



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 8 May 2023, 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

03 05 2023

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 8 May 2023, in the Aberdeen Room, Level 2, paranple centre,137 Rooke
Street, Devonport at 5:15 PM**

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ATTENDEES

		Apology
Chair	Cr A Jarman (Mayor)	
	Cr S Sheehan (Deputy Mayor)	
	Cr G Ennis	
	Cr P Hollister	
	Cr L Murphy	
	Cr D Viney	

ACKNOWLEDGEMENT OF COUNTRY

Devonport City Council acknowledges and pays respect to the palawa-pakana people as the traditional and original owners of lutrawita and continuing custodians of this land on which we gather.

We also acknowledge and pay our respects to the Tasmanian Aboriginal elders past and present.

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 will also be live streamed on Council's YouTube channel.

1 APOLOGIES**LEAVE BLANK OR**

The following apology was received for the meeting.

Councillor's Name	Apology or Leave of Absence

2 DECLARATIONS OF INTEREST

3 DEVELOPMENT REPORTS

3.1 PA2023.0052 - 6 MERSEYVIEW COURT EAST DEVONPORT - RESIDENTIAL (SINGLE DWELLING AND RETAINING WALLS)

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

Endorser: **Kylie Lunson, Executive 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 PA2023.0052 and grant a Permit to develop land identified as 6 Merseyview Court, East Devonport for the following purposes:

- Residential (single dwelling and retaining wall)

Subject to the following conditions:

1. The Development is to proceed generally in accordance with the submitted plans referenced as Proposed Residence (Sheet Nos. A01-A06, REV:A), dated 17.03.2023 by RFS Projects, a copy of which is attached and endorsed as documents forming part of this Planning Permit.
2. All stormwater collected from the development is to be directed into the existing property stormwater pipe in accordance with the National Construction Code.
3. Certification and details from a suitably qualified civil or structural engineer must be submitted to Council regarding all retaining walls over the height of 1m.

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.

The developer is to seek written consent from Council's Infrastructure & Works Department if any access is proposed i.e., contractors or machinery within the adjoining Council reserve at 54 Caroline Street, East Devonport.

The development is to comply with the *Directors Determination - Landslip Hazard Areas*.

The development is to comply with the *Director's Guideline – Protection 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*.

Regarding conditions 2-3, the developer should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

Enquiries regarding other conditions and notes 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 PA2023.0052.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	6 Merseyview Court, East Devonport
Applicant:	RFS Projects Pty Ltd
Owner:	MR MJ Brown
Proposal:	Residential (single dwelling and retaining wall)
Existing Use:	Vacant Land
Zoning:	General Residential
Decision Due:	10/05/2023

SITE DESCRIPTION

The site is identified by certificate of title 176282/3 with the property address of 6 Merseyview Court, East Devonport. Prior to the subdivision of Merseyview Court, the site accommodated an above ground water reservoir. The subject lot has an area of 753m² and is immediately surrounded by single dwelling development to the east, south and west, with a Council reserve adjoining the site to the north. The site has a steep drop-off, particularly evident along the north-eastern corner of the lot.

Figures 1 and 2 are various images of the site. Figure 3 is an aerial image of the site and Figure 4 is a copy of the property's title plan.



Figure 1 – Image of the site looking from the Merseyview Court frontage (DCC, 2023)



Figure 2 – Image of the site looking along the northern boundary of the site to the west (DCC, 2023)



Figure 3 – Aerial image of the site (outlined in blue) and surrounds (DCC, 2022)

