



*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 Tuesday 2 November 2021, commencing at 5:00 PM.

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

## QUALIFIED PERSONS

In accordance with Section 65 of the *Local Government Act 1993*, I confirm that the reports in this agenda contain advice, information and recommendations given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

Matthew Atkins  
GENERAL MANAGER

**27 10 2021**

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**Agenda for a Planning Authority Committee meeting of the Devonport City Council  
held on Tuesday 2 November 2021, in the Aberdeen Room, Level 2, paranapple centre,  
137 Rooke Street, Devonport at 5:00 PM**

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**ATTENDEES**

		<b>Apology</b>
Chair	Cr A Rockliff (Mayor)	
	Cr J Alexiou	
	Cr P Hollister	
	Cr S Milbourne	
	Cr L Murphy	
	Cr L Perry	

**ACKNOWLEDGEMENT OF COUNTRY**

Council acknowledges and pays respect to the Tasmanian Aboriginal community as the traditional and original owners and continuing custodians of this land.

**IN ATTENDANCE**

All persons in attendance are advised that it is Council policy to record Council Meetings, in accordance with Council's Digital Recording Policy. The audio recording of this meeting will be made available to the public on Council's website for a minimum period of six months. The meeting is also being live streamed via YouTube.

**1 APOLOGIES****2 DECLARATIONS OF INTEREST**

### **3 DELEGATED APPROVALS**

#### **3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY**

Author: **Jennifer Broomhall, Planning Administration Officer**

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

#### **RECOMMENDATION**

That the list of delegated approvals be received.

Planning applications approved under delegated authority 1 October 2021 – 24 October 2021.

#### **ATTACHMENTS**

1. Delegated Approvals [**3.1.1** - 1 page]

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## 4 DEVELOPMENT REPORTS

### 4.1 PA2021.0138 - 40 DON ROAD, DEVONPORT - GENERAL RETAIL AND HIRE

Author: **Alex Mountney, Land Use Planning Coordinator**

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

#### RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Tasmanian Planning Scheme - Devonport* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2021.0138 for General Retail and Hire (adult sex product shop) subject to the following condition:

1. The use and development is to proceed generally in accordance with the site application documentation by Neil Newman, a copy of which is attached and forming part of this planning permit.
2. Any external lighting for operational and security purposes is to be baffled to reduce impacts to the residential properties located to the north of the site.
3. The developer is to ensure that the 4 parking spaces located between the property and the building can satisfy AS2890- *Parking facilities, Parts 1-6*.

Note: The following is provided for information purposes.

The developer is to note that the site does not have legal access rights to the rear of the property where additional parking spaces have been nominated. Therefore, this parking area cannot be utilised unless a right-of-way is executed, or the garage is demolished to facilitate access.

The developer is encouraged to install bicycle parking infrastructure for bikes as per clause C2.5.2 of the planning scheme.

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.

Any signage proposed is subject to the Signs Code of the *Tasmanian Planning Scheme - Devonport* and will be subject to further planning consideration.

In regard to condition 3, the applicant should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

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

## RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- Strategy 2.1.1 Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use
- Strategy 2.1.2 Provide consistent and responsive development assessment and compliance processes

## SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding PA2021.0138.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	40 Don Road, Devonport
Applicant:	Neil Newman
Owner:	Pamela Zolati
Proposal:	General Retail & Hire (adult sex product shop)
Zoning:	Commercial
Decision Due:	03/11/2021

## SITE DESCRIPTION

The site is identified by the certificate of title 55471/107 with the property address of 40 Don Road, Devonport. Located on the site is an existing building constructed in the 1960s, along with a garage located at the rear of the property. The site has been utilised for numerous uses, including storage, mechanical services, repair and hairdressing. Currently, a section of the building is used for dog grooming. Delineated car parking for 4 spaces is located at the front of the site between the building and the Don Road frontage. Figure 1 is an aerial image of the property and surrounds. Figure 2 is a photo of the site looking from Don Road.

