



*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 6 June 2022, commencing at 5:15 PM.

**The meeting will be open to the public and live streamed from 5:15 PM.**

## QUALIFIED PERSONS

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

Matthew Atkins  
GENERAL MANAGER

**01 06 2022**

**Agenda for a Planning Authority Committee meeting of the Devonport City Council  
held on Monday 6 June 2022, in the Aberdeen Room, Level 2, paranple centre,  
137 Rooke Street, Devonport at 5:15 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 28 April 2022 – 17 May 2022.

#### **ATTACHMENTS**

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

## 4 DEVELOPMENT REPORTS

### 4.1 PA2021.0005 - 11 MARCONI COURT & 57 STONY RISE ROAD, STONY RISE - 28 LOT SUBDIVISION

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

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 PA2021.0005 and grant a Permit to use and develop land identified as 11 Marconi Court & 57 Stony Rise Road, Stony Rise for the following purposes:

- 28 lot subdivision

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as:
  - a. CSE Tasmania Ref: 4506-01B, Drawing Nos 4506-01B G01-G05 & C11, C19, C20, C27 & C38, Revision B dated January 2020 by CSE Tasmania Pty Ltd;
  - b. Bushfire Hazard Management Report and Bushfire Hazard Management Plan, dated 4th February 2022 by Scott Livingston – Livingston Natural Resource Servicescopies of which are attached and endorsed as documents forming part of this Planning Permit.
2. In regard to the proposed 4790m<sup>2</sup> reserve, Council will not take ownership upon completion of the subdivision.
3. The developer is to submit detailed design drawings prepared by a suitably qualified engineer detailing road and stormwater design compliance with current Tasmanian Standard Drawings (TSD-v3), version 3, and Tasmanian Subdivisional Guidelines. These are to show:
  - a. Stormwater discharge from the subdivision is to be adequately hydraulically detailed and designed by a suitably qualified hydraulic engineer, for all storm events up to and including a 100-year Average Recurrence Interval (ARI), and for a suitable range of storm durations, to adequately identify peak discharge piped and overland flows. All design calculations and drawings are to be submitted for approval by the City Engineer prior to commencing construction on site.
  - b. Subsoil drains;
  - c. Swale drain hydraulic analysis;
  - d. Pipeline cover in accordance with Tasmanian Standard Drawings;
  - e. Stormwater connections discharging to an approved stormwater reticulation system in accordance with the *Urban Drainage Act 2013* from each lot;
  - f. All driveway crossovers, which are to be Type KCRB as per Tasmanian Standard Drawing TSD-R16 and Tasmanian Subdivisional Guidelines.

- g. An appropriate temporary sealed turning area at the termination of the proposed interim road termination which is to be within the road reserve.
4. The developer is to provide CCTV camera footage and condition report to WSA05-2013 v 3.1 standard, for all stormwater mains to be handed over to Council, for approval by the City Engineer.
5. The developer is to incorporate any necessary easements over existing and proposed infrastructure on the Final Plan and Schedule of Easements lodged for sealing, as required.
6. The developer is to provide 'Works as Executed' drawings in an electronic format at the completion of the works, detailing final road alignments, stormwater assets, invert levels and finished surface levels.
7. In accordance with the Tasmanian Subdivision Guidelines the developer is to appoint a supervising engineer to arrange for joint audit inspections and to certify the works at practical completion.
8. The developer is to comply with the conditions specified in the Submission to Planning Authority Notice which TasWater has required to be included in the planning permit pursuant to section 56P(1) of the *Water and Sewerage Industry Act 2008*. A copy of this notice is attached.
9. 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).
10. The developer is to cover all costs associated with the transfer of road titles to Council, as soon as the titles are issued.
11. The developer is to submit a street name option for consideration and approval prior to the Final Plan being sealed. Any names proposed must be in accordance with the requirements of Placenames Tasmania. It is recommended the name be drawn from Council's adopted list.

Note: The following is provided for information purposes.

Prior to commencement of any work in relation to this subdivision the landowners are to meet all requirements under the *State Threatened Species Protection Act 1995* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

The development is to comply with the requirements of the current National Construction Code.

Regarding condition 3 - these details are to be provided for consideration prior to commencement of works to Council's Infrastructure and Works Department for approval and endorsement. There are fees associated with this assessment which will be in accordance with Council's fee structure and all civil works associated with the subdivision will be subject to scheduled inspections by Council Officers.

The developer is to acknowledge that at satisfactory completion of the works, all infrastructure intended to become a council asset will be placed on a minimum 6 month defect liability period and that there will be a bond charged to govern this period in accordance with Council's Subdivision Maintenance Bond Policy.

Addressing:

Lots in the application PA2021.0005 - 11 Marconi Court, Stony Rise will be numbered as outlined in the following table.

Please note that street numbers 3, 5 and 7 Marconi Court have been reserved for possible future subdivision.

This complies with AS/NZS 4819.2011 Rural and urban addressing.

Application Lot Number	Address
Existing Lot 1 (176742/1 - no change)	1 Marconi Court
Existing Lot 2 (176742/2 - no change)	2 Marconi Court
1	4 Marconi Court
2	2 Road 02
3	4 Road 02
4	6 Road 02
5	8 Road 02
6	10 Road 02
7	12 Road 02
8	14 Road 02
9	16 Road 02
10	18 Road 02
11	20 Road 02
12	9 Road 02
13	16 Marconi Court
14	18 Marconi Court
15	17 Marconi Court
16	15 Marconi Court
17	13 Marconi Court
18	11 Marconi Court
19	9 Marconi Court
20	6 Marconi Court
21	1 Road 02
22	3 Road 02
23	5 Road 02
24	7 Road 02
25	14 Marconi Court
26	12 Marconi Court
27	10 Marconi Court
28	8 Marconi Court
RESERVE	53 Stony Rise Road

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 9, large building and construction sites are those with greater than 250m<sup>2</sup> of ground disturbance – refer to the following link:

[https://epa.tas.gov.au/Documents/Soil\\_and%20Water\\_Management\\_Fact%20Sheet\\_1.pdf](https://epa.tas.gov.au/Documents/Soil_and%20Water_Management_Fact%20Sheet_1.pdf)

In regard to condition 8 applicant should contact TasWater – Ph 136992 with any enquiries.

In regard to conditions 3-7 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.

**There are important Commonwealth telecommunications rules you need to comply with. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)**

## 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 PA2021.0005.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	11 Marconi Court & 57 Stony Rise Road, Stony Rise
Applicant:	PDA Surveyors
Owners:	Monee Pty Ltd & CB Investment Pty Ltd
Proposal:	28 lot subdivision
Existing Use:	Storage
Zoning:	Light Industrial
Decision Due:	10/05/2022 (extended until 7/6/2022)

## SITE DESCRIPTION

The site is located on the western side of Marconi Court and contains existing storage sheds.

No. 11 Marconi Court, which is the main lot subject to the application, has an area of 9.107ha and falls approximately 20m from west to east with a narrow strip of Eucalyptus ovata forest and woodland along the northern edge and in the north east corner. A transmission line runs along the western boundary. A narrow strip of the adjacent property to the west, 57 Stony Rise Road, will be utilised as part of the subdivision. Figures 1 & 2 show the title plans for each lot and Figure 3 shows an aerial view of the subject site and 57 Stony Rise Road, along with the surrounding area.