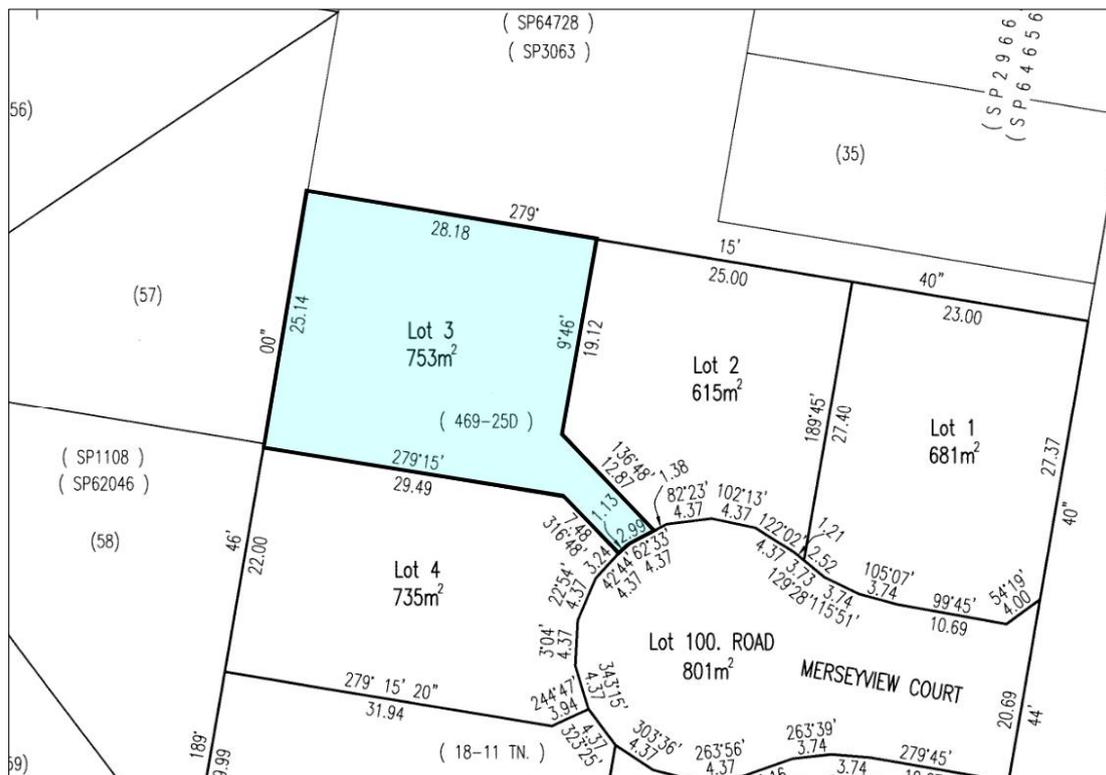


Figure 4 – Title Plan of the site - lot highlighted in blue (The LIST, 2019)

APPLICATION DETAILS

The applicant is seeking approval for a single storey dwelling. The dwelling will primarily be constructed from brick but includes various timber cladding finishes and a colorbond roof. The dwelling will have a total floor area of 374.5m² (dwelling 304m² and deck 70.5m²).

Proposed as part of the dwelling development is a retaining wall, which is proposed to be constructed to the respective north and west side boundaries. The retaining wall will have

a maximum height of 2.4m on the north-eastern corner of the lot. Associated fill works are also proposed as part of the retaining wall development, providing more usable outdoor space for future dwelling occupants.

Figure 5 is a copy of the site plan. Figure 6 is the floor plan. Figures 7-10 are the respective elevations. A full copy of the application is appended as an **Attachment** to this report.

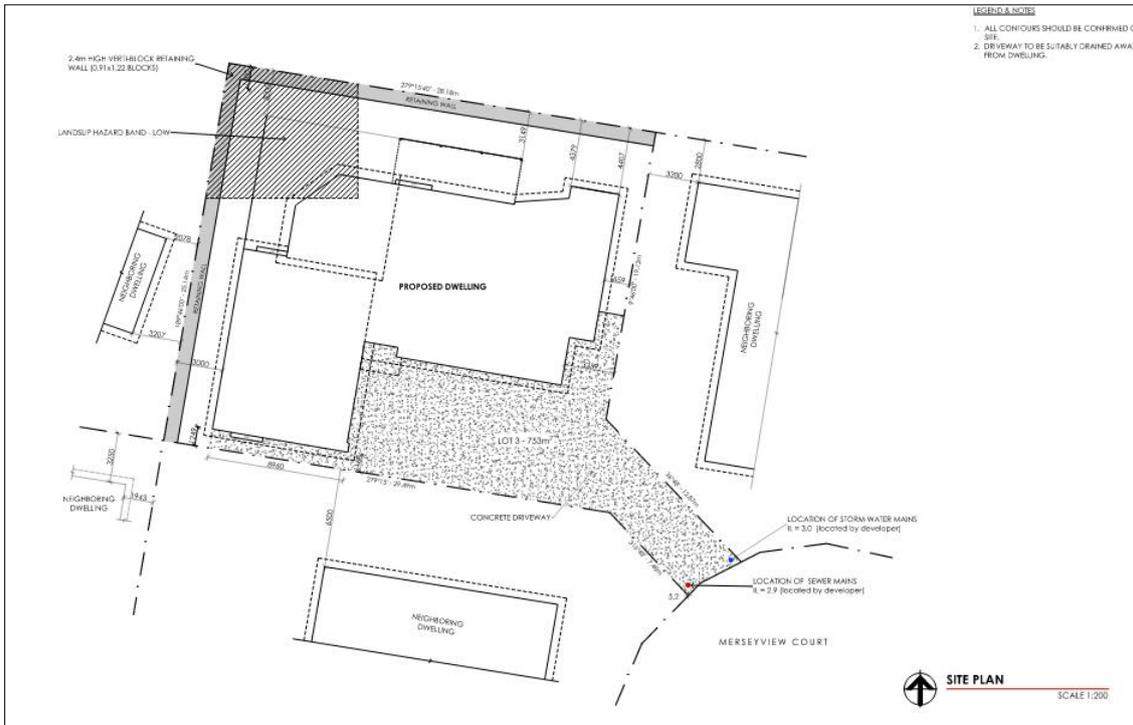


Figure 5 – Site plan (RFS Projects, 2023)