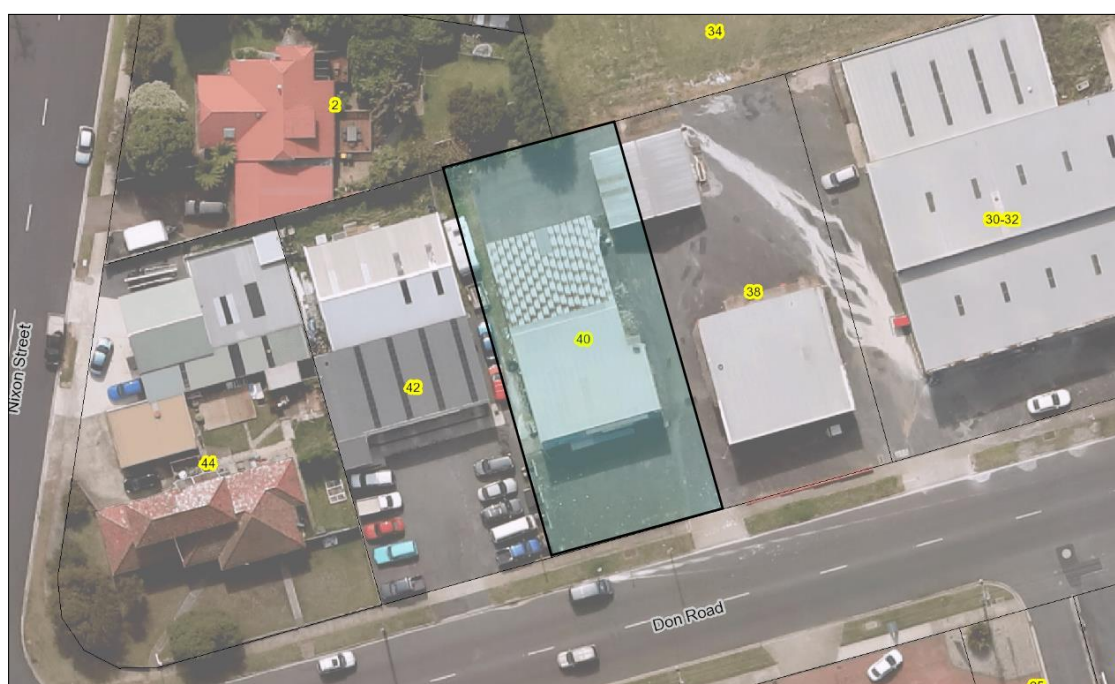


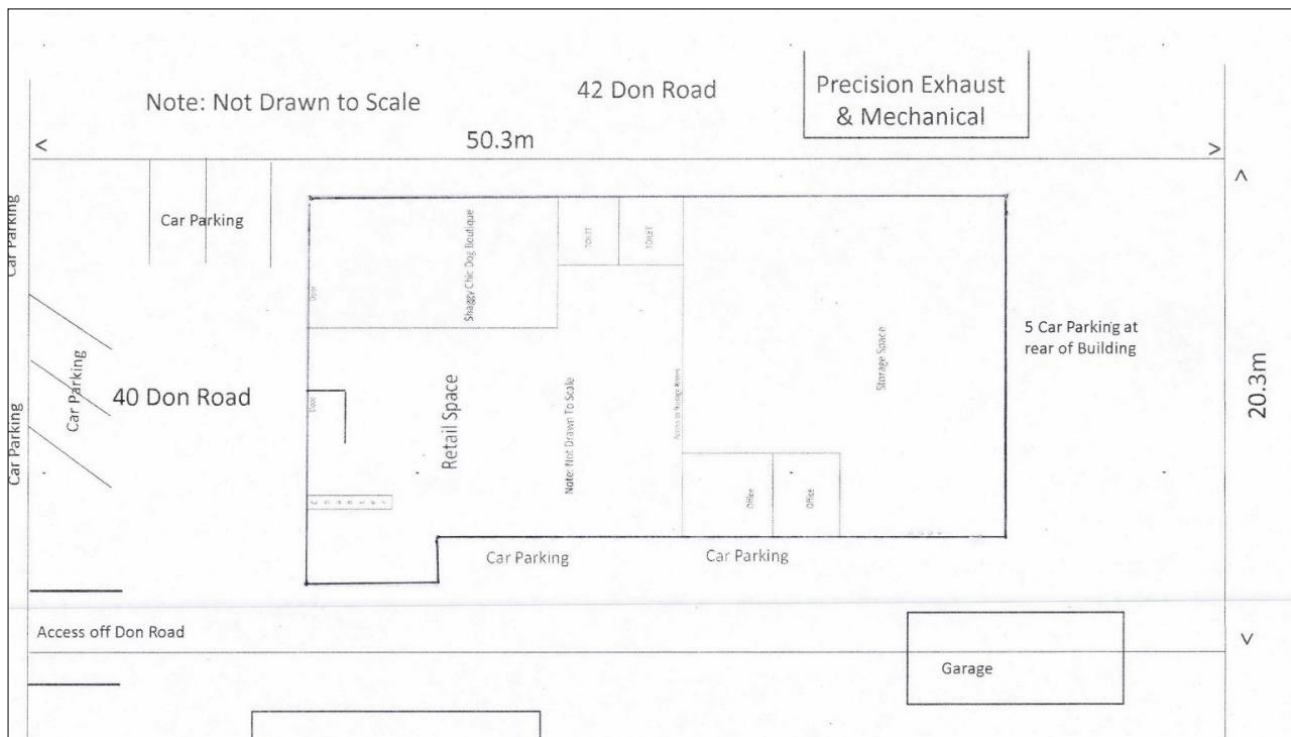
Figure 1 – Aerial image of site and surrounds (DCC, 2021)