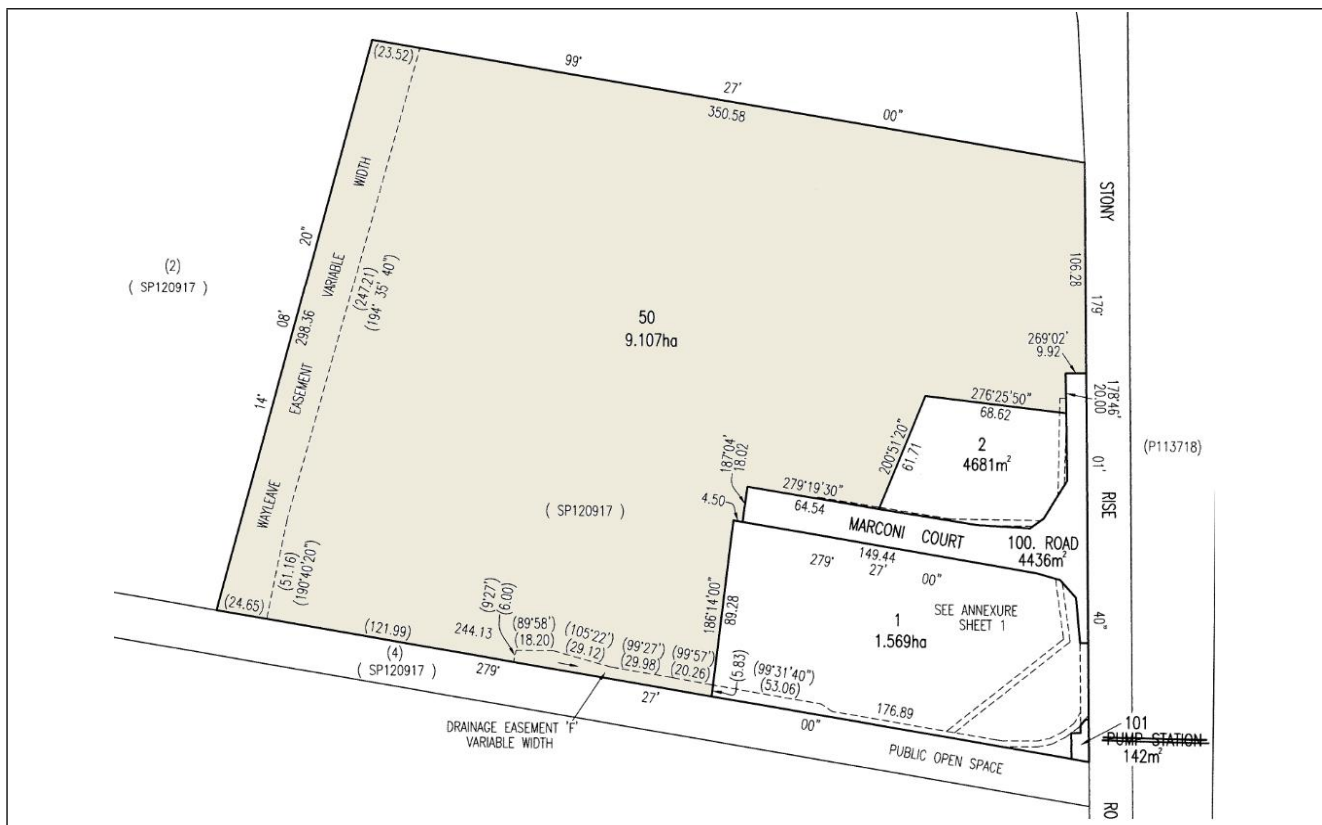


Figure 1 - Title plan - CT 176742/50 - 11 Marconi Court

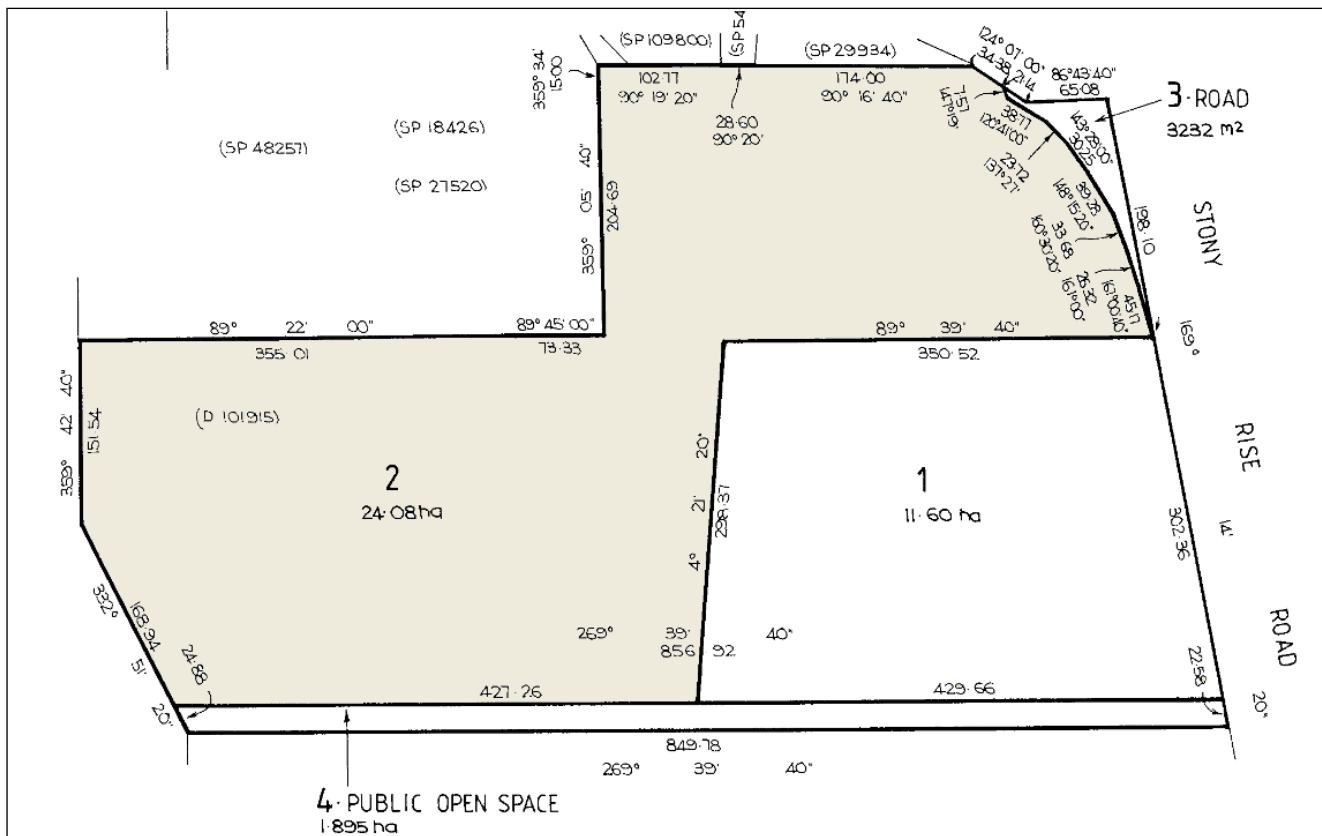


Figure 2 - Title plan - CT120917/1 - 57 Stony Rise Road



**Figure 3 - Aerial view of subject site and surrounding area**

#### **APPLICATION DETAILS**

The applicant is seeking approval for a 28 Lot Subdivision which includes 27 light industrial lots and a reserve containing established bushland. The subdivision involves the parcel of land at 11 Marconi Court. A swale drain is also proposed. This will be located on the adjacent property, 57 Stony Rise Road, to the west of 11 Marconi Court. The northern portion of the swale drain will be located within the title of 11 Marconi Court. Figure 4 shows the proposed subdivision layout and Figure 5 shows the proposal including the swale drain.



Figure 4 - Subdivision layout plan

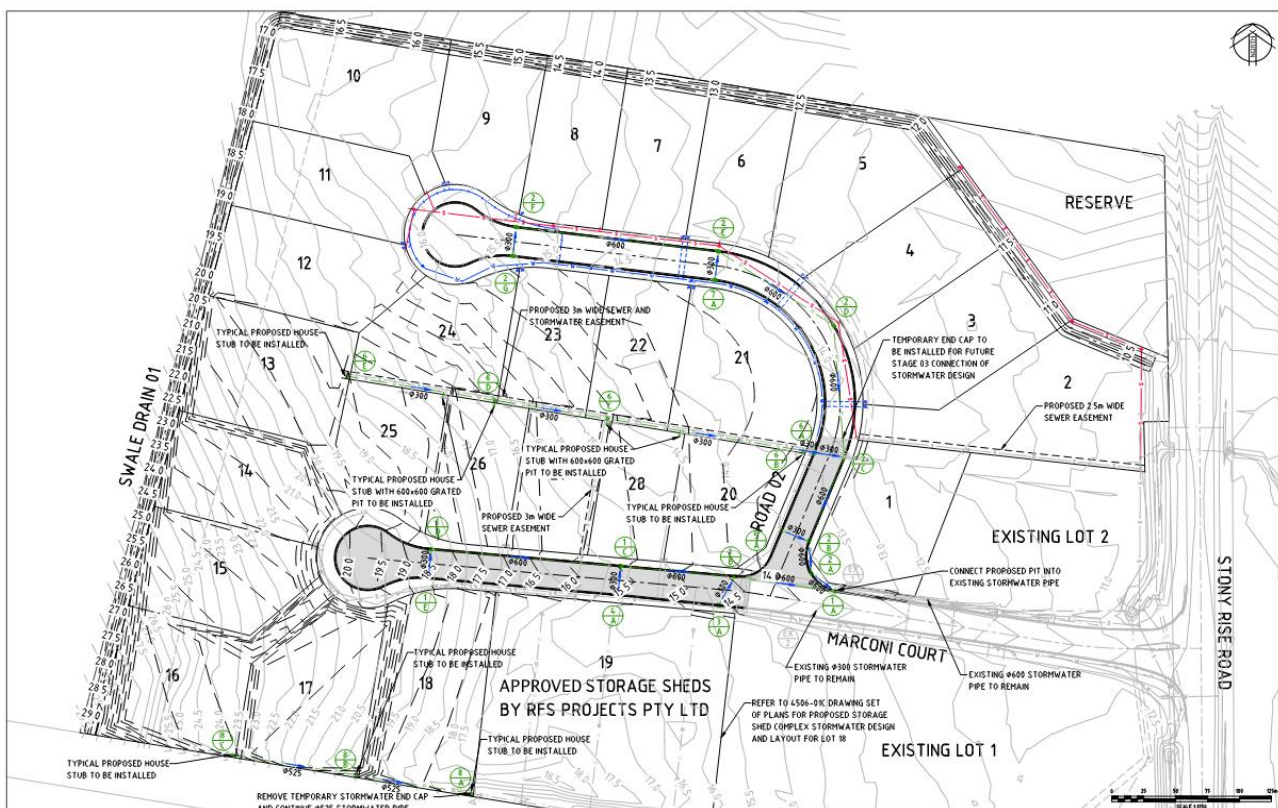


Figure 5 - Proposal plan showing swale drain

A full copy of the plans and application documentation is appended as **Attachment 1**.



## PLANNING ISSUES

The land is zoned Light Industrial under the *Tasmanian Planning Scheme - Devonport 2020*. The intent of the zone is:

- 18.1.1 To provide for manufacturing, processing, repair, storage and distribution of goods and materials where off site impacts are minimal or can be managed to minimise conflict with, or unreasonable loss of amenity to, any other uses.
- 18.1.2 To provide for use or development that supports and does not adversely impact on industrial activity.

Subdivision is permitted in the zone provided all applicable acceptable solutions contained within the zone and any relevant codes can be met. In instances where the acceptable solutions cannot be satisfied the corresponding performance criteria must be addressed, triggering a discretionary application process.

The development standards for light industrial subdivision are reproduced below, followed by assessment.

### 18.5.1 Lot design

Objective:	That each lot: (a) has an area and dimensions appropriate for use and development in the zone; and (b) is provided with appropriate access to a road.
Acceptable Solutions	Performance Criteria
<b>A1</b> Each lot, or a lot proposed in a plan of subdivision, must: (a) have an area of not less than 1000m <sup>2</sup> and: (i) be able to contain a minimum area of 15m x 20m clear of: a. all setbacks required by Clause 18.4.2 A1 and A2; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by Clause 18.4.2 A1 and A2; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with another lot provided each lot is within the same zone.	<b>P1</b> Each lot, or a lot proposed in a plan of subdivision, must have sufficient useable area and dimensions suitable for its intended use, having regard to: (a) the relevant requirements for development of buildings on the lot; (b) existing buildings and the location of intended buildings on the lot; (c) the topography of the site; (d) the presence of any natural hazards; and (e) the pattern of development existing on established properties in the area.

Comment – Each lot on the proposed plan has an area greater than 1000m<sup>2</sup> and is able to contain a building area of 15m x 20m clear of easements etc.

The acceptable solution is met.

<p><b>A2</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must have a frontage of not less than 20m.</p>	<p><b>P2</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access;</li> <li>(b) the topography of the site;</li> <li>(c) the functionality and useability of the frontage;</li> <li>(d) the anticipated nature of vehicles likely to access the site;</li> <li>(e) the ability to manoeuvre vehicles on the site;</li> <li>(f) the ability for emergency services to access the site; and</li> <li>(g) the pattern of development existing on established properties in the area.</li> </ul>
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Comment – Lots 2, 5, 10, 12, 13, 14, 15 and 16 do not meet the minimum frontage width of 20m and must therefore be assessed against the above performance criteria.

The minimum access width proposed is 9.1m which is sufficient to cater for industrial activities. None of the lots are subject to a right of carriageway and each lot has an individual access. Each lot contains enough area to allow vehicles to comfortably manoeuvre on-site.

The performance criteria is satisfied.

<p><b>A3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.</p>	<p><b>P3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable vehicular access to a boundary of a lot or building area on the lot, if any, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the distance between the lot or building area and the carriageway;</li> <li>(c) the nature of the road and the traffic, including pedestrians; and</li> <li>(d) the pattern of development existing on established properties in the area.</li> </ul>
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Comment – Each lot will have appropriate vehicular access.

The acceptable solution is met.

## 18.5.2 Services

Objective:	That the subdivision of land provides services for the future use and development of the land.	
Acceptable Solutions		Performance Criteria
<b>A1</b> Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must: <ul style="list-style-type: none"> <li>(a) be connected to a full water supply service if the frontage of the lot is within 30m of a full water supply service; or</li> <li>(b) be connected to a limited water supply service if the frontage of the lot is within 30m of a limited water supply service,</li> </ul> unless a regulated entity advises that the lot is unable to be connected to the relevant water supply service.		<b>P1</b> No Performance Criterion.

Comment – Each lot will be connected to a full water supply service.

The acceptable solution is met.

<b>A2</b> Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a connection to a reticulated sewerage system.	<b>P2</b> Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.
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Comment – Each lot will be connected to the reticulated sewerage system.

The acceptable solution is met.

<p><b>A3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be capable of connecting to a public stormwater system.</p>	<p><b>P3</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be capable of accommodating an on-site stormwater management system adequate for the future use and development of the land, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the size of the lot;</li> <li>(b) topography of the site;</li> <li>(c) soil conditions;</li> <li>(d) any existing buildings on the site;</li> <li>(e) any area of the site covered by impervious surfaces; and</li> <li>(f) any watercourse on the land.</li> </ul>
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Comment – Each lot will be connected to the reticulated stormwater system.

The acceptable solution is met.

The site is also subject to the Road and Railway Assets Code, Electricity Transmission Infrastructure Protection Code, Natural Assets Code and the Bushfire Prone Areas Code.

The requirements of each Code are met at the acceptable solutions level. The relevant clauses are reproduced below.

Number 57 Stony Rise Road is also subject to the Devonport Reserved Residential Land Specific Area Plan however no subdivision is proposed on this lot therefore there are no relevant clauses to consider.