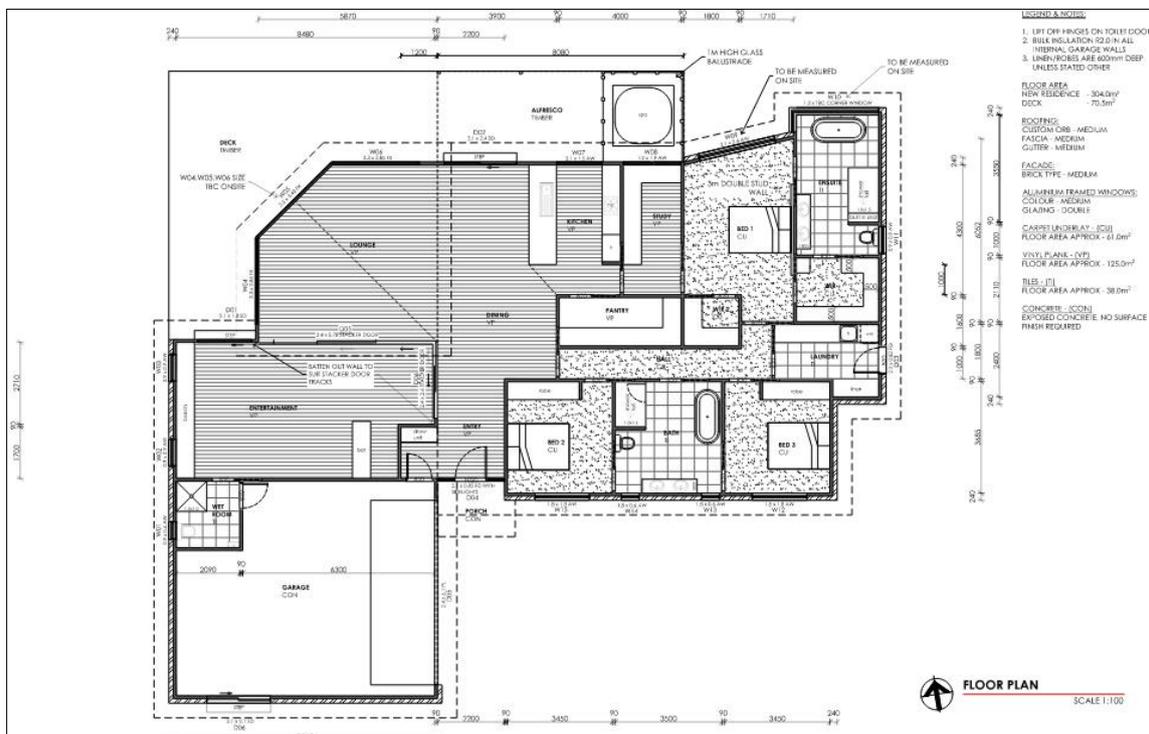


Figure 6 – Floor plan (RFS Projects, 2023)

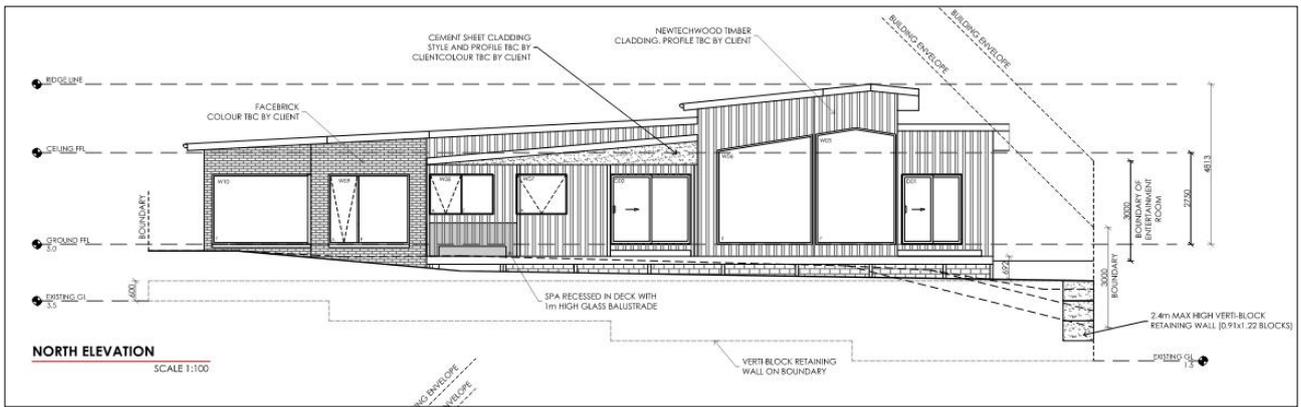


Figure 7 – North elevation (RFS Projects, 2023)