**Figure 2 – Photo of site taken from Don Road (DCC, 2021)**

### **APPLICATION DETAILS**

The applicant is seeking approval to utilise the property for General Retail and Hire – adult sex product shop. The shop is proposed to operate Monday – Friday 10am to 6pm and Saturday 10am to 4pm. Minor works are proposed internally and the dog grooming business will operate concurrently with the use. A copy of the site plan provided by the applicant is reproduced below as Figure 3. A full copy of the application is appended as an Attachment to this report.



**Figure 3 – Site Plan (Newman, 2021)**

## PLANNING ISSUES

The property is zoned Commercial under the *Tasmanian Planning Scheme – Devonport*.

The purpose of the Commercial zone is:

17.1.1 To provide for retailing, service industries, storage and warehousing that require:

- (a) large floor or outdoor areas for the sale of goods or operational requirements; and
- (b) high levels of vehicle access and parking for customers.

17.1.2 To provide for a mix of use and development that supports and does not compromise or distort the role of other activity centres in the activity centre hierarchy.

The proposal falls under the use class General Retail and Hire. This use is defined under the planning scheme as:

*“use of land for selling goods or services, or hiring goods. Examples include an **adult sex product shop**, amusement parlour, beauty salon, betting agency, bottle shop, cellar door sales, commercial art gallery, department store, hairdresser, market, primary produce sales, local shop, shop, shop front dry cleaner and supermarket”*

The Use Table for the Commercial zone prescribes General Retail and Hire as Discretionary without qualification. The applicable clauses of the planning scheme are reproduced below along with comment.

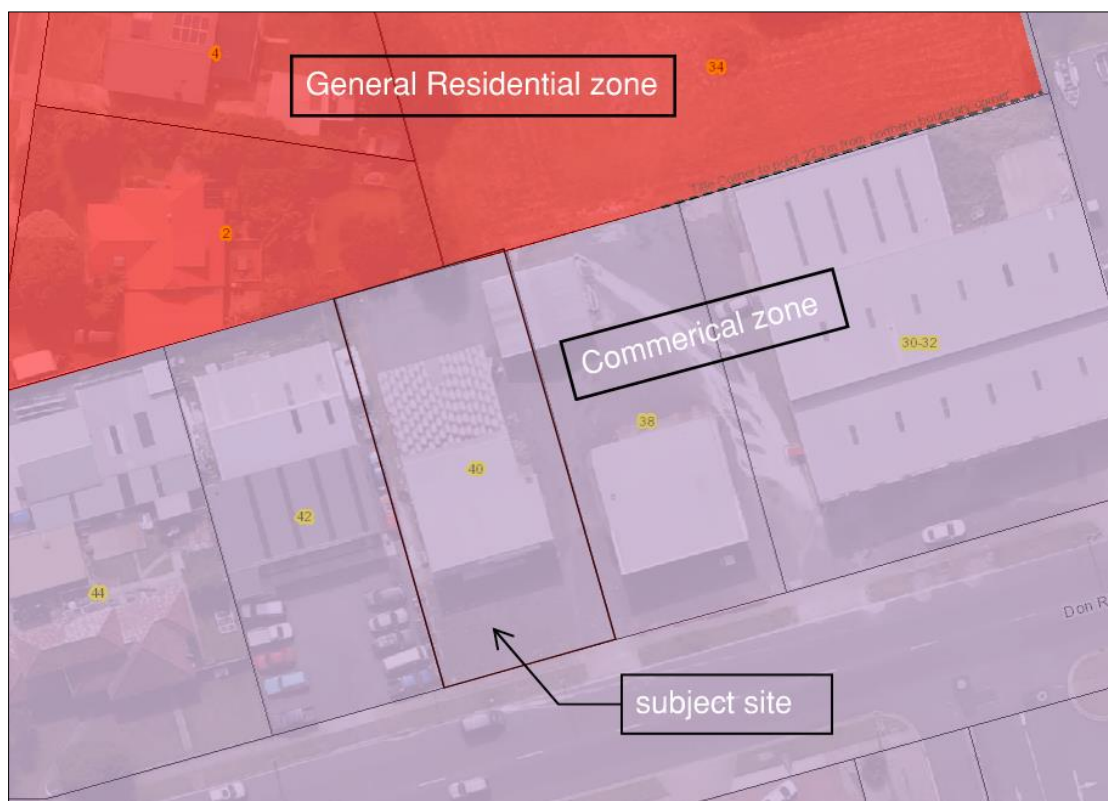
## Commercial zone development standards