## C3.0 Road and Railway Assets Code

## C3.5.1 Traffic generation at a vehicle crossing, level crossing or new junction

Objective:	To minimise any adverse effects on the safety and efficiency of the road or rail network from vehicular traffic generated from the site at an existing or new vehicle crossing or level crossing or new junction.	
Acceptable Solutions		Performance Criteria
<p><b>A1.1</b></p> <p>For a category 1 road or a limited access road, vehicular traffic to and from the site will not require:</p> <ul style="list-style-type: none"> <li>(a) a new junction;</li> <li>(b) a new vehicle crossing; or</li> <li>(c) a new level crossing.</li> </ul> <p><b>A1.2</b></p> <p>For a road, excluding a category 1 road or a limited access road, written consent for a new junction, vehicle crossing, or level crossing to serve the use and development has been issued by the road authority.</p> <p><b>A1.3</b></p> <p>For the rail network, written consent for a new private level crossing to serve the use and development has been issued by the rail authority.</p> <p><b>A1.4</b></p> <p>Vehicular traffic to and from the site, using an existing vehicle crossing or private level crossing, will not increase by more than:</p> <ul style="list-style-type: none"> <li>(a) the amounts in Table C3.1; or</li> <li>(b) allowed by a licence issued under Part IVA of the <i>Roads and Jetties Act 1935</i> in respect to a limited access road. <p><b>A1.5</b></p> <p>Vehicular traffic must be able to enter and leave a major road in a forward direction.</p> </li></ul>		<p><b>P1</b></p> <p>Vehicular traffic to and from the site must minimise any adverse effects on the safety of a junction, vehicle crossing or level crossing or safety or efficiency of the road or rail network, having regard to:</p> <ul style="list-style-type: none"> <li>(a) any increase in traffic caused by the use;</li> <li>(b) the nature of the traffic generated by the use;</li> <li>(c) the nature of the road;</li> <li>(d) the speed limit and traffic flow of the road;</li> <li>(e) any alternative access to a road;</li> <li>(f) the need for the use;</li> <li>(g) any traffic impact assessment; and</li> <li>(h) any advice received from the rail or road authority.</li> </ul>

Comment – Clause A1.2 applies as new vehicle crossings are proposed for each lot. It is deemed that approval has been issued by the road authority (Council) as conditions have been provided to be placed on the permit in regard to the proposed crossovers. The acceptable solution is met.



## C4.0 Electricity Transmission Infrastructure Protection Code

## C4.7.1 Subdivision

Objective:	<p>To provide for subdivision:</p> <p>(a) that allows for development to be suitably located to avoid hazards from electricity transmission infrastructure and enable appropriate levels of amenity; and</p> <p>(b) so that future development does not compromise safety, security, access to, and operation of, existing and future electricity transmission infrastructure.</p>
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>A lot, or a lot proposed in a plan of subdivision, within an electricity transmission corridor, must:</p> <p>(a) be for the creation of separate lots for existing buildings where the buildings are located wholly outside an inner protection area or a registered electricity easement;</p> <p>(b) be required for public use by the Crown, a council or a State authority;</p> <p>(c) be required for the provision of Utilities; or</p> <p>(d) be for the creation of a lot that contains a building area not less than 10m x 15m entirely located outside an inner protection area or registered electricity easement.</p>	<p><b>P1</b></p> <p>A lot, or a lot proposed in a plan of subdivision, within the electricity transmission corridor must not cause an unreasonable impact on the safety, security, operation of, or access to, existing or future electricity transmission infrastructure, having regard to:</p> <p>(a) the intended use of the proposed lots;</p> <p>(b) the location of any proposed building areas; and</p> <p>(c) any advice from the electricity entity.</p>

Comment – There is sufficient room on each lot for a building to be located wholly outside the registered electricity easement. There is also sufficient room on each lot for a 10m x 15m building area entirely located outside the registered electricity easement. The acceptable solution is met.

## C7.0 Natural Assets Code

## C7.6.2 Clearance within a priority vegetation area

Objective:	<p>That clearance of native vegetation within a priority vegetation area:</p> <ul style="list-style-type: none"> <li>(a) does not result in unreasonable loss of priority vegetation;</li> <li>(b) is appropriately managed to adequately protect identified priority vegetation; and</li> <li>(c) minimises and appropriately manages impacts from construction and development activities..</li> </ul>
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>Clearance of native vegetation within a priority vegetation area must be within a building area on a sealed plan approved under this planning scheme.</p>	<p><b>P1.1</b></p> <p>Clearance of native vegetation within a priority vegetation area must be for:</p> <ul style="list-style-type: none"> <li>(a) an existing use on the site, provided any clearance is contained within the minimum area necessary to be cleared to provide adequate bushfire protection, as recommended by the Tasmanian Fire Service or an accredited person;</li> <li>(b) buildings and works associated with the construction of a single dwelling or an associated outbuilding;</li> <li>(c) subdivision in the General Residential Zone or Low Density Residential Zone;</li> <li>(d) use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design;</li> <li>(e) clearance of native vegetation where it is demonstrated that on-going pre-existing management cannot ensure the survival of the priority vegetation and there is little potential for long-term persistence; or</li> <li>(f) the clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.</li> </ul>

	<p><b>P1.2</b></p> <p>Clearance of native vegetation within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the design and location of buildings and works and any constraints such as topography or land hazards;</li> <li>(b) any particular requirements for the buildings and works;</li> <li>(c) minimising impacts resulting from bushfire hazard management measures through siting and fire-resistant design of habitable buildings;</li> <li>(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;</li> <li>(e) any on-site biodiversity offsets; and</li> <li>(f) any existing cleared areas on the site.</li> </ul>
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Comment - The priority vegetation area (PVA) cannot be applied to Light Industrial land and is therefore not applicable to the subdivision site. The priority vegetation area does however apply to 57 Stony Rise Road, which is zoned General Residential.

The portion of the swale drain that will be located on 57 Stony Rise Road will not be included in the proposed lots and must therefore be assessed against the development standards for buildings and works rather than against the development standards for subdivision.

The eastern boundary of the site, where the drain is to be located, contains an electricity transmission corridor and is regularly cleared of vegetation to maintain access. As such no additional clearing is required. Impacts on priority vegetation are therefore minimised and the performance criteria are satisfied.

## C7.7.1 Subdivision within a waterway and coastal protection area or a future coastal refugia area

Objective:	That: (a) works associated with subdivision within a waterway and coastal protection area or a future coastal refugia area will not have an unnecessary or unacceptable impact on natural assets; and (b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on natural assets.
Acceptable Solutions	Performance Criteria
<b>A1</b>  Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must: <ul style="list-style-type: none"> <li>(a) be for the creation of separate lots for existing buildings;</li> <li>(b) be required for public use by the Crown, a council, or a State authority;</li> <li>(c) be required for the provision of Utilities;</li> <li>(d) be for the consolidation of a lot; or</li> <li>(e) not include any works (excluding boundary fencing), building area, services, bushfire hazard management area or vehicular access within a waterway and coastal protection area or future coastal refugia area.</li> </ul>	<b>P1</b>  Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must minimise adverse impacts on natural assets, having regard to: <ul style="list-style-type: none"> <li>(a) the need to locate building areas and any associated bushfire hazard management area to be outside a waterway and coastal protection area or a future coastal refugia area; and</li> <li>(b) future development likely to be facilitated by the subdivision.</li> </ul>

Comment – A waterway and coastal protection area runs through a small portion of the subject site, on the eastern half of the southern boundary as shown in Figure 4. The protection area identifies a creek that was piped some years ago and to which a drainage easement now applies (see Figure 1). Given an easement is located over the waterway and coastal protection area no building can occur and the proposal is deemed to meet clause C7.7.1 A1 (e). The acceptable solution is met.

## C13.0 Bushfire-Prone Areas Code

A Bushfire Hazard Management Report (BHMR) and associated Bushfire Hazard Management Plan (BHMP) have been submitted as part of the application. This has been superseded by a revised BHMR and BHMP dated 4 February, 2022 which was submitted as part of a separate application for Stage 1 of the proposal. Advice received from TasFire is that the most recent assessments should replace those submitted as part of this application (see attachments).

The report indicates that the acceptable solutions are met in regard to the code.

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**COMMUNITY ENGAGEMENT**

On 28/01/2021, 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 09/04/2022 & 11/05/2022;
- (b) Making a copy of the proposal available in Council Offices from the 09/04/2022 & 11/05/2022;
- (c) Notifying adjoining property owners by mail on 09/05/2022 & 11/05/2022; and
- (d) Erecting a Site Notice for display from the 08/04/2022 & 10/05/2022.

The period for representations to be received by Council closed on 28/04/2022 and 24/05/2022.

The application was originally submitted and advertised without reference to 57 Stony Rise Road. Upon realisation that this was the case the proposal was readvertised.

**REPRESENTATIONS**

One representation was received within each of the prescribed 14 day public scrutiny periods required by the *Land Use Planning and Approvals Act 1993*. Both representations are from the same community member and are identical, as reproduced below as Figure 6.

**Sent:** Sunday, 22 May 2022 8:34 PM  
**To:** Devonport City Council  
**Subject:** Representation for PA2021.0005 11 Marconi Court from Elizabeth Latham

To the General Manager Devonport City Council

23/5/2022

Application Number: PA2021.0005 Proposed Use or Development: 28 lot subdivision

Address of the Land: 11 Marconi Court & 57 Stony Rise Road, Stony Rise

Dear Sir,

I am concerned the proposed 28 lot subdivision will potentially impact endangered species on the adjoining land to the north, and will these species be taken in to consideration while assessing this proposal?

This is the second time this proposal has been put to the Council and although the developers were made very aware of the Endangered Grey (White Morph) Goshawk nest in the vicinity of the blocks on the Northern side (numbers 2 to 11) have made no attempt to alter the subdivision boundary to avoid any disturbance on the protected nest area. I feel that the developers are not hearing the advice they were given and the damage they could do in developing the blocks on the northern side.

The north edge particularly lot 10 are in close proximity to an active Grey (White Morph) Goshawk nest (Raptor Nest No. 2834) location shown on DPIWE Natural Values Atlas, (status -Threatened Species re Threatened Species Protection Act 1995) these birds have successfully raised a number of chicks in recent years.

Also on the NVA are points for the highly Endangered Central North Burrowing Crayfish along the creek which drains from Harris Road area, any modification to the waterway would impact those as well. The developer told me they could possibly clear the area along the creek from the back of the subdivision to the road and build a large bund to prevent possible future flooding of the new subdivision this would destroy multiple habits of Flora and Fauna,

The narrow strip of bush along this north edge is Eucalyptus Ovata – A Threatened Native Vegetation Community, it is also visited by the Endangered Swift Parrots as well as many other birds and wildlife including Echidnas, Bandicoots & Bennetts Wallaby.

I would like to see some consideration of the plight of these endangered species and change stage 2 of the proposal to help protect them by moving the boundaries of these blocks further away from the forested area. It is very important to preserve and protect this area, I hope you consider my letter seriously.

Yours Sincerely  
 Elizabeth Latham.

**Figure 6 - Representation**

In considering representations the planning scheme states the following:

- 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.

This means that all matters raised by a representation must relate to the discretions triggered by the proposal in order to be considered when making a decision.

The matters raised do not relate to discretions relevant to the proposal however they raise issues that must be taken into account by the developer/landowner.

Matters regarding both the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, and the *State Threatened Species Protection Act 1995*, must be dealt with by the owner of the land, the onus being on them to ensure they comply with all relevant legislation.

Council does not have the ability to condition the permit in regard to these matters as they are not covered by the planning scheme, however a note will be placed on the permit to ensure the owners are aware of their responsibilities.

## **DISCUSSION**

A reserve has been identified in the north-eastern corner of the site which currently contains threatened *Eucalyptus ovata* forest and woodland. This is not an area of land of which Council seeks to take ownership. The proposal has not suggested that Council ownership is required however a condition will be placed on the permit in that regard to ensure the developer is aware of Council's position.

## **FINANCIAL IMPLICATIONS**

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

## **RISK IMPLICATIONS**

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

## **CONCLUSION**

The proposal has been assessed and deemed to meet the requirements of the *Tasmanian Planning Scheme – Devonport* and can therefore be approved, with conditions.