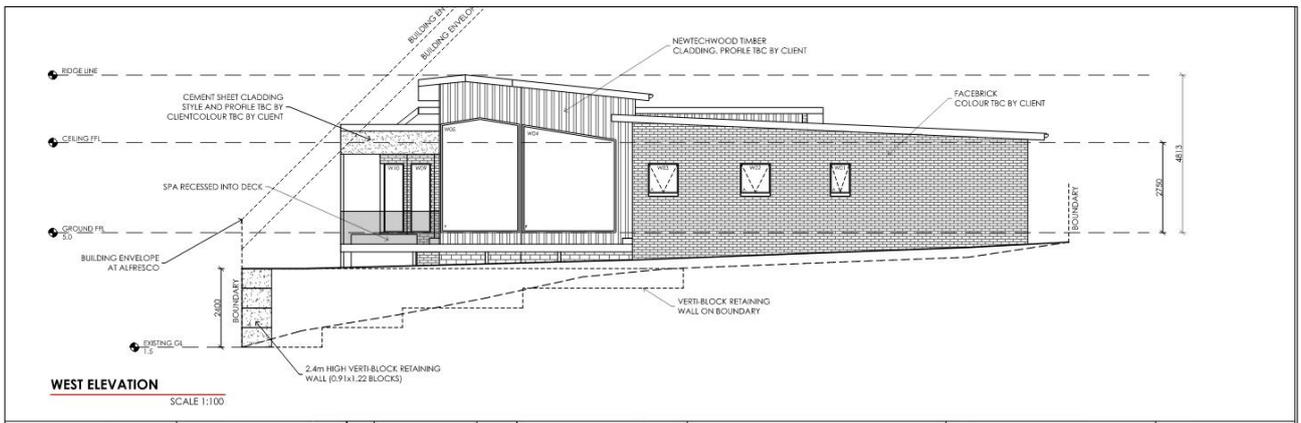


Figure 8 – West elevation (RFS Projects, 2023)

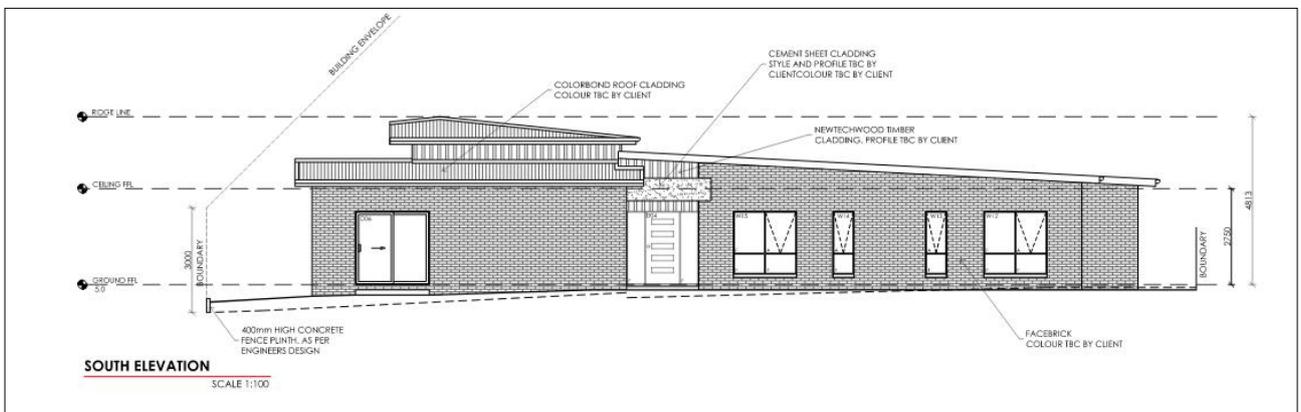


Figure 9 – South elevation (RFS Projects, 2023)