### 17.3 Use Standards

17.3.1 All uses

Objective:	That uses do not cause an unreasonable loss of residential amenity to residential zones.	
Acceptable Solutions		Performance Criteria
<b>A1</b> Hours of operation of a use, excluding Emergency Services, Natural and Cultural Values Management, Passive Recreation or Utilities, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must be within the hours of: <ul style="list-style-type: none"> <li>(a) 7.00am to 9.00pm Monday to Saturday; and</li> <li>(b) 8.00am to 9.00pm Sunday and public holidays.</li> </ul>		<b>P1</b> Hours of operation of a use, excluding Emergency Services, Natural and Cultural Values Management, Passive Recreation or Utilities, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must not cause an unreasonable loss of amenity to the residential zones, having regard to: <ul style="list-style-type: none"> <li>(a) the timing, duration or extent of vehicle movements; and</li> <li>(b) noise, lighting or other emissions.</li> </ul>
<b>A2</b> External lighting for a use, excluding Natural and Cultural Values Management or Passive Recreation, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must: <ul style="list-style-type: none"> <li>(a) not operate within the hours of 11.00pm to 6.00am, excluding any security lighting; and</li> <li>(b) if for security lighting, be baffled so that direct light does not extend into the adjoining property in those zones.</li> </ul>		<b>P2</b> External lighting for a use, excluding Natural and Cultural Values Management or Passive Recreation, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must not cause an unreasonable loss of amenity to the residential zones, having regard to: <ul style="list-style-type: none"> <li>(a) the level of illumination and duration of lighting; and</li> <li>(b) the distance to habitable rooms of an adjacent dwelling.</li> </ul>
<b>A3</b> Commercial vehicle movements and the unloading and loading of commercial vehicles for a use, excluding Emergency Services, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must be within the hours of: <ul style="list-style-type: none"> <li>(a) 7.00am to 9.00pm Monday to Saturday; and</li> <li>(b) 8.00am to 9.00pm Sunday and public holidays.</li> </ul>		<b>P3</b> Commercial vehicle movements and the unloading and loading of commercial vehicles for a use, excluding Emergency Services, on a site within 50m of a General Residential Zone, Inner Residential Zone, Low Density Residential Zone, or Rural Living Zone, must not cause an unreasonable loss of amenity to the residential zones, having regard to: <ul style="list-style-type: none"> <li>(a) the time and duration of commercial vehicle movements;</li> <li>(b) the number and frequency of commercial vehicle movements;</li> <li>(c) the size of commercial vehicles involved;</li> <li>(d) manoeuvring required by the commercial vehicles, including the amount of reversing and associated warning noise;</li> <li>(e) any noise mitigation measures between the vehicle movement areas and the adjoining residential area; and</li> <li>(f) potential conflicts with other traffic.</li> </ul>

Comment - The site is adjoined by the Commercial zone to the east and west with the General Residential zone located to the property's immediate north. A land-use zoning map of the site and the surrounding area is reproduced below as Figure 4.



**Figure 4 – Land-use zoning map (DCC, 2021)**

The applicant has stated that the proposed use will operate within the hours prescribed within the acceptable solutions. A condition will be included on the permit to ensure any security lighting is baffled so that residential properties are not impacted by the use. The acceptable solutions for 17.3.1 are satisfied.