## **ATTACHMENTS**

1. Application - PA2021.0005 - 11 Marconi Court and 57 Stony Rise Road [**4.1.1** - 56 pages]
2. First Representation - PA2021.0005 - Elizabeth Latham [**4.1.2** - 1 page]
3. Representation - PA2021.0005 - Elizabeth Latham [**4.1.3** - 1 page]

## 4.2 PA2022.0066 - 5 ELLICE HILL DRIVE SPREYTON - RESIDENTIAL (SINGLE DWELLING)

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 PA2022.0066 and grant a Permit to use and develop land identified as 5 Ellice Hill Drive, Spreyton for the following purposes:

- Residential (single dwelling)

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as project no. 21047 dated 29/03/2022 by eclo Designs, 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. This includes surface water from the driveway and/or any paved areas which is to be collected & drained to the private stormwater drainage system.
3. The new driveway works are to be constructed generally in accordance with the Tasmanian Standard Drawing TSD-R03 V3. There is no requirement for a culvert pipe.

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.

Permitted hours of construction are Monday to Friday Between 7am - 6pm, Saturday between 9am - 6pm and Sunday and statutory holidays 10am - 6pm.

The amenity of the area must not be detrimentally affected by the use or development through the:

- a) Transport of materials, goods or commodities to or from the land; or the
- b) Emission of noise, dust, odour, artificial light, vibration, fumes, smoke, vapour, steam, soot, ash, wastewater or any waste products.

The applicant will need to submit a Plumbing Permit Application, along with supporting documentation as required under Schedule 2 of the Director's Determination - Director's Specified List v1.2 (*Building Act 2016*), for an on-site wastewater disposal system as part of the Building and Plumbing application process.

The applicant will need to submit a design report (including a site and soil evaluation in accordance with AS/NZS1547:2012) to demonstrate that the property is capable of supporting an on-site wastewater treatment system.

In regard to conditions 2 and 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 planning application PA2022.0066.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	5 Ellice Hill Drive, Spreyton
Applicant:	Eclo Designs
Owner:	Mr JW Smith
Proposal:	Residential (single dwelling)
Existing Use:	Vacant
Zoning:	Rural Living A
Decision Due:	19/06/2022

## SITE DESCRIPTION

The 7854m<sup>2</sup> is situated to the east of Ellice Hill Drive towards the crest of a hill. The vacant parcel of land has a cleared section along the western frontage, dropping steeply towards the rear south-eastern corner. Adjoining properties generally comprise existing single dwelling development within the undulating topography. The subject site and surrounding development are illustrated in Figures 1 and 2.

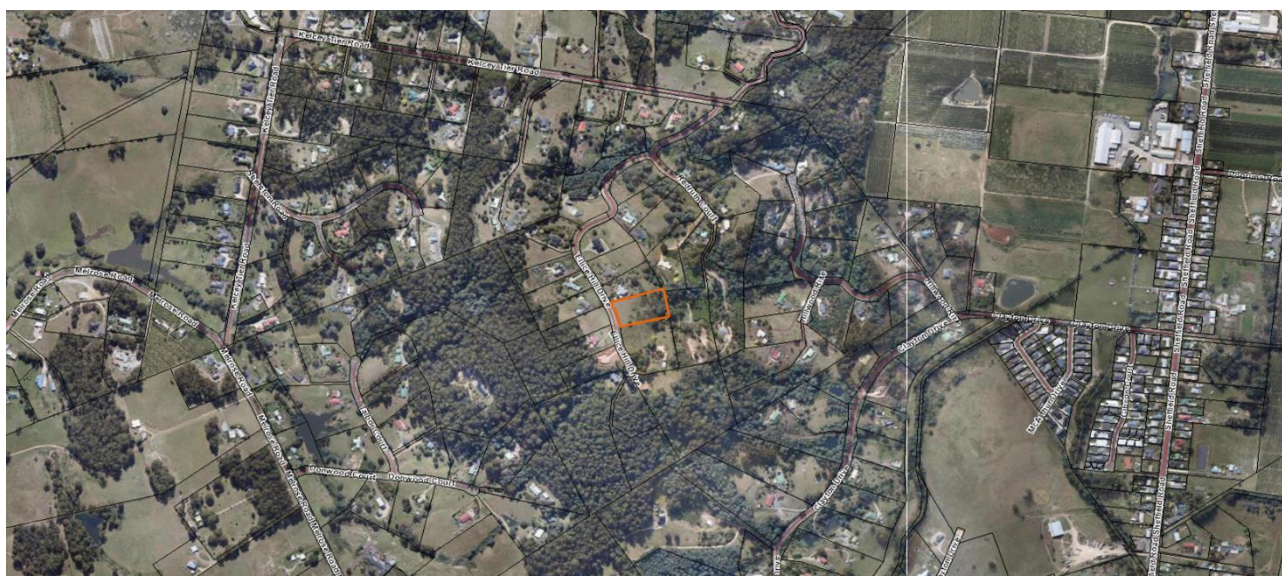


Figure 1 – Aerial view (LISTmap)





Figure 2 – Site view from front south-east corner

#### **APPLICATION DETAILS**

The applicant is seeking approval to construct a single dwelling, comprising three bedrooms, open plan living, dining, kitchen area and attached single garage. Another crossover is shown at the southern end of the frontage, resulting in a vertical rock retaining wall which will be located along the frontage with a maximum height of 1m. The proposed development is illustrated in Figures 3 – 7.

A full copy of the development plans and application documentation is appended as **Attachment 1**.