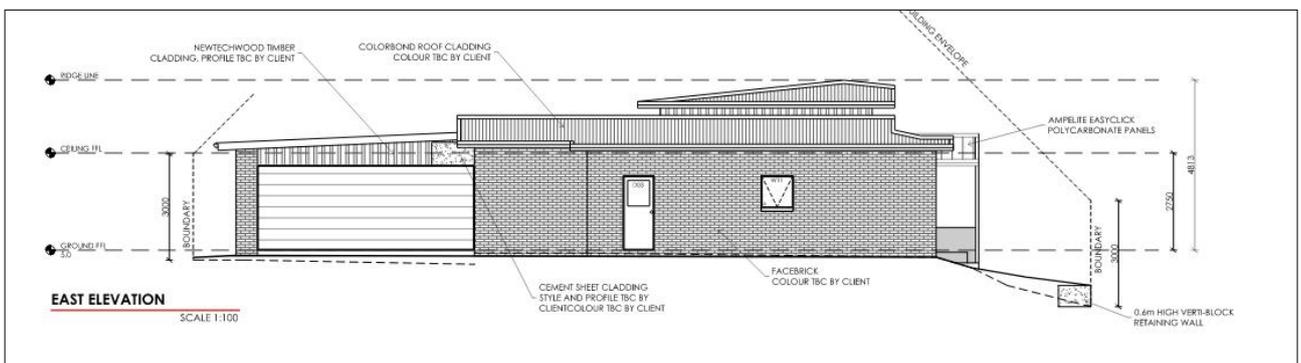


Figure 10 – East elevation (RFS Projects, 2023)

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.

Residential use for a single dwelling does not require a permit in the General Residential Zone, provided the development standards prescribed within the planning scheme can be satisfied at the acceptable solutions level. In this case, the proposal requires consideration against the performance criteria on one zone development standard. This is reproduced on the next page, followed by comment.

8.4.6 Privacy for all dwellings

Objective:	To provide a reasonable opportunity for privacy for dwellings.
Acceptable Solutions	Performance Criteria
<p>A1</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> <p>(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;</p> <p>(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</p> <p>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is not less than 6m:</p> <p>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</p> <p>(ii) from a balcony, deck, roof terrace or the private open space of the other dwelling on the same site.</p>	<p>P1</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> <p>(a) a dwelling on an adjoining property or its private open space; or</p> <p>(b) another dwelling on the same site or its private open space.</p>

Reason why 8.4.6 A1 cannot be met: The rear boundary of the lot has been determined as the western boundary. Under A1 (b), a deck with a height greater than 1m above existing ground level is required to have a setback of 4m to the rear boundary. In this case, the proposed deck will have a rear boundary setback of 3m and most of the deck will have a height greater than 1m from the existing ground level, as shown in Figure 11. Subsequently, A1 (b) of this standard cannot be met.

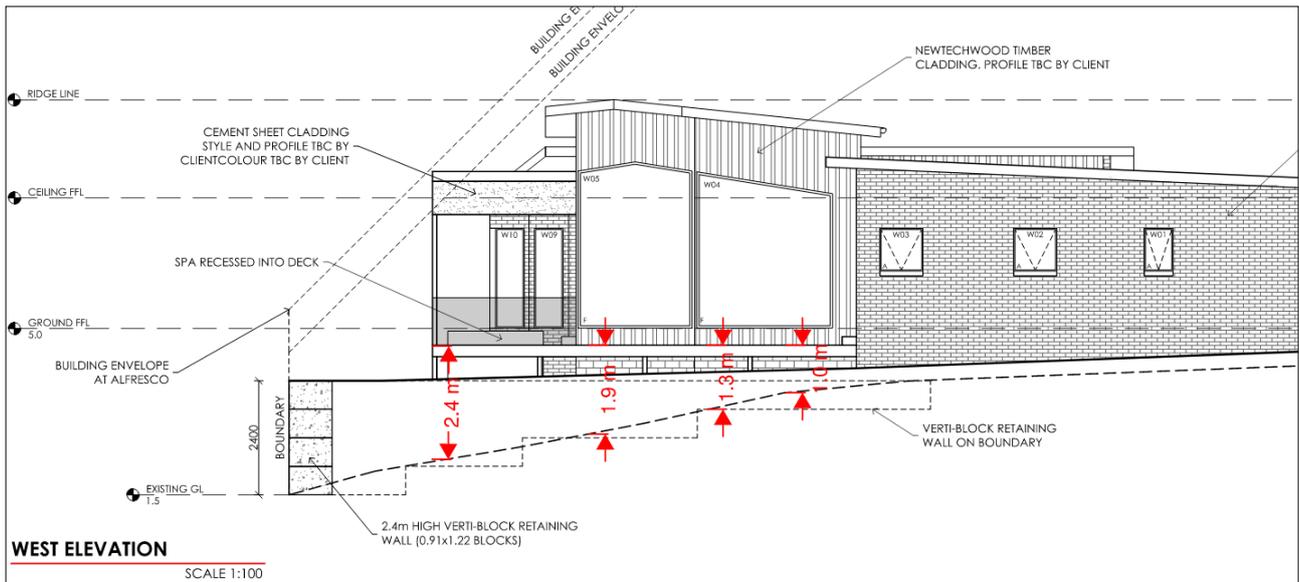


Figure 11 – West elevation with height of the deck shown from existing ground level (RFS Projects, 2023)

Planning Officer's evaluation of 8.4.6 P1: Upon a site inspection and noting the deck's location in relation to the adjoining western property – 4 Cliffden Court, the performance criteria can be satisfied for the following reasons:

- The deck is located forward of the adjacent dwelling (refer to the site plan shown in Figure 5) and will not directly look towards the habitable rooms of this dwelling. Only one window of the adjacent dwelling is located on its east elevation and would adjoin the garage/entertainment room of the proposed dwelling.
- The separation between the deck and the adjacent dwelling is greater than 5m; and
- Due to the existing ground-level conditions, most development proposed for the site would look into the private open space of the adjacent property and the deck is considered to have appropriate separation.