#### 17.3.2 Discretionary uses

Objective:	That uses listed as Discretionary do not compromise or distort the activity centre hierarchy.
Acceptable Solutions	Performance Criteria
<b>A1</b> No Acceptable Solution.	<b>P1</b> A use listed as Discretionary must not compromise or distort the activity centre hierarchy, having regard to: <ul style="list-style-type: none"> <li>(a) the characteristics of the site;</li> <li>(b) the size and scale of the proposed use;</li> <li>(c) the functions of the activity centre and the surrounding activity centres; and</li> <li>(d) the extent that the proposed use impacts on other activity centres.</li> </ul>

Comment – The use is proposed to be occupied within an existing building which has historically been utilised for service type purposes. Don Road provides a number of different uses and this activity centre will not be distorted by the proposal. In addition, the surrounding activity centres will not be impacted. The performance criteria can be satisfied for 17.3.2.

Clauses 17.3.3, 17.4 and 17.5 of the Commercial zone are not applicable to the determination of this application.

## Development Codes

### C1.0 – Signs Code

No advertising signage details have been provided by the applicant noting that the Signs Code prescribe exemptions for updating existing signage. Any new signage will be subject to further planning scrutiny and this will be conditioned on the planning permit.

### C2.0 – Parking and Sustainable Transport Code

A key purpose of this Code is to ensure that an appropriate level of parking facilities is provided to service use and development.

Table C2.1 of the Code sets out the acceptable parking spaces for uses - refer below.

**Table C2.1 Parking Space Requirements**

Use		Parking Space Requirements	
		Car	Bicycle
General Retail and Hire	Drive-in bottle shop, if associated with a Hotel Industry	6 spaces	No requirement
	General Retail and Hire, excluding as otherwise specified in this table	1 space per 30m <sup>2</sup> of floor area, unless subject to Clause C2.5.5	1 space per 100m <sup>2</sup> of floor area

The applicant has shown a total of four delineated on-site parking spaces for the property - located between the building and the Don Road frontage. This has been confirmed on-site. An additional parking location has been shown adjacent to the eastern side of the building. It is noted the existing hardstand area at the rear of the site cannot be included in the car parking numbers as it cannot be physically accessed due to the location of the garage. Furthermore, the site does not have legal rights to enter this section of the property from adjoining land. The building has an approximate floor area of 280m<sup>2</sup>. This calculation considers the dog grooming business which would also fall under the General Retail and Hire use. As a result, a total of 10 on-site parking spaces are required to satisfy the acceptable solutions for C2.5.1 – *Car parking numbers* which cannot be satisfied. The performance criteria of C2.5.1 is required to be assessed to determine if this aspect of the application has merit. This is reproduced on the next page along with comment.

## C2.5.1 Car parking numbers

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

Comment – In essence, a total of four on-site parking spaces have been provided, with the additional parking spaces shown on the site plan not accessible or feasible. Potentially, staff or delivery vehicles could utilise the parking along the eastern side of the building. Currently, 2 of the spaces are reserved for the dog grooming salon and the remaining 2 vacant parking spaces will presumably be allocated to the adult sex shop. It will be the owner's prerogative of how parking is managed for the site. However, the existing arrangement likely has some value. The nature of both uses on the site will not demand a high parking turnover

and it is identified half of the building will be used for storage purposes and not retail space. There is available on-street parking which appears to be regularly available due to the 1-hour parking restriction. The site has been historically used for service type uses, and limited parking has not caused known issues. Overall, the performance criteria for C2.5.1 can be supported for the relaxation to the parking numbers.

#### C2.5.2 Bicycle parking numbers

Objective:	That an appropriate level of bicycle parking spaces are provided to meet the needs of the use.
Acceptable Solutions	Performance Criteria
<b>A1</b> Bicycle parking spaces must: <ul style="list-style-type: none"> <li>(a) be provided on the site or within 50m of the site; and</li> <li>(b) be no less than the number specified in Table C2.1.</li> </ul>	<b>P1</b> Bicycle parking spaces must be provided to meet the reasonable needs of the use, having regard to: <ul style="list-style-type: none"> <li>(a) the likely number of users of the site and their opportunities and likely need to travel by bicycle; and</li> <li>(b) the availability and accessibility of existing and any planned parking facilities for bicycles in the surrounding area.</li> </ul>

Comment – The proposal is required to accommodate bicycle parking to satisfy the acceptable solutions. This has not been provided. The provision of no bicycle parking spaces is not fatal to the determination of the application, but it will be recommended that bicycle parking spaces are incorporated as a note on the permit.