Figure 3 – Site plan

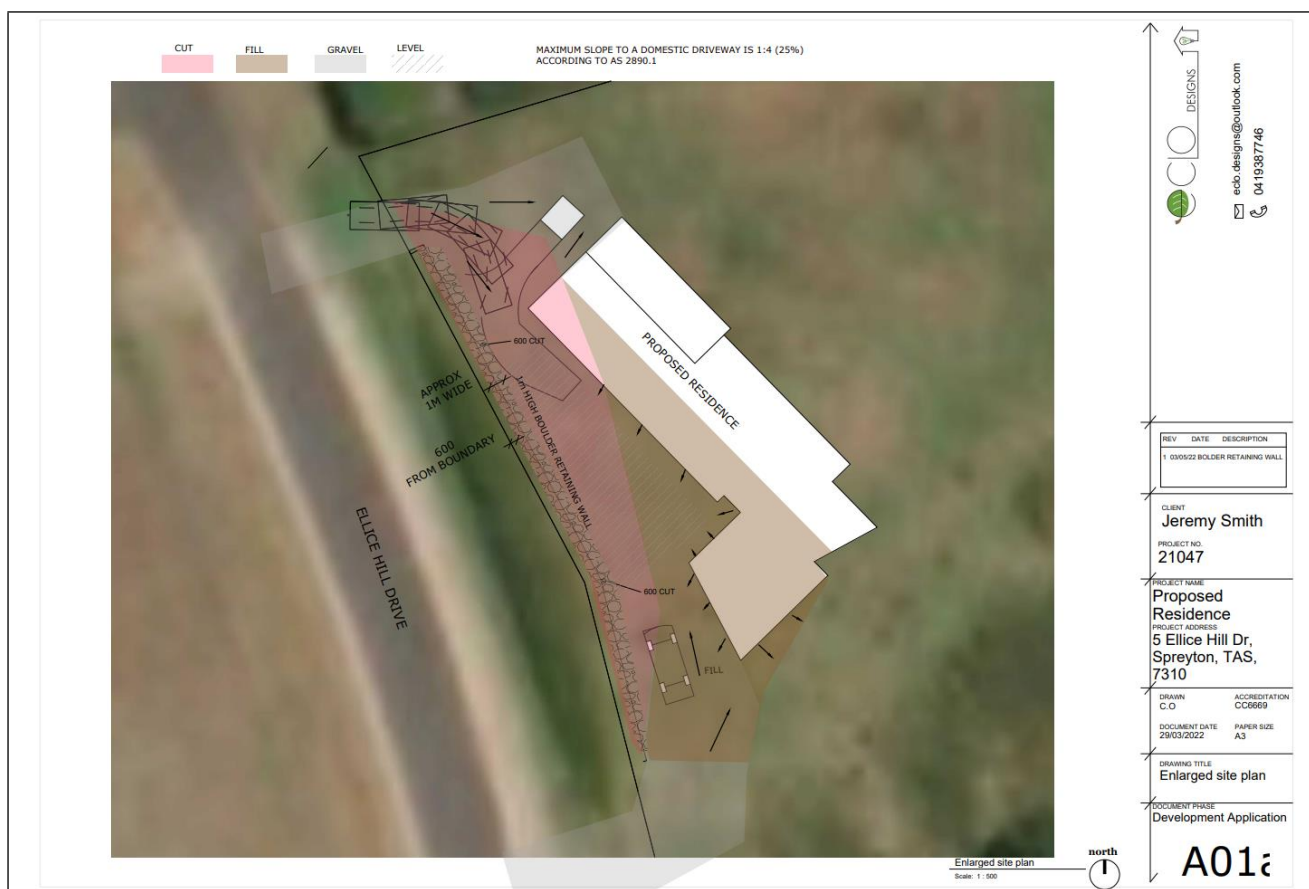


Figure 4 – Site detail

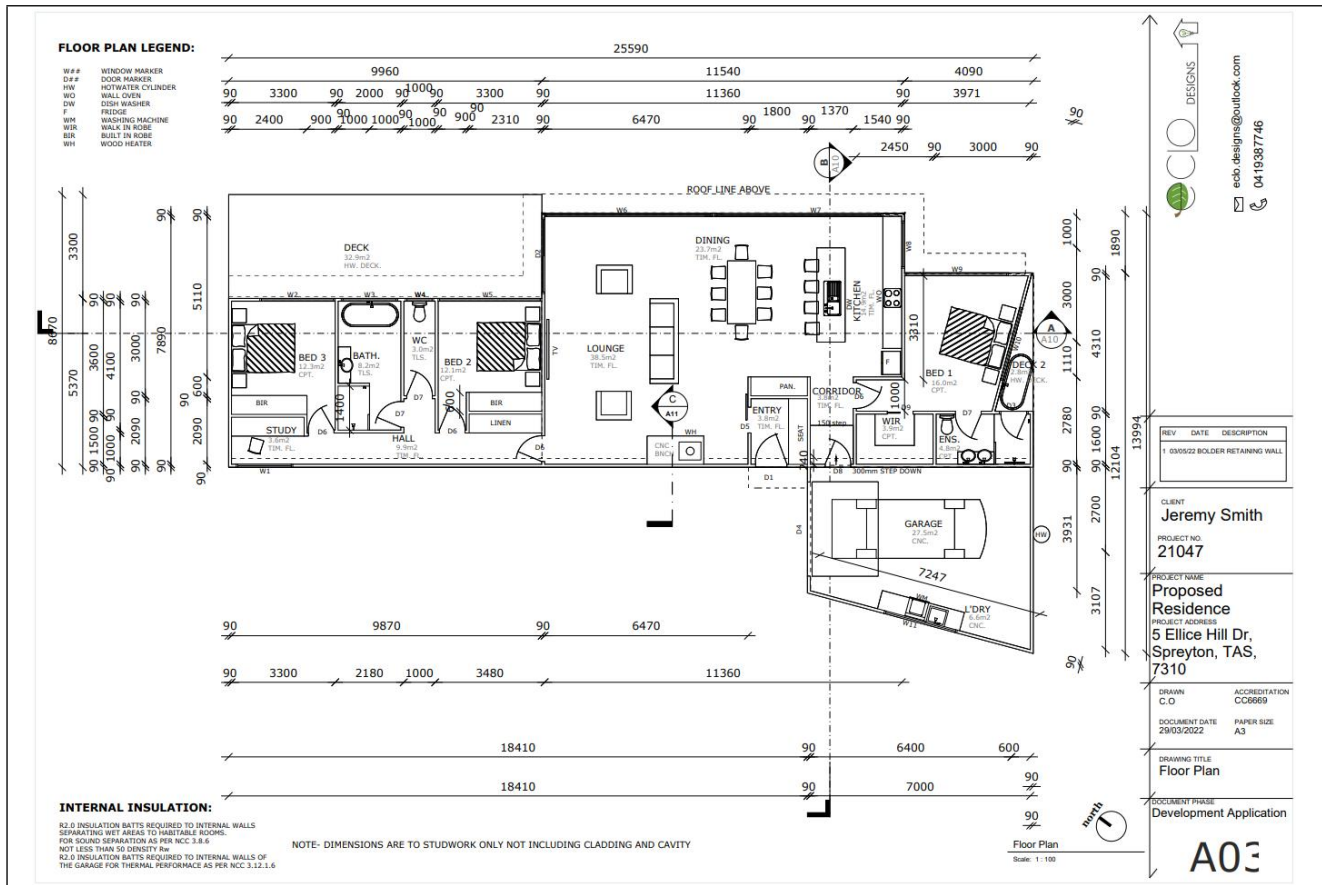


Figure 5 – Floor plan



Figure 6 – Elevations: 1 of 2

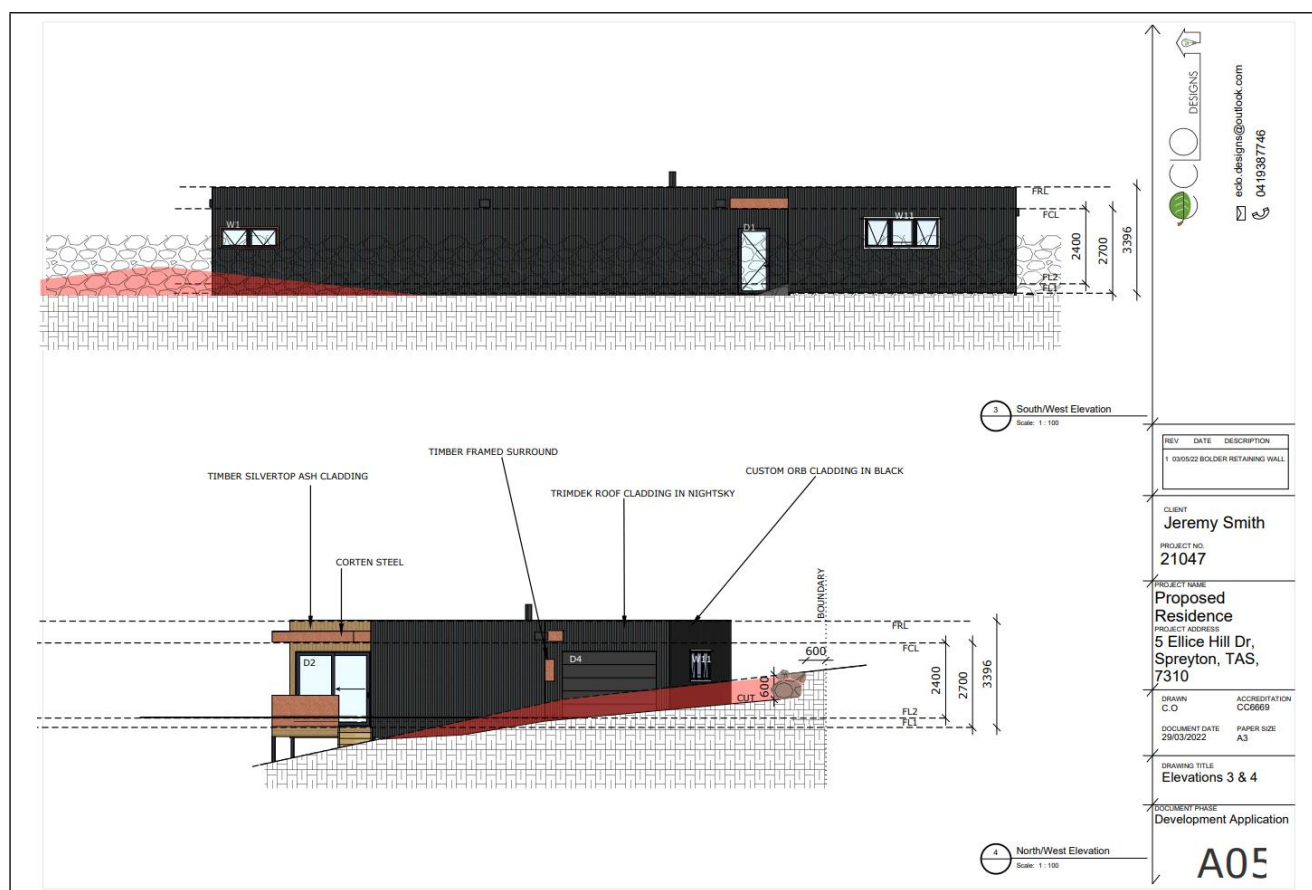


Figure 7 – Elevations: 2 of 2

## PLANNING ISSUES

The land is zoned Rural Living A under the *Tasmanian Planning Scheme – Devonport, 2020*. The purpose of the Rural Living zone is:

- 11.1.1 To provide for residential use or development in a rural setting where:
  - (a) Services are limited; or
  - (b) Existing natural landscape values are to be retained.
- 11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.
- 11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.
- 11.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Residential use for a single dwelling does not require a planning permit in the Rural Living zone. Where development cannot meet the relevant acceptable solutions for the design standards a planning permit can be sought under Section 57 of the *Land Use Planning and Approvals Act 1993*.

The proposed development cannot meet the relevant acceptable solutions for clause 11.4.2 A2. An assessment of the applicable performance criteria of the Development Standards under the Rural Living zone follows.



### 11.4.2 Building height, setback and siting

<b>Objective:</b> That height, setback and siting of buildings: <ul style="list-style-type: none"> <li>(a) is compatible with the character of the area;</li> <li>(b) does not cause an unreasonable loss of amenity;</li> <li>(c) minimises the impact on the natural values of the area; and</li> <li>(d) minimises the impact on adjacent uses.</li> </ul>	
Acceptable Solution	Performance Criteria
<b>A2</b> Buildings must have a setback from a frontage of not less than 20m.	<b>P2</b> Buildings must be sited to be compatible with the character of the area, having regard to: <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the setbacks of adjacent buildings;</li> <li>(c) the height, bulk and form of existing and proposed buildings;</li> <li>(d) the appearance when viewed from roads and public places; and</li> <li>(e) the retention of vegetation.</li> </ul>

**P2** – the proposed dwelling has a minimum frontage setback of 5m. The subject site is significantly constrained due to the topography which drops steeply approximately 30m from the road. The appearance of the proposed single storey dwelling will be minimised due to finished surface levels of the subject site which are lower than the road.

### C2.6.2 Number of accesses for vehicles

<b>Objective:</b> That: <ul style="list-style-type: none"> <li>a) access to land is provided which is safe and efficient for users of the land and all road network users, including but not limited to drivers, passengers, pedestrians and cyclists by minimising the number of vehicle accesses;</li> <li>b) accesses do not cause an unreasonable loss of amenity of adjoining uses; and</li> <li>c) the number of accesses minimise impacts on the streetscape.</li> </ul>	
Acceptable Solution	Performance Criteria
<b>A1</b> The number of accesses provided for each frontage must: <ul style="list-style-type: none"> <li>a) be no more than 1; or</li> <li>b) no more than the existing number of accesses;</li> </ul> whichever is the greater.	<b>P1</b> The number of accesses for each frontage must be minimised, having regard to: <ul style="list-style-type: none"> <li>a) any loss of on-street parking; and</li> <li>b) pedestrian safety and amenity;</li> <li>c) traffic safety;</li> <li>d) residential amenity on adjoining land; and</li> <li>e) the impact on the streetscape.</li> </ul>

**P1** – the proposal includes an additional crossover at the southern end of the frontage. The street is of a rural standard with no formalised street parking or pedestrian paths. Adjoining neighbours have similar if not larger frontages which ensures any impact to streetscape as a result of the additional crossover is negligible.

The subject site is affected by the Landslip Hazard and Bushfire-Prone Area codes. The proposed development for a single dwelling is exempt from the standards of these codes.

There are no specific area plans which apply to the subject site.

The proposed retaining walls do not meet all the requirements for exemption as listed in Table 4.6.8, being the retaining has a difference in ground level of 1m and is located within 1.5m of the property boundary.

There are no specific design standards to assess the proposed retaining wall under the Rural Living zone or any other provisions within the *Tasmanian Planning Scheme – Devonport 2020*.

The structural requirement for the retaining walls will be managed through the National Construction Code and Building Act. The location of the retaining wall will ensure there is no detrimental impact to adjoining properties.

### COMMUNITY ENGAGEMENT

On 29/04/2022, 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 14/05/2022;
- (b) Making a copy of the proposal available in Council Offices from the 14/05/2022;
- (c) Notifying adjoining property owners by mail on 12/05/2022; and
- (d) Erecting a Site Notice for display from the 13/05/2022.

The period for representations to be received by Council closed on 27/05/2022.

### REPRESENTATIONS

Two representations were received within the prescribed 14 day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. The representations as summarised have concerns regarding reduced frontage setback and external cladding materials.

#### Reduced frontage setback

- The applicant has sought a planning permit to reduce the setback from the frontage. The acceptable solutions state 20m as a suitable distance, while the performance criteria outline parameters to be addressed for a reduction of this distance. The drawings provided clearly indicate what has been confirmed on-site, that the challenging typography of the site warrants concession on the setback as permitted under the Rural Living zone.

Further to this concern, the proposed dwelling has been located at least 10m from the side boundary, in accordance with the acceptable solution, and the natural fall of the site means the single storey dwelling will have very little impact to the streetscape when viewed from the road.

#### External cladding materials

- The representors identify issue with the external cladding materials and non-compliance with a restriction contained within a covenant affecting the subject site and a further 16 lots. The covenant is between the Vendor and the Owners' of every lot shown on the plan of subdivision. There is no part under the *Tasmanian Planning Scheme – Devonport 2020* or the *Land Use Planning and Approvals Act 1993* which requires the Council to enforce such covenants.

Architectural aesthetics and building material technology have changed significantly the last 30 years. The purpose of such covenants, which in this instance was created in 1989, was to control the aesthetic appearance of dwellings to maintain what was deemed appropriate for 'high-end realestate' at that time, mostly to prevent fibre cement cladding or raw galvanised iron sheeting.

A complete version of the representations are appended to this report as **Attachment 2 & 3**.

### **DISCUSSION**

The application has been referred internally to Council's development review staff.

Feedback received has been included as conditions and notes where appropriate.

### **FINANCIAL IMPLICATIONS**

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

### **RISK IMPLICATIONS**

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

### **CONCLUSION**

The 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 - PA2022.0066 - 5 Ellice Hill Drive - Residential (single dwelling) [**4.2.1** - 65 pages]
2. Representation - PA2022.0066 - 5 Ellice Hill Drive - Dave Renoden [**4.2.2** - 1 page]
3. Representation - PA2022.0066 - 5 Ellice Hill Drive - Mark & Johanna Wright [**4.2.3** - 5 pages]



### 4.3 PA2022.0050 - 62 WENVOE STREET DEVONPORT - RESIDENTIAL (SINGLE DWELLING) - ALTERATIONS AND ADDITIONS

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

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 PA2022.0050 and grant a Permit to use and develop land identified as 62 Wenvoe Street, Devonport for the following purposes:

- Residential (single dwelling) - alterations and additions

Subject to the following conditions:

1. Unless altered as a result of subsequent conditions, the Use and Development is to proceed generally in accordance with the submitted plans referenced as Proposed Second Storey Extension, Project No. 20024, Rev 2 dated 22/21/22 (read 22/2/22) by eclo Designs, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The kitchen windows are to utilise obscure glazing or have a sill height 1.7m above finished floor level unless it can be demonstrated that the windows will be offset, in the horizontal plane, not less than 1.5m from the edge of a window to a habitable room of the dwelling to the north.
3. All stormwater including surface water from the driveway and/or any paved areas, is to be collected and directed into the existing property stormwater pipe in accordance with the National Construction Code.
4. The developer is responsible for making good and/or cleaning any footpaths, road surfaces or other element damaged or soiled because of the project.