Overall, the deck's location and design can be supported against P1 without the need for modification.

The dwelling component of the work can satisfy all other General Residential zone standards at the acceptable solutions level.

However, the retaining wall and associated fill cannot meet the planning scheme exemptions prescribed within 4.6.8 and 4.6.7. The exemptions cannot be met as the retaining wall is proposed to be constructed to the north and western property boundaries and will retain a difference in ground level greater than 1m. The associated land filling will have a depth greater than 1m.

For reference, the exemptions are reproduced below as Figures 12 and 13.

4.6.8	retaining walls	<p>Retaining walls, excluding any land filling, if:</p> <ul style="list-style-type: none"> (a) it has a setback of not less than 1.5m from any boundary; and (b) it retains a difference in ground level of less than 1m, unless the Local Historic Heritage Code or the Landslip Hazard Code applies, and requires a permit for the use or development.
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Figure 12 – Retaining walls exemption (Tasmanian Planning Scheme Devonport, 2020)

4.6.9	land filling	<p>Land filling to a depth of not more than 1m above existing ground level from that existing at the effective date, unless the:</p> <ul style="list-style-type: none"> (a) Natural Assets Code; (b) Coastal Erosion Hazard Code; (c) Coastal Inundation Hazard Code; (d) Flood-Prone Areas Hazard Code; or (e) Landslip Hazard Code, <p>applies and requires a permit for the use or development.</p>
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Figure 13 – Land filling exemption (Tasmanian Planning Scheme Devonport, 2020)

There are no specific development standards for retaining walls and associated land filling as they are not required to be categorised into a Use Class per clause 7.10 of the planning scheme, which is reproduced as Figure 14 below.

7.10 Development Not Required to be Categorised into a Use Class

- 7.10.1 An application for development that is not required to be categorised into one of the Use Classes under sub-clause 6.2.6 of this planning scheme and to which 6.8.2 applies, excluding adjustment of a boundary under sub-clause 7.3.1, may be approved at the discretion of the planning authority.
- 7.10.2 An application must only be approved under sub-clause 7.10.1 if there is no unreasonable detrimental impact on adjoining uses or the amenity of the surrounding area.
- 7.10.3 In exercising its discretion under sub-clauses 7.10.1 and 7.10.2 of this planning scheme, the planning authority must have regard to:
- (a) the purpose of the applicable zone;
 - (b) the purpose of any applicable code;
 - (c) any relevant local area objectives; and
 - (d) the purpose of any applicable specific area plan.

**Figure 14 – Development Not Required to be Categorised into a Use Class
(Tasmanian Planning Scheme Devonport, 2020)**

Clause 7.10 states that planning authority has discretion to approve a development that is not required to be categorised into a Use Class. In this case, the proposed retaining wall and associated fill will be required to be designed by an engineer and require approval under the *Building Act 2016*. The works are ancillary to the single dwelling development and will provide a more usable outdoor space for the future dwelling occupiers. The retaining wall and associated fill are not considered to have a detrimental impact on the amenity of the area.

In relation to applicable Codes, the property is mapped within the following overlays:

- Low landslip hazard band C15.0 – Landslip Hazard Code; and
- Airport obstacle limitation area C16.0 - Safeguarding of Airports Code.

The development is exempt under these codes for the reasons outlined in Table 1.

Overlay	Code exemption rationale
Low landslip hazard band	The north-eastern corner of the site is identified within a low landslip hazard band. Part of the retaining wall and associated fill is proposed within this location. As the development will require authorisation under the <i>Building Act 2016</i> , it is exempt from further consideration at the stage of the approval process – refer to clause C15.4.1 (d).
Airport obstacle limitation area	The obstacle limitation area for the site is 51.5m AHD. As the development is well below this threshold it is exempt under this Code.

Table 1 – Mapped overlays and exemption rationale

COMMUNITY ENGAGEMENT

On 29/03/2023, 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 01/04/2023;
- (b) Making a copy of the proposal available in Council Offices from the 01/04/2023;
- (c) Notifying adjoining property owners by mail on 30/03/2023; and
- (d) Erecting a Site Notice for display from the 31/03/2023.

The period for representations to be received by Council closed on 19/04/2023.

REPRESENTATIONS

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

The representation was received from one of the landowners of 52 Caroline Street, East Devonport and is reproduced as Figure 15 (over two pages).