Code C2.0 also includes considerations such as car parking design e.g consideration of Australian standards and vehicle circulation. It is imperative that the nominated car parking between the building and the Don Road frontage can satisfy the requirements as they will be used by customers. This has been confirmed by Council's Infrastructure & Works Department and will be reinforced as a permit condition.

### COMMUNITY ENGAGEMENT

On 10/06/2021, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 22/09/2021;
- (b) Making a copy of the proposal available in Council Offices from the 29/09/2021;
- (c) Notifying adjoining property owners by mail on 28/09/2021; and
- (d) Erecting a Site Notice for display from the 28/09/2021.

The period for representations to be received by Council closed on 12/10/2021.

### REPRESENTATIONS

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

A copy of the representation is shown as Figure 5 along with comment.



**Figure 5 – Representation (Bakes, 2021)**

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

#### **6.10 Determining Applications**

- 6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:
- (a) all applicable standards and requirements in this planning scheme; and
  - (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

The application has been subject to assessment against the relevant requirements of the planning scheme and the discretionary components, including the use and car parking requirements.

The construction of a fence between the two properties is not a requirement under the Planning Scheme and therefore cannot be included as a condition by the Planning Authority. This matter will need to be discussed between interested parties. It is noted that car parking is not physically possible at the rear of the site which will likely lessen some of the neighbour's concerns and the applicant has stated the windows will be screened when viewed externally. The representation does not raise any issues that warrant alteration or subsequent conditions to the proposal.

### **FINANCIAL IMPLICATIONS**

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

### **RISK IMPLICATIONS**

In its capacity as a planning authority under the *Land Use Planning and Approvals Act 1993* (LUPAA), Council is required to make a determination on this application for a discretionary planning permit. Due diligence has been exercised in the preparation of this report and there are no predicted risks associated with a determination of this application.

### **CONCLUSION**

The application has been subject to assessment by Council's Development Services and Infrastructure & Works Departments and is recommended for conditional approval.

### **ATTACHMENTS**

1. Application - P A 2021.0138 - 40 Don Road - General Retail and Hire **[4.1.1 - 6 pages]**

## 4.2 PA2021.0148 - UNIT 1 130 NORTH FENTON STREET - VISITOR ACCOMMODATION

Author: **Emma Pieniak, Planning Officer**

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

### RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Tasmanian Planning Scheme – Devonport 2020* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2021.0148 and grant a Permit to use land identified as 1/130 North Fenton Street, Devonport for the following purposes:

- Visitor Accommodation

Subject to the following conditions:

1. The Use is to proceed generally in accordance with the submitted floor plan as submitted by the applicant, a copy of which is attached and endorsed as documents forming part of this Planning Permit.
2. The Use is to comply with the Director's Determination for short or medium term visitor accommodation.

Note: The following is provided for information purposes.

During 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*.

If any food products are supplied, prepared and/or cooked for guests, the business operator must contact the Council prior to the opening of the business to confirm their requirements under the *Food Act 2003*.

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

### RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- |                |  |
|----------------|--|
| Strategy 2.1.1 | Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use |
| Strategy 2.1.2 | Provide consistent and responsive development assessment and compliance processes  |

### SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2021.0148.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	1/130 North Fenton Street, Devonport
Applicant/Owner:	Doula Papanicolaou
Proposal:	Visitor Accommodation
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	15/11/2021

## SITE DESCRIPTION

The subject site, Unit 1, is one of four double storey units situated south-east of the junction between North Fenton and James Streets. The existing development has two vehicle accesses from James Street and has an existing strata scheme registered on title. The adjoining properties comprises established residential development and with the Devonport Oval being the exception, the surrounding area comprises established residential development of varying degrees of intensification. The subject site and surrounding development are illustrated in Figure 1.



Figure 1 – Aerial view (LISTmap)

## APPLICATION DETAILS

The applicant is seeking approval for a change of use from the existing residential unit at Number 1/130 North Fenton Street, to a Visitor Accommodation use. The applicant has provided an indicative floor plan of the double storey unit as illustrated in Figure 2.