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 conditions 3 & 4 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 planning application PA2022.0050.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	62 Wenvoe Street, Devonport
Applicant:	Eclo
Owner:	Mr TL Colledge
Proposal:	Residential (single dwelling) - alterations and additions
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	01/06/2022 – extension granted

## SITE DESCRIPTION

The site is located on the western side of Wenvoe Street with an area of 546m<sup>2</sup> and contains an existing dwelling surrounded by established residential uses. The land falls approximately 1.5m from north to south. Figure 1 shows an aerial view of the subject site.



Figure 7 - Aerial view of subject site and surrounding area

## APPLICATION DETAILS

The applicant is seeking approval for additions and alterations to the existing dwelling. A second storey will be added to the building, along with a garage on the southern side. Figures 2 – 8 Show the proposal plans.

A full copy of the development plans and application documentation is appended as **Attachment 1**.



Figure 8 - Proposed site plan

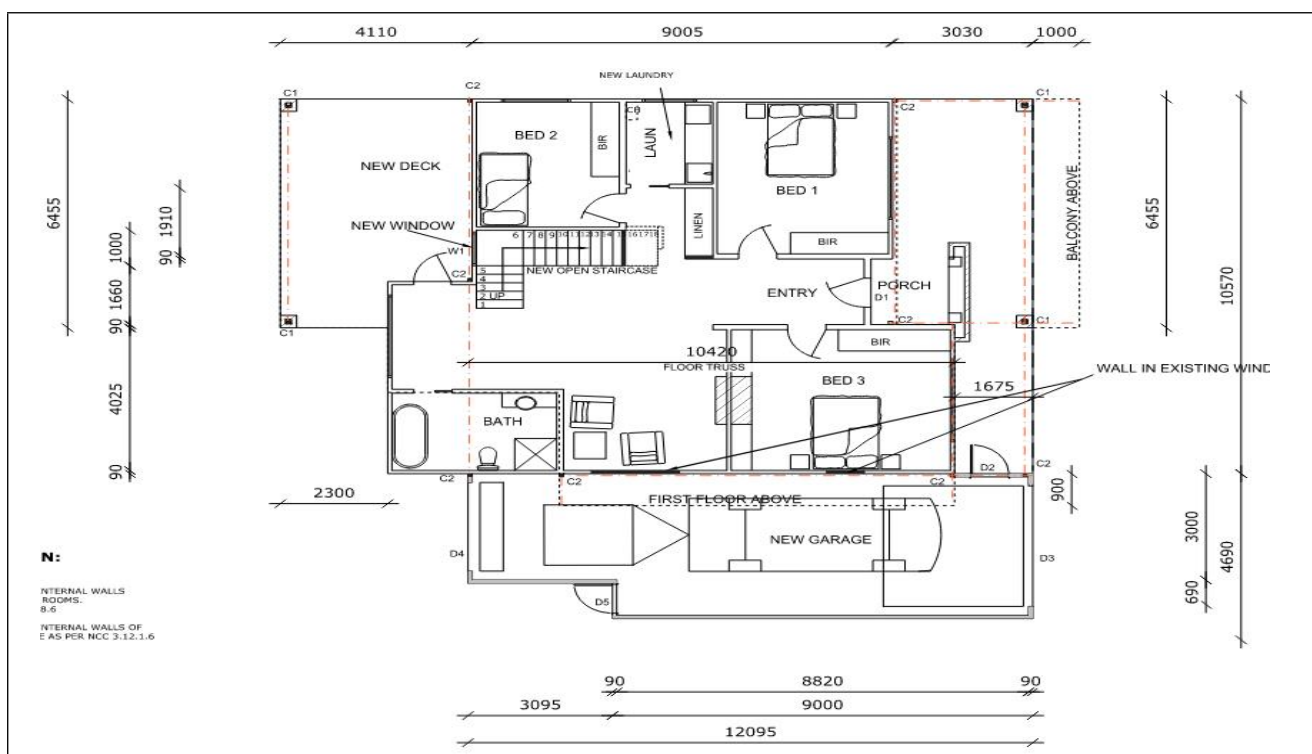


Figure 9 - Ground floor plan

Architectural drawings of the four elevations of a single-story house. The drawings include the East Elevation (top left), North Elevation (top right), West Elevation (bottom left), and South Elevation (bottom right). Each elevation shows the house's profile with a dark brown gabled roof, light gray horizontal siding, and a foundation of stone blocks. The East Elevation shows a central door and two windows. The North Elevation shows a side door and two windows. The West Elevation shows a side door and two windows. The South Elevation shows a side door and two windows. Each drawing includes height markers for FRL, PCL, and EFL, and a scale of 1:100.

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Figure 12 - North and south elevations

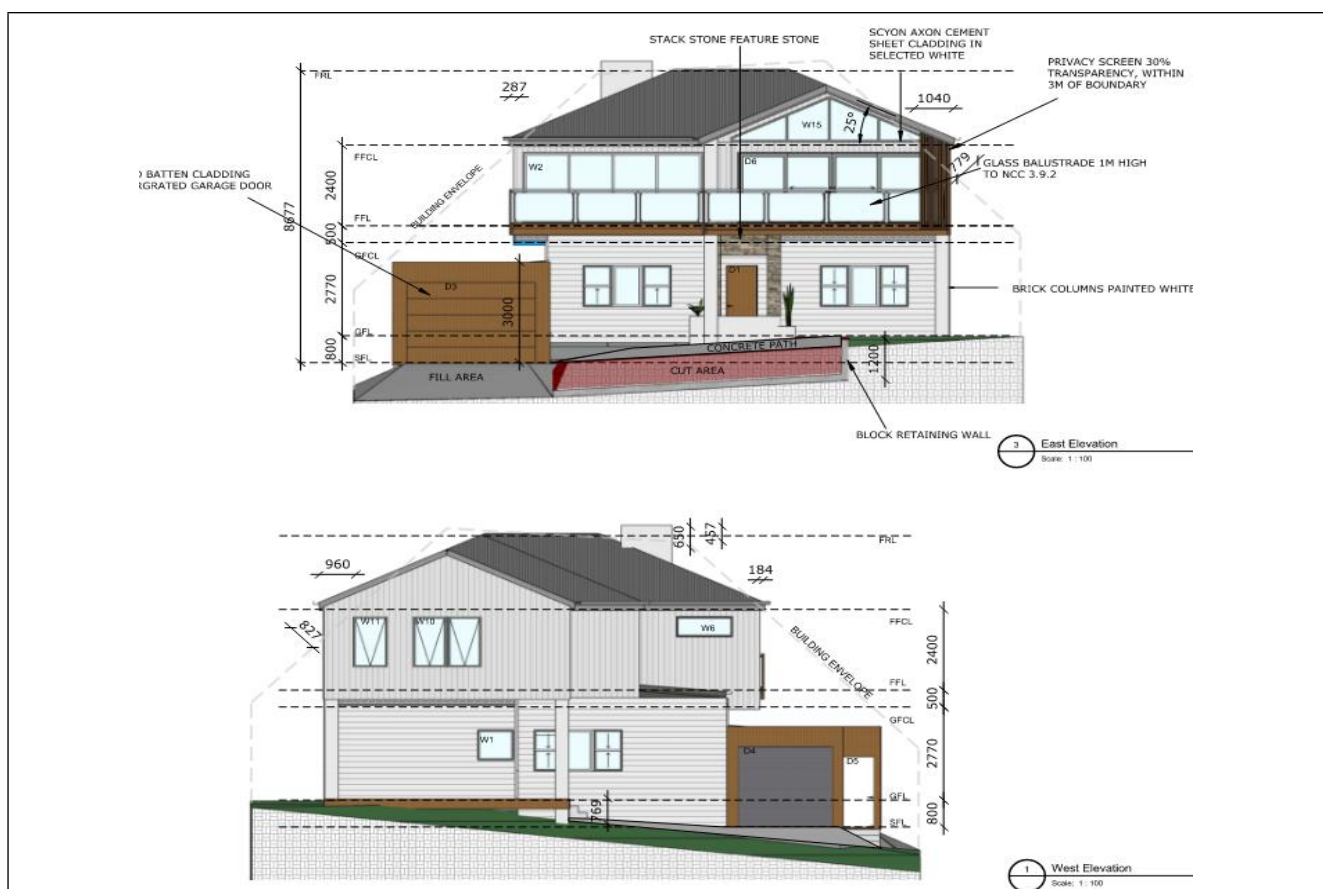


Figure 13 - East and west elevations

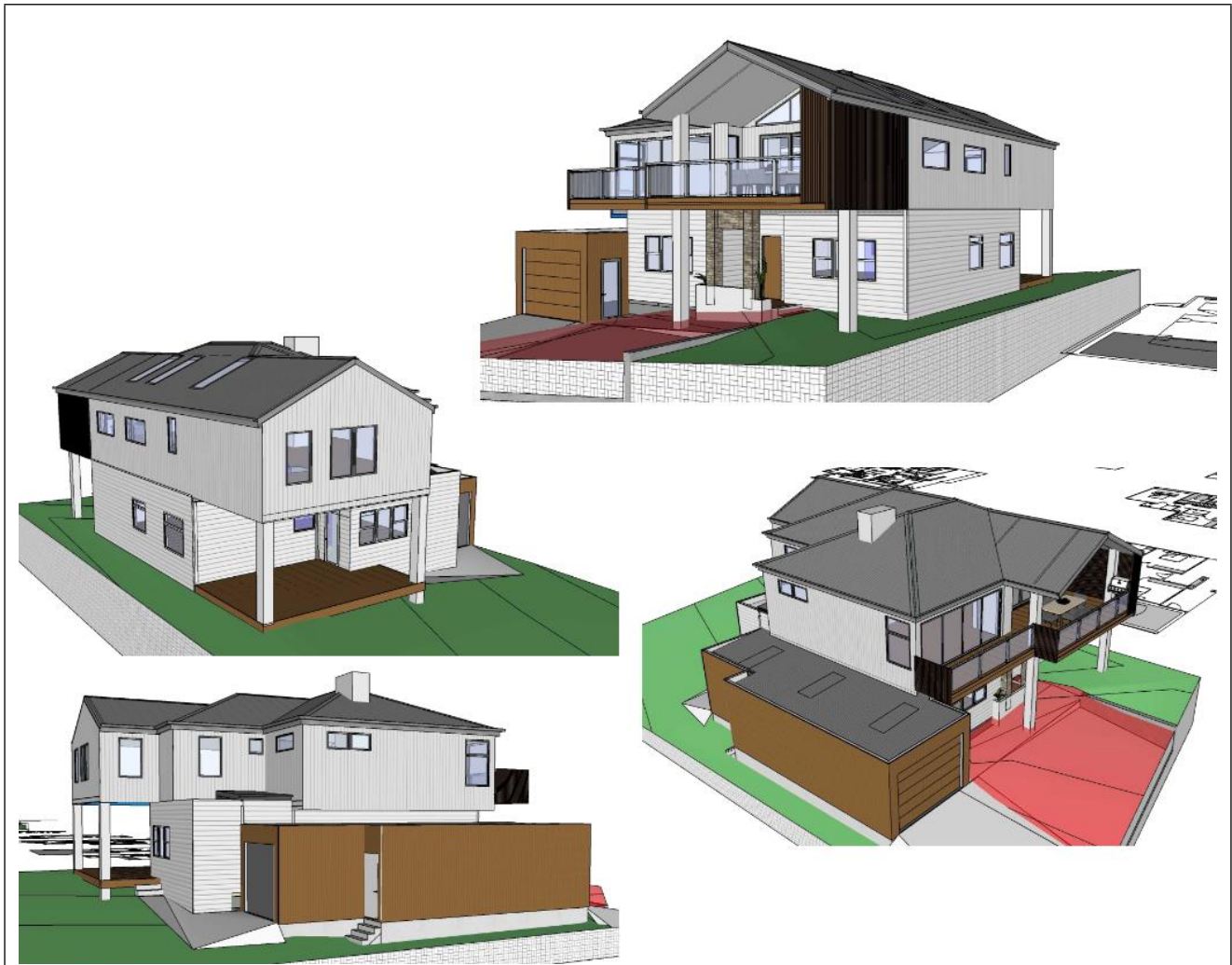


Figure 14 - Isometric drawings

### PLANNING ISSUES

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

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

Residential use does not require a planning permit in the General Residential zone provided it meets all relevant acceptable solutions contained within the zone and any applicable codes. In instances where the acceptable solutions cannot be met the corresponding

performance criteria must be satisfied which triggers a discretionary application process in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

In this case the proposal falls outside the stipulated building envelope, does not meet the required front setback, and can be seen from the street within a Local Heritage Precinct.