To: General Manager
Devonport Council

52 Caroline St

date: 5 April 2023

Re: Proposed development at 6 Merseyview Court.

PA2023.0052

Date of Notice 1 April 2023.

In accordance with the Land Use Planning Approvals Act 1993.... I would like to make a representation.

The proposed 53m x 2.4 retaining wall is a substantial construction. It may be that for the excavations and blocks for the building of this wall, access will be the grass strip of "Public Open Space" that fronts my property. The strip is 3 metres wide by 40 metres long. The entrance is at Caroline St and has no kerb crossing.

The proposed development is part of a 6 block sub division. The use of this strip by contractors, has already been an issue (see Michael Williams, Works Manager) when the strip was chewed up by heavy concrete trucks.

It is not unreasonable that I maintain this grass strip, rather than it become rutted and overgrown.

Given the above, if contractors do use this grassed strip of "Public Open Space" for access by heavy machinery (excavators, concrete trucks, brick trucks etc etc...) then perhaps Council could consider suggesting that the Applicant PA2023.0052 , be responsible for the entire strip being restored to its original condition .

Thank you

Christopher Mills

(photo of access to site attached)



Figure 15 – Representation (Mills, 2023)

Planning Officer's evaluation of Representation: The representation outlines the potential impacts to the adjoining Council reserve (54 Caroline Street) from the development, noting that previous developments in the site's vicinity have caused an impact. Due to the location of works (particularly the retaining wall and associated fill), there will likely be a requirement for workers or associated machinery to operate at times from the Council reserve. Although not relevant to the final planning determination and discretions sought, it is thought appropriate to include a note on the permit that will require the developer to seek approval from the Council Infrastructure & Works Department before commencing any works within the Council reserve (if required).

DISCUSSION

The application has been referred to various Council departments with an interest in planning applications. Feedback received has been included as conditions and notes.

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 has been assessed against the applicable development standards prescribed within the *Tasmanian Planning Scheme – Devonport* and is recommended for conditional approval.

ATTACHMENTS

1. Application P A 2023.0052 - 6 Merseyview Court [**3.1.1** - 12 pages]

3.2 PA2022.0199 - 108 RIVER ROAD AMBLESIDE - RESIDENTIAL (MULTIPLE DWELLINGS X 13)

Author: **Emma Pieniak, Planning Officer**
Endorser: **Kylie Lunson, Executive 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 PA2022.0199 and grant a Permit to use and develop land identified as 108 River Road, Ambleside for the following purpose:

- Residential (multiple dwellings x13)

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as project: Smith & Brown, revision A by RFS Projects, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. Prior to occupancy of the development a Part 5 Agreement in accordance with Section 71 of the *Land Use Planning and Approvals Act 1993* must be registered on the certificate of title. The Part 5 Agreement is to be between Council and the owners, and all costs associated with making the agreement are to be borne by the Owner/Developer. The scope of the agreement is to include:
 - a. Acknowledgement that Council takes no responsibility for any damage or maintenance as a result of the waste collection vehicle access within the property; and
 - b. In the instance Council ceases waste collection services, a private contract for waste collection will be required.
 - c. No development or structure, including fencing and plinths, are to be located over, or create obstruction to, the overland flow path drainage easement running along the southern site boundary. This point is required, unless an alternative solution to overland flow path is designed and approved by Council's Infrastructure Manager.
3. The developer is to install stormwater works in accordance with plans and specifications approved by the Council after their preparation by a suitably qualified engineer. The works are to be supervised by a suitably qualified engineer who is to certify after installation that the works have been substantially completed in accordance with the approved plans and specifications.
4. The developer is to ensure that the driveway, and car parking areas are set at suitable levels to ensure that the stormwater runoff is collected via grated drains or pits and discharged through the property's connection to the Council system.
5. The overland flow path that follows the drainage easement inside the property boundary is not to be obstructed in any way from entering and exiting the property, including fences.

6. The developer is to ensure that all stormwater run-off is managed in accordance with the Environment Protection Authority's "Soil & Water Management on Large (greater than 250m² of ground disturbance) Building & Construction Sites" recommendations.
7. The stormwater is to be discharged in accordance with the National Construction Code. Regarding stormwater, long sections and design calculations prepared by a suitably qualified engineer are to be provided to Council for approval.
8. The car parking spaces and turning areas must be clearly delineated by line marking or other means to clearly identify the visitor parking spaces and no parking within turning bays.
9. The habitable room windows setback less than 2.5m from the shared driveway; being units 1, 2, 4, 5, 6, 8, 10, 12 and 13, are to be provided with some sort of screening or alternative window solution to prevent vehicle light intrusion impacts.
10. 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.

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.