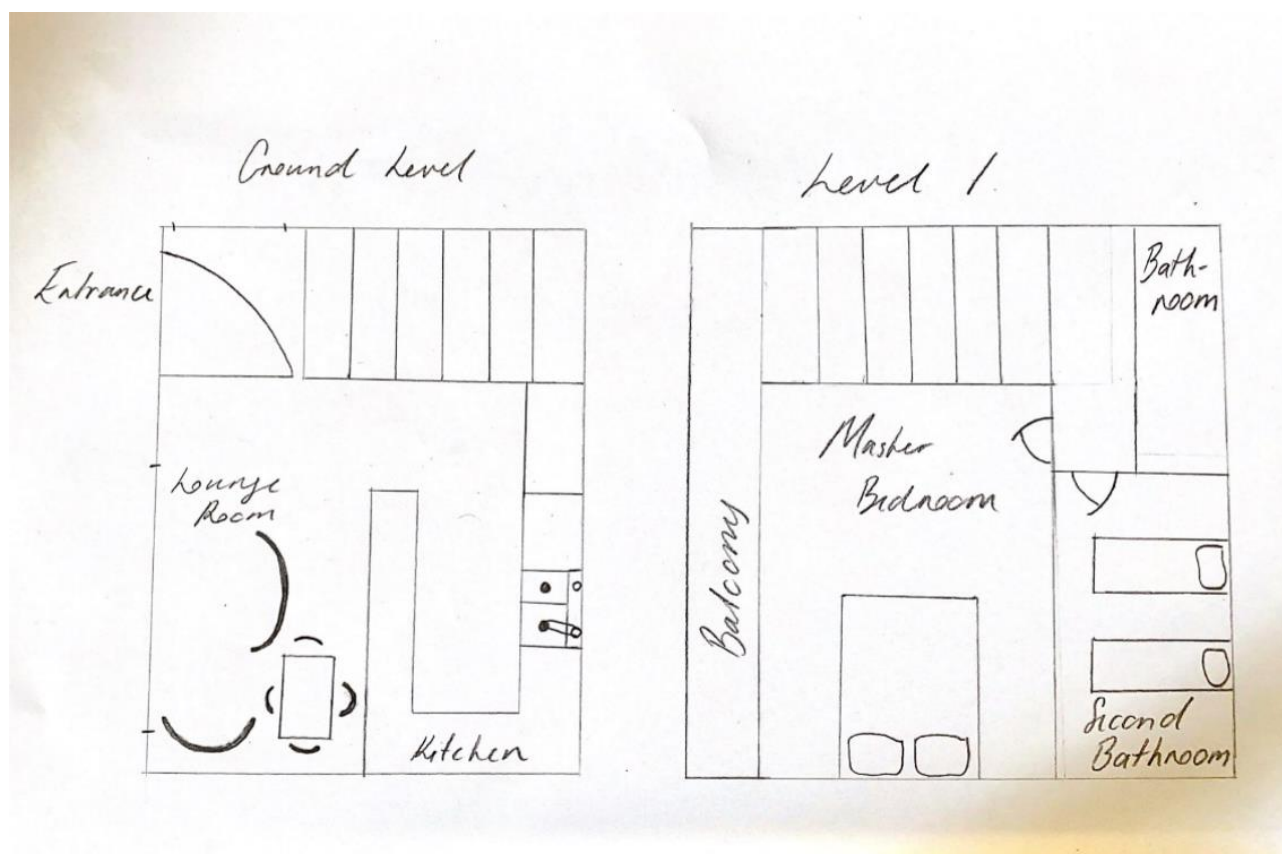


Figure 2 – Floor plan

### PLANNING ISSUES

The land is zoned General Residential under the *Tasmanian Planning Scheme – Devonport 2020*. The purpose of the General Residential Zone is:

- 8.1.1 To provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided.
- 8.1.2 To provide for the efficient utilisation of available social, transport and other service infrastructure.
- 8.1.3 To provide for non-residential use that:
  - a) primarily serves the local community; and
  - b) does not cause an unreasonable loss of amenity through scale, intensity, noise, activity outside of business hours, traffic generation and movement, or other off site impacts.
- 8.1.4 To provide for Visitor Accommodation that is compatible with residential character.

A Visitor Accommodation use class has a permitted status under the General Residential zone. The proposed use is located within a unit forming part of a strata scheme for residential use, and therefore requires discretion under section 57 of the *Land Use Planning and Approvals Act 1993*.

The relevant performance criteria are reproduced below with comment addressing compliance.