Each of these issues fall outside the acceptable solutions, therefore requiring a discretionary application.

The relevant sections of the planning scheme are reproduced below, followed by assessment.

#### 8.4.2 Setbacks and building envelope for all dwellings

Objective:	<p>The siting and scale of dwellings:</p> <ul style="list-style-type: none"> <li>(a) provides reasonably consistent separation between dwellings and their frontage within a street;</li> <li>(b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings;</li> <li>(c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and</li> <li>(d) provides reasonable access to sunlight for existing solar energy installations.</li> </ul>
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>Unless within a building area on a sealed plan, a dwelling, excluding garages, carports and protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage that is:</p> <ul style="list-style-type: none"> <li>(a) if the frontage is a primary frontage, not less than 4.5m, or, if the setback from the primary frontage is less than 4.5m, not less than the setback, from the primary frontage, of any existing dwelling on the site;</li> <li>(b) if the frontage is not a primary frontage, not less than 3m, or, if the setback from the frontage is less than 3m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site;</li> <li>(c) if for a vacant site and there are existing dwellings on adjoining properties on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</li> <li>(d) if located above a non-residential use at ground floor level, not less than the setback from the frontage of the ground floor level.</li> </ul>	<p><b>P1</b></p> <p>A dwelling must have a setback from a frontage that is compatible with the streetscape, having regard to any topographical constraints.</p>

Comment – A setback of 3.063m from the frontage is proposed. This does not meet the required 4.5m setback however the performance criteria can be satisfied as setbacks in the area are as little as 2.5m. The streetscape is defined within the scheme as the area on both sides of the street for a distance of approximately 100m from the subject site.

The performance criteria is satisfied.

<p><b>A2</b></p> <p>A garage or carport for a dwelling must have a setback from a primary frontage of not less than:</p> <ul style="list-style-type: none"> <li>(a) 5.5m, or alternatively 1m behind the building line;</li> <li>(b) the same as the building line, if a portion of the dwelling gross floor area is located above the garage or carport; or</li> <li>(c) 1m, if the existing ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10m from the frontage.</li> </ul>	<p><b>P2</b></p> <p>A garage or carport for a dwelling must have a setback from a primary frontage that is compatible with the setbacks of existing garages or carports in the street, having regard to any topographical constraints.</p>
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Comment – The garage has a setback of 6.142m. The acceptable solution is met.

<p><b>A3</b></p> <p>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must:</p> <ul style="list-style-type: none"> <li>(a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by: <ul style="list-style-type: none"> <li>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a property with an adjoining frontage; and</li> <li>(ii) projecting a line at an angle of 45 degrees</li> </ul> </li> </ul>	<p><b>P3</b></p> <p>The siting and scale of a dwelling must:</p> <ul style="list-style-type: none"> <li>(a) not cause an unreasonable loss of amenity to adjoining properties, having regard to: <ul style="list-style-type: none"> <li>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;</li> <li>(ii) overshadowing the private open space of a dwelling on an adjoining property;</li> <li>(iii) overshadowing of an adjoining vacant property; or</li> </ul> </li> </ul>
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<p>from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of not more than 8.5m above existing ground level; and</p> <p>(b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling:</p> <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or</p> <p>(ii) does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</p>	<p>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</p> <p>(b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:</p> <p>(i) an adjoining property; or</p> <p>(ii) another dwelling on the same site.</p>
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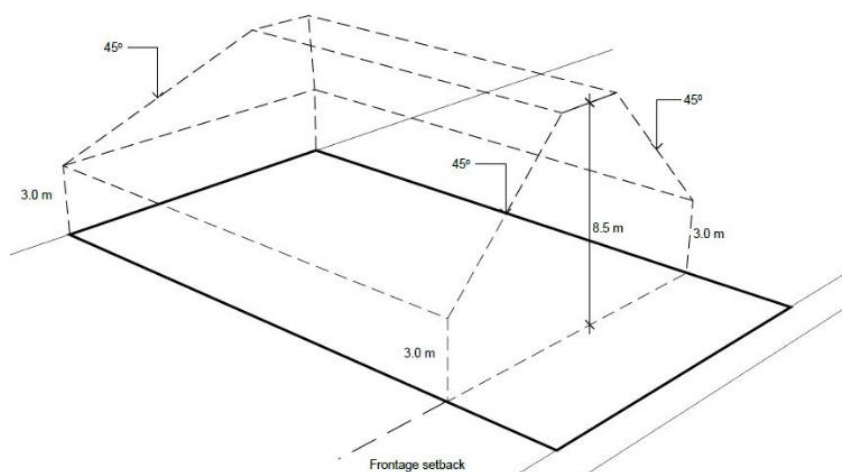


Figure 8.1 Building envelope as required by clause 8.4.2 A3(a) and clause 8.5.1 A2(a)

Comment – The proposal falls outside the building envelope on the northern side of the building. A small section also falls outside the envelope on the southern side however this is within the allowable 900mm horizontal protrusion.

The section of the dwelling that does not meet the requirements of the above clause is able to meet the performance criteria as it will not cause an unreasonable loss of amenity to adjoining properties. The bulk and scale of the dwelling will not result in any unreasonable visual impact and is consistent in appearance with other dwellings the area.

No overshadowing will occur on neighbouring properties as a result of the building envelope intrusion. Overshadowing will occur on the property to the south as a result of the proposal however this would be from a section of building that is contained within the building envelope.

The performance criteria is satisfied.

### 8.4.3 Site coverage and private open space for all dwellings

Objective:	That dwellings are compatible with the amenity and character of the area and provide: <ul style="list-style-type: none"> <li>(a) for outdoor recreation and the operational needs of the residents;</li> <li>(b) opportunities for the planting of gardens and landscaping; and</li> <li>(c) private open space that is conveniently located and has access to sunlight.</li> </ul>	
Acceptable Solutions		Performance Criteria
<b>A1</b> Dwellings must have: <ul style="list-style-type: none"> <li>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m wide); and</li> <li>(b) for multiple dwellings, a total area of private open space of not less than 60m<sup>2</sup> associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer).</li> </ul>		<b>P1</b> Dwellings must have: <ul style="list-style-type: none"> <li>(a) site coverage consistent with that existing on established properties in the area;</li> <li>(b) private open space that is of a size and with dimensions that are appropriate for the size of the dwelling and is able to accommodate:               <ul style="list-style-type: none"> <li>(i) outdoor recreational space consistent with the projected requirements of the occupants and, for multiple dwellings, take into account any common open space provided for this purpose within the development; and</li> <li>(ii) operational needs, such as clothes drying and storage; and</li> </ul> </li> <li>(c) reasonable space for the planting of gardens and landscaping.</li> </ul>

Comment – The proposed site coverage is 35%. The acceptable solution is met.

<p><b>A2</b></p> <p>A dwelling must have private open space that:</p> <p>(a) is in one location and is not less than:</p> <ul style="list-style-type: none"> <li>(i) 24m<sup>2</sup>; or</li> <li>(ii) 12m<sup>2</sup>, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer);</li> </ul> <p>(b) has a minimum horizontal dimension of not less than:</p> <ul style="list-style-type: none"> <li>(i) 4m; or</li> <li>(ii) 2m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer);</li> </ul> <p>(c) is located between the dwelling and the frontage only if the frontage is orientated between 30 degrees west of true north and 30 degrees east of true north; and</p> <p>(d) has a gradient not steeper than 1 in 10.</p>	<p><b>P2</b></p> <p>A dwelling must have private open space that includes an area capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and is:</p> <ul style="list-style-type: none"> <li>(a) conveniently located in relation to a living area of the dwelling; and</li> <li>(b) orientated to take advantage of sunlight.</li> </ul>
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Comment – The dwelling will have an area of private open space in excess of 180m<sup>2</sup>, facing north with a minimum horizontal dimension of 9m and a slope less than 1 in 10. The acceptable solution is met.

#### 8.4.5 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
<p><b>A1</b></p> <p>A garage or carport for a dwelling within 12m of a primary frontage, whether the garage or carport is free-standing or part of the dwelling, must have a total width of openings facing the primary frontage of not more than 6m or half the width of the frontage (whichever is the lesser).</p>	<p><b>P1</b></p> <p>A garage or carport for a dwelling must be designed to minimise the width of its openings that are visible from the street, so as to reduce the potential for the openings of a garage or carport to dominate the primary frontage.</p>

Comment – The garage door has a width of 3.3m. The acceptable solution is met.

## 8.4.6 Privacy for all dwellings

Objective:	To provide a reasonable opportunity for privacy for dwellings.
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>A balcony, deck, roof terrace, parking space, or carport for a dwelling (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above existing ground level must have a permanently fixed screen to a height of not less than 1.7m above the finished surface or floor level, with a uniform transparency of not more than 25%, along the sides facing a:</p> <ul style="list-style-type: none"> <li>(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 3m from the side boundary;</li> <li>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 4m from the rear boundary; and</li> <li>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is not less than 6m: <ul style="list-style-type: none"> <li>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</li> <li>(ii) from a balcony, deck, roof terrace or the private open space of the other dwelling on the same site.</li> </ul> </li> </ul>	<p><b>P1</b></p> <p>A balcony, deck, roof terrace, parking space or carport for a dwelling (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above existing ground level, must be screened, or otherwise designed, to minimise overlooking of:</p> <ul style="list-style-type: none"> <li>(a) a dwelling on an adjoining property or its private open space; or</li> <li>(b) another dwelling on the same site or its private open space.</li> </ul>

Comment – The proposed balcony on the eastern side of the dwelling has a setback less than 3m to the side boundary. As such a permanent screen will be included to screen the property to the north. The acceptable solution is met.

<p><b>A2</b></p> <p>A window or glazed door to a habitable room of a dwelling, that has a floor level more than 1m above existing ground level, must satisfy (a), unless it satisfies (b):</p> <p>(a) the window or glazed door:</p> <ul style="list-style-type: none"> <li>(i) is to have a setback of not less than 3m from a side boundary;</li> <li>(ii) is to have a setback of not less than 4m from a rear boundary;</li> <li>(iii) if the dwelling is a multiple dwelling, is to be not less than 6m from a window or glazed door, to a habitable room, of another dwelling on the same site; and</li> <li>(iv) if the dwelling is a multiple dwelling, is to be not less than 6m from the private open space of another dwelling on the same site.</li> </ul> <p>(b) the window or glazed door:</p> <ul style="list-style-type: none"> <li>(i) is to be offset, in the horizontal plane, not less than 1.5m from the edge of a window or glazed door, to a habitable room of another dwelling;</li> <li>(ii) is to have a sill height of not less than 1.7m above the floor level or have fixed obscure glazing extending to a height of not less than 1.7m above the floor level; or</li> <li>(iii) is to have a permanently fixed external screen for the full length of the window or glazed door, to a height of not less than 1.7m above floor level, with a uniform transparency of not more than 25%.</li> </ul>	<p><b>P2</b></p> <p>A window or glazed door to a habitable room of a dwelling that has a floor level more than 1m above existing ground level, must be screened, or otherwise located or designed, to minimise direct views to:</p> <ul style="list-style-type: none"> <li>(a) a window or glazed door, to a habitable room of another dwelling; and</li> <li>(b) the private open space of another dwelling.</li> </ul>
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Comment - The northern elevation of the second storey contains three windows within 3m of the northern boundary. The windows are located within the kitchen and walk-in pantry.

