section of the dwelling;
- interruption of views;
- impact to property valuation; and
- concern regarding structural issues to their property.

Key sections of the representation are reproduced below and broken down with further analysis.

Loss of privacy

AN ADDITIONAL AND MAJOR CONCERN TO US WOULD BE AN UNACCEPTABLE INVASION AND LOSS OF OUR CURRENT PRIVACY SITUATION. ALL OF OUR EASTERN FACING ROOMS WILL BE IN A POSITION TO BE LOOKED INTO FROM CLOSE RANGE NECESSITATING THE CLOSING OF OUR CURTAINS AND BLINDS, SOMETHING THAT WE NEVER HAVE HAD TO DO, AND HAVEN'T DONE IN THE PAST. A FURTHER ACTION THAT WOULD ALSO CAUSE A FURTHER LOSS TO US OF OUR EXISTING NATURAL LIGHTING AVAILABILITY.

Comment – the application has been assessed as appropriately complying with the acceptable solutions of development standard 10.4.6 - Privacy for all dwellings. This standard has specific requirements for dwelling development that has a floor level greater than 1m above natural ground level.

In this case, the second level of the dwelling extension has two windows facing 3 Jingella Place. The windows (balcony and dining room) have a sill height of 1.7m which satisfies the acceptable solutions and no further comment is warranted.

Loss of direct sunlight along the eastern section of the dwelling

THE EASTERN SIDE OF OUR RESIDENCE ADJACENT TO 89 NORTH STREET COMPRISES (FROM NORTH TO SOUTH) KITCHEN/DINING ROOM, LAUNDRY, REAR PORCH, SEWING/COMPUTER ROOM, TOILET/SHOWER AND MASTER BEDROOM.

ADDITIONALLY, A LARGE OUTDOOR SUNDECK AREA ADJOINS THE REAR PORCH, SEWING/COMPUTER ROOM AND MASTER BEDROOM AND THE AREA ENJOYS THE BENEFIT OF DIRECT SUNLIGHT FROM SUNRISE UNTIL MID-DAY AND IT IS UTILISED REGULARLY BY US AS A SEATED AREA FOR SOCIALISING, SNACKS AND VARIOUS LEISURE ACTIVITIES.



PHOTO 11-45 a.m 31ST OCTOBER, 2020.

(SUNDECK AREA EASTERN SIDE OF RESIDENCE AT
3 JINGELLA PLACE.)

KEEPING IN MIND THAT AN INVASIVE LARGE DOUBLE STORIED
"ADDITION" IS PLANNED TO BE SQUEEZED IN BETWEEN AN
EXISTING FAMILY HOME/RESIDENCE AND OUR BOUNDARY.
THE CONSEQUENCE TO US BEING A DRAMATIC LOSS OF DIRECT
SUNSHINE, WARMTH, NATURAL LIGHT AND AN ADDED BURDEN
OF INCREASED HEATING COSTS AND THE LIKELY LOSS OF OUR
PROPERTY'S VALUATION.

Comment – As discussed within the *Planning Issues* section of the report, the proposal has been thoroughly scrutinised against the performance criteria in relation to overshadowing impacts to adjoining properties. It is acknowledged that the eastern section of the dwelling at 3 Jingella Place will be impacted by overshadowing during early morning hours. However, the overshadowing impact is not considered to be detrimental and this property will still be afforded adequate access to sunlight in accordance with the requirements of the performance criteria of 10.4.2 P3.

Interruption of views and property valuation concerns

AND MUCH ENJOYED OUTLOOK THAT WE POSSESS OF THE SEA, MOUTH OF THE MERSEY RIVER, THE SURROUNDING COUNTRYSIDE AND MOUNTAINS, THE CITY NIGHT LIGHTS AND AIRPORT ACTIVITY WOULD BE LOST TO US FOREVER.

A MUCH ADMIRER AND LOVED OUTLOOK THAT WE PAID A PRICE FOR, THE LOSS OF WHICH WOULD MOST SURELY ADVERSELY AFFECT THE FUTURE VALUATION AND SALEABLE PRICE OF OUR PROPERTY.

A DISASTEROUS AND COMPLETE LOSS FROM THE WHOLE EASTERN SIDE OF OUR RESIDENCE OF THE MAGNIFICENT



PHOTO 11-45 a.m. 31ST OCTOBER, 2020 .

(PHOTO FROM SUNDECK EASTERN SIDE OF RESIDENCE AT
3 JINGELLA PLACE TOWARDS PROPOSED "ADDITIONS" SITE AT
89 NORTH ST. - AND BLUFF LIGHTHOUSE.)



PHOTO 11-45 a.m. 31ST OCTOBER, 2020.

(PHOTO FROM SUNDECK EASTERN SIDE OF RESIDENCE
AT 3 JINGELLA PLACE TOWARDS EXISTING RESIDENCE
AT 89 NORTH ST.)

Comment – This area of concern is not specifically addressed in the DIPS. It would seem reasonable to suggest that even a complying development (i.e a development fully contained within the acceptable building envelope) would contribute to a reduction in the views currently enjoyed. In addition, the landowners of 3 Jingella Place will retain views looking north towards Coles Beach and the Bluff Headland from other areas of the dwelling. The concern around property valuation is not a concern for the planning authority to consider.

Structural concerns

FOR THE RECORD, WE MAKE MENTION OF THE FACT THAT WE HAVE A GENUINE CONCERN THAT THE PROPOSED DEVELOPEMENT WORK CLOSE BY TO OUR BOUNDARY AND RESIDENCE MIGHT POSSIBLY CAUSE SOME STRUCTURAL DAMAGE TO OUR PROPERTY.

Comment – The potential for structural damage as a result of the development is addressed under separate legislation and is not a valid objection point.

In summary, the representation is noted, however no changes to the design or additional conditions are thought necessary to the development proposal.

DISCUSSION

On the 18th September 2020 the Tasmanian Planning Commission advised Council that the assessment of the draft LPS, which forms part of the transition to the new Tasmanian Planning Scheme, has been completed. The Commission's decision is that the draft LPS is ready for approval pending a few final modifications and a notice under section 35K(1)(a) of the *Land Use Planning and Approvals Act 1993* has been issued to this effect. In accordance with the requirements of section 35k(2)(d) Council must not issue a permit, or do anything that would, if the draft LPS as modified were an LPS, be a contravention of the LPS.

The assessment of this application has given regard to the draft Devonport LPS and no matters for which the granting of a permit would result in a contravention of the draft Devonport LPS.

Lastly, as part of normal assessment procedure, the application has been referred to Council Departments interested in development applications. Feedback from these departments have been included as conditions or notes where appropriate.

FINANCIAL IMPLICATIONS

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

RISK IMPLICATIONS

No risk implications are associated with a determination of this planning permit application.

CONCLUSION

The development application – PA2020.0170 is recommended for conditional approval.

ATTACHMENTS

1. Application - P A 2020.0170 - 89 North Street [**4.2.1** - 32 pages]
2. Sun Study - P A 2020.0170 - 89 North Street [**4.2.2** - 19 pages]
3. Representation - P A 2020.0170 - 89 North Street [**4.2.3** - 10 pages]

5 CLOSURE