### 8.3.2 Visitor Accommodation

<b>Objective:</b> That Visitor Accommodation: <ul style="list-style-type: none"> <li>(a) is compatible with the character and use of the area;</li> <li>(b) does not cause an unreasonable loss of residential amenity; and</li> <li>(c) does not impact the safety and efficiency of local roads or rights of way.</li> </ul>	
Acceptable Solutions	Performance Criteria
<b>A2</b> Visitor Accommodation is not for a strata lot that is part of a strata scheme where another strata lot within that strata scheme is used for a residential use.	<b>P2</b> Visitor Accommodation within a strata scheme must not cause an unreasonable loss of residential amenity to long term residents occupying other strata lots within the strata scheme, having regard to: <ul style="list-style-type: none"> <li>(a) the privacy of residents;</li> <li>(b) any likely increase in noise;</li> <li>(c) the residential function of the strata scheme;</li> <li>(d) the location and layout of the strata lots;</li> <li>(e) the extent and nature of any other non-residential uses; and</li> <li>(f) any impact on shared access and common property.</li> </ul>
<p><b>P2</b> – the subject site comprises four attached double storey units, each with 2 bedrooms and a floor area of approximately 100m<sup>2</sup>. The two bedroom unit is of a size and design which would limit the number of occupants and will function similar to a residential tenancy. Each unit has shared access to the driveways and sealed area along James Street where car parking is not allocated or delineated.</p> <p>The proposed visitor accommodation of unit 1 is considered unlikely to cause detriment to other residents within the strata scheme at 130 North Fenton Street</p>	

The proposal meets the relevant acceptable solutions of applicable codes, including the provision of car parking space in accordance with the Parking and Sustainable Transport code. There are no specific area plans which apply to the subject site.

### COMMUNITY ENGAGEMENT

On 04/10/2021, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 09/10/2021;
- (b) Making a copy of the proposal available in Council Offices from the 09/10/2021;
- (c) Notifying adjoining property owners by mail on 07/10/2021; and
- (d) Erecting a Site Notice for display from the SiteNotice.

The period for representations to be received by Council closed on 25/10/2021.

## REPRESENTATIONS

One representation was received within the prescribed 14 day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. The representation is reproduced below with comments addressing concerns following.

To The General Manager, Devonport City Council,

Regarding Application For Planning Permit PA2021.0148.

We reside at 128 N Fenton St, Devonport TAS 7310.

The proposed Visitor Accommodation has been running for 2 years, and now an application has been submitted?

Not only has it been running for 2 years, but unit 2 is also owned by the same person and also used as an AirBNB. Unit 2 has been running for a few months less than unit 1.

As the units are double storey, this allows unknown visitors to look down, onto and into my house and backyard.

Also the outside security light for unit 2 is often left on for days after the property has been let. I have installed block out blinds for privacy and security for this reason.

The owner has had a tall fence built however it does not block out viewing from the bedrooms. With the height of the fence being extended, I am unsure what the legal height of a fence is?

As to the nature of the units 1 and 2 entrance being on James Street, and not on N Fenton visitors often park and access the property through the private entrance for Unit 4, this is a security risk for the permanent occupiers of units 3 and 4, perhaps directions, parking and access need to be prominently displayed.

Regards

Graeme Hingston

Dawn Murray

- Council has not previously received any concerns regarding visitor accommodation operating from the premises. Allegations of non-compliance are not matters to form consideration for this application.
- Whilst privacy to neighbouring properties is not considered under the relevant performance criteria, it is noted that the existing double storey units have more than 3m setback from the adjoining side boundary, which complies with the current acceptable solutions of the General Residential zone development standard 8.4.6 Privacy for all dwellings.
- Unit 2 130 North Fenton is not included in this planning application.
- Fencing between private properties does not require consideration under the Planning Scheme, unless the height exceeds 2.1m.
- Units 1-4 have equal share in common property areas and access as per the strata scheme affecting the subject site. Management and access of common property area within a strata scheme the responsibility of the owners and body corporate.

## FINANCIAL IMPLICATIONS

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

**RISK IMPLICATIONS**

In its capacity as a planning authority under the *Land Use Planning and Approvals Act 1993* (LUPAA), Council is required to make a determination on this application for a discretionary planning permit. Due diligence has been exercised in the preparation of this report and there are no predicted risks associated with a determination of this application.

**CONCLUSION**

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

**ATTACHMENTS**

1. Application - P A 2021.0148 - 1 130 North Fenton Street - Visitor Accommodation [4.2.1 - 18 pages]
2. Representation from G Hingston and D Murray - P A 2021.0148 - Unit 1 130 North Fenton Street [4.2.2 - 1 page]

## **5 CLOSURE**