The windows of the adjacent dwelling to the north appear to be bathroom and toilet windows with obscure glazing however the easternmost window is that of a bedroom or living area. A condition will be placed on the permit requiring that the kitchen windows utilise obscure glazing or have a sill height of 1.7m above finished floor level unless it can be otherwise demonstrated that the windows are offset from the adjacent property windows by not less than 1.5m on the horizontal plane. The acceptable solution can be met through the introduction of a condition.

## C6.0 Local Historic Heritage Code

The subject site is located within the Wenvoe and Hiller Street Local Heritage Precinct and therefore subject to the Local Historic Heritage Code.

### C6.7.3 Buildings and works, excluding demolition

Objective:	That development within a local heritage precinct or a local historic landscape precinct is sympathetic to the character of that particular precinct.	
Acceptable Solutions		Performance Criteria
<b>A1</b> Within a local heritage precinct or local historic landscape precinct, building and works, excluding demolition, must: <ul style="list-style-type: none"> <li>(a) not be on a local heritage place;</li> <li>(b) not be visible from any road or public open space; and</li> <li>(c) not involve a value, feature or characteristic specifically part of a local heritage precinct or local historic landscape precinct listed in the relevant Local Provisions Schedule.</li> </ul>		<b>P1.1</b> Within a local heritage precinct, design and siting of buildings and works, excluding demolition, must be compatible with the local heritage precinct, except if a local heritage place of an architectural style different from that characterising the precinct, having regard to: <ul style="list-style-type: none"> <li>(a) the streetscape or townscape values identified in the local historic heritage significance of the local heritage precinct, as identified in the relevant Local Provisions Schedule;</li> <li>(b) the character and appearance of the surrounding area;</li> <li>(c) the height and bulk of other buildings in the surrounding area;</li> <li>(d) the setbacks of other buildings in the surrounding area; and</li> <li>(e) any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.</li> </ul> <b>P1.2</b> Within a local heritage precinct, extensions to existing buildings must be compatible with the local heritage precinct, having regard to:



	<ul style="list-style-type: none"> <li>(a) the streetscape or townscape values identified in the local historic heritage significance of the local heritage precinct, as identified in the relevant Local Provisions Schedule;</li> <li>(b) the character and appearance of the surrounding area;</li> <li>(c) the height and bulk of other buildings in the surrounding area;</li> <li>(d) the setbacks of other buildings in the surrounding area; and</li> <li>(e) any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.</li> </ul> <p><b>P1.3</b></p> <p>Within a local historic landscape precinct, design and siting of buildings and works, excluding demolition, must be compatible with the local historic landscape precinct, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the landscape values identified in the statement of local historic heritage significance for the local historic landscape precinct, as identified in the relevant Local Provisions Schedule; and</li> <li>(b) any relevant design criteria or conservation policies for the local historic landscape precinct, as identified in the relevant Local Provisions Schedule.</li> </ul>
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Comment – As the additions will be visible from the street the performance criteria must be satisfied.

Clause P1.2 is relevant as it applies to extensions to existing buildings.

The proposal is deemed to be compatible with the local heritage precinct which contains a variety of styles from a range of eras. The buildings in the precinct range from modest single storey dwellings to grand double storey buildings of varying setbacks and heights.

There are no design criteria or conservation policies for this precinct. The proposal satisfies the performance criteria.

<p><b>A2</b></p> <p>Within a local heritage precinct, new front fences and gates must be designed and constructed to match the existing original fences on the site.</p>	<p><b>P2</b></p> <p>Within a local heritage precinct, new front fences and gates must be compatible with the local heritage precinct, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the streetscape or townscape values identified in the local historic heritage significance of the local heritage precinct, as identified in the relevant Local Provisions Schedule;</li> <li>(b) height, form, style and materials of the proposed fence; and</li> <li>(c) the style, characteristics and setbacks of fences and gates in the surrounding area.</li> </ul>
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Comment – Not applicable. No front fences are proposed.

### COMMUNITY ENGAGEMENT

On 20/04/2022, 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 30/04/2022;
- (b) Making a copy of the proposal available in Council Offices from the 30/04/2022;
- (c) Notifying adjoining property owners by mail on 28/04/2022; and
- (d) Erecting a Site Notice for display from the 28/04/2022.

The period for representations to be received by Council closed on 13/05/2022.

### REPRESENTATIONS

Two representations were received within the prescribed 14 day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. One of the representors lives nearby while the other owns the property to the south.

In considering representations the planning scheme states the following:

- 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.

This means that all matters raised by a representation must relate to the discretions triggered by the proposal in order to be considered when making a decision.

The first representation is as follows:

I have no problem with the planning permit per say.

My main issue is the location of the house as it is close to the corner of Hilltop Ave and also close to the vertical bend on Wenvoe Street.

I just want to raise this as it is very restrictive for vehicle access around this area and wanted to make sure this is considered as part of the permit as I am not aware of the contractors and vehicles involved in the work being carried out.

If it gets very busy in that area with traffic it may result in safety hazards and frustration for all concerned.

Perhaps a no parking zone could be considered if appropriate and achievable.

My intention is to only highlight this, not to affect the outcome of the application

The issues raised are not relevant to the discretions relating to the proposal however such matters require compliance with road rules and any permit to work within the road reserve.

No changes to the proposal are deemed warranted as a result of the representation.

The second representation is reproduced below:

**I am writing to lodge my strong objection to the above proposed alterations and additions to 62 Wenvoe St, Devonport.**

**My main concerns are a) the marked reduction of sunlight (and therefore increase in shade) and b) the potential loss of privacy that my property at 64 Wenvoe St will receive if this building goes ahead.**

- After many years of saving, I have recently completed a renovation myself, adding some much needed living/dining space and windows to maximise the light within my house. This will be all but eliminated with a large building on the northern side of my property.
- As 62 Wenvoe St is situated on higher ground than my property, I am already partly in shadow, and if the proposed development goes ahead, I will lose even more of the northern light/sun.
- I enjoy growing my own produce and struggle to find an area that receives enough sunshine already, so this will be made even more difficult, if not impossible, by a very large house casting a shadow over my back garden. Even a simple thing such as getting washing dry on the clothesline will be an issue.
- I operate an Airbnb business, offering one bedroom accommodation in my home to travellers to Tasmania. I receive many positive comments and recommendations about my house, and guests enjoy spending time in the garden (as do I). If the development next door is approved, both the privacy and sunshine will be markedly reduced, which will certainly be detrimental to my business.
- I am considering installing solar panels, however this would not be viable if the north-facing roof is in shade for much of the day.
- Looking forward, if decide to sell my property in the future, my opinion is that the "saleability" will be markedly reduced if there is minimal sunlight and privacy both within the house and in the garden, which will be a hindrance to potential buyers. I purchased my home 17 years ago fairly safe in the knowledge that it would be very unlikely that a large, double storey house would be built next door to me in this heritage precinct.

I have worked very hard for many years to create a beautiful home and garden that I take great pride in, and it is my opinion that if the very large development goes forward at 62 Wenvoe St, many of the features I have worked hard to achieve will be compromised, and the value of my property will decrease if dwarfed by such a substantial construction.

The main concerns raised are loss of amenity as a result of overshadowing and a loss of privacy.

The closest windows to the southern boundary have a setback of approximately 4.25m. This satisfies the required setback of 3m.

The concerns raised regarding overshadowing are understandable. As the subject site is both higher and on the northern side of the representor's home overshadowing is an issue even given the current situation, with the existing dwelling having a height above ground level of only 4.3m. As the planning scheme allows for a maximum height above ground level of 8.5m overshadowing has the potential to be quite an issue, especially when making full use of the allowable height, as is the case in this instance.

The applicant has altered the proposal to ensure compliance with the building envelope requirements for the southern side of the site. Figures 9 & 10 show shadow diagrams for the 21<sup>st</sup> of June. Figure 9 shows the shadow caused by the existing house, existing fence and proposed extensions. Figure 10 shows the angle of the shadow. As shown below, even the existing fence casts quite a long shadow.



Figure 15 - Shadow diagrams

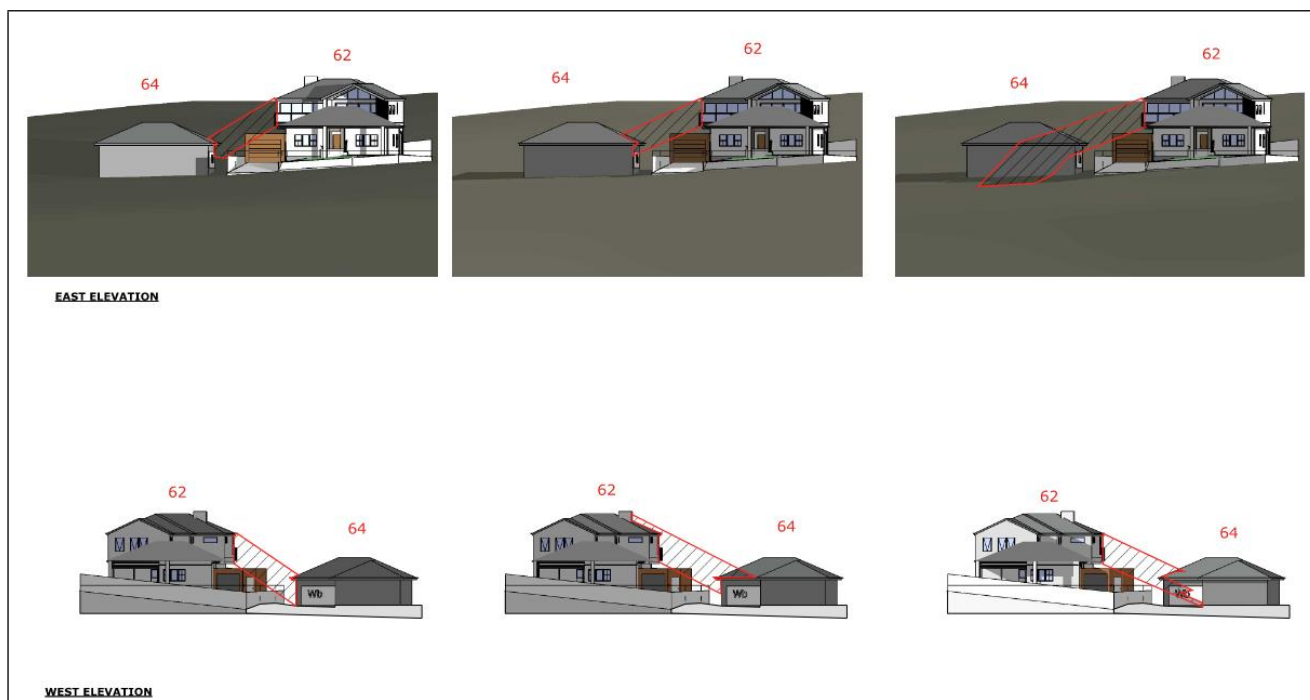


Figure 16 - Shadow diagrams

Although the overshadowing will be detrimental the proposal complies with the requirements of the planning scheme in regard to the building envelope on the southern side of the site. Therefore it is considered that the proposal should be approved, without modification.

### FINANCIAL IMPLICATIONS

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

### RISK IMPLICATIONS

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

### CONCLUSION

The proposal has been assessed and deemed to meet the requirements of the *Tasmanian Planning Scheme – Devonport* and can therefore be approved, with conditions.

### ATTACHMENTS

1. Application - PA2022.0050 - 62 Wenvoe Street [4.3.1 - 28 pages]
2. Representation - George Slessor - PA2022.0050 - 62 Wenvoe Street [4.3.2 - 1 page]
3. Representation - Linda Robertson - PA2022.0050 - 62 Wenvoe Street [4.3.3 - 1 page]

## **5 CLOSURE**