In relation to street addressing for the units, the following is to apply:

Unit No.	Street Address
1	Unit 1/108 River Road
2	Unit 2/108 River Road
3	Unit 3/108 River Road
4	Unit 4/108 River Road
5	Unit 5/108 River Road
6	Unit 6/108 River Road
7	Unit 13/108 River Road
8	Unit 12/108 River Road
9	Unit 11/108 River Road
10	Unit 10/108 River Road
11	Unit 9/108 River Road
12	Unit 8/108 River Road
13	Unit 7/108 River Road

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

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.

Regarding condition 10 the applicant/developer should contact TasWater – Ph 136992 with any enquiries.

Regarding 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.

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 PA2022.0199.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	108 River Road, Ambleside
Applicant:	RFS Projects Pty Ltd
Owner:	Smith & Brown Developments Pty Ltd
Proposal:	Residential (multiple dwellings x 13)
Existing Use:	Vacant
Zoning:	General Residential
Decision Due:	07/05/2023

SITE DESCRIPTION

The 7943m² vacant lot is situated west of River Road adjoining Crown land on the Mersey River bank. The lot has a 7.5m wide accessway from the road with a steady fall from the east to the west. Adjoining properties comprise established residential development on smaller lot arrangements. 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 staged multiple dwelling development comprising thirteen-, three- or four-bedroom dwellings with attached garages. The proposed development is indicated in Figures 2 – 5. A full copy of the application is appended to this report.

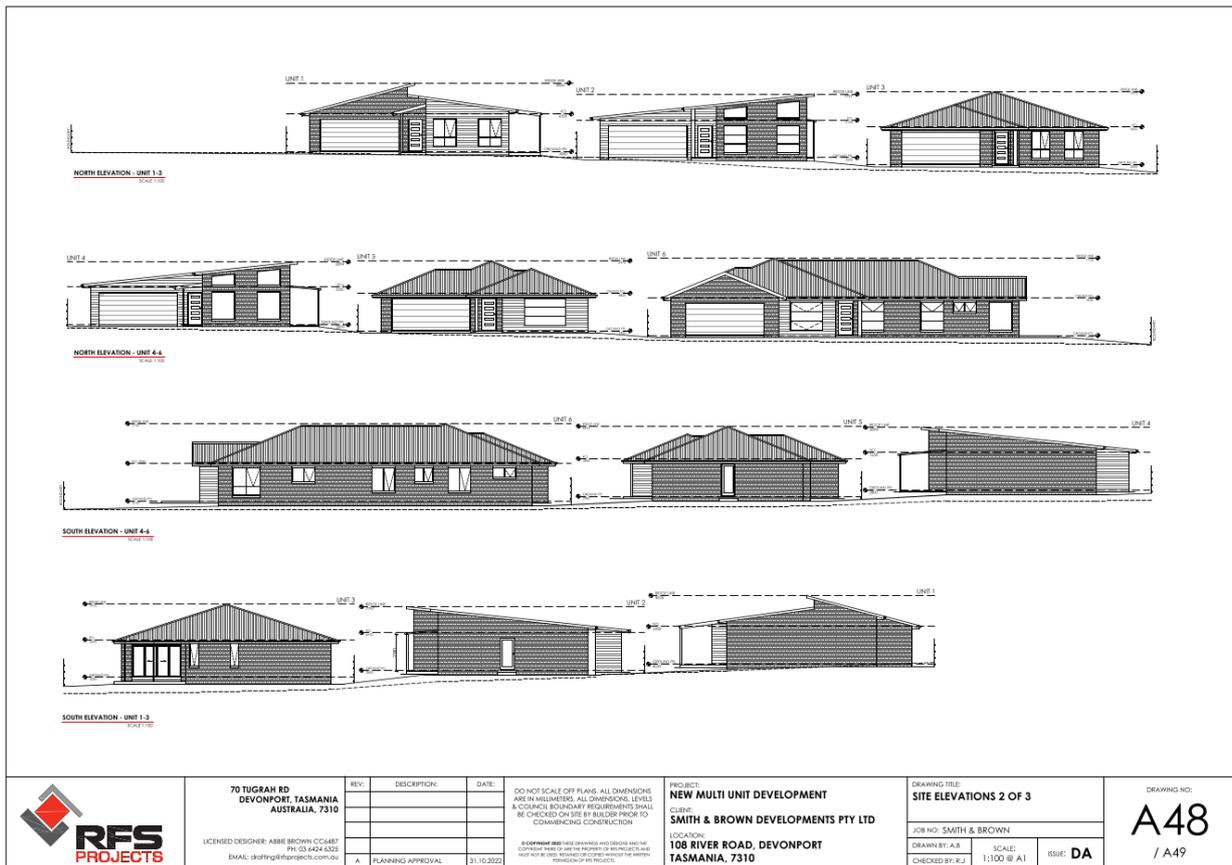


Figure 4 – Elevations: 2 of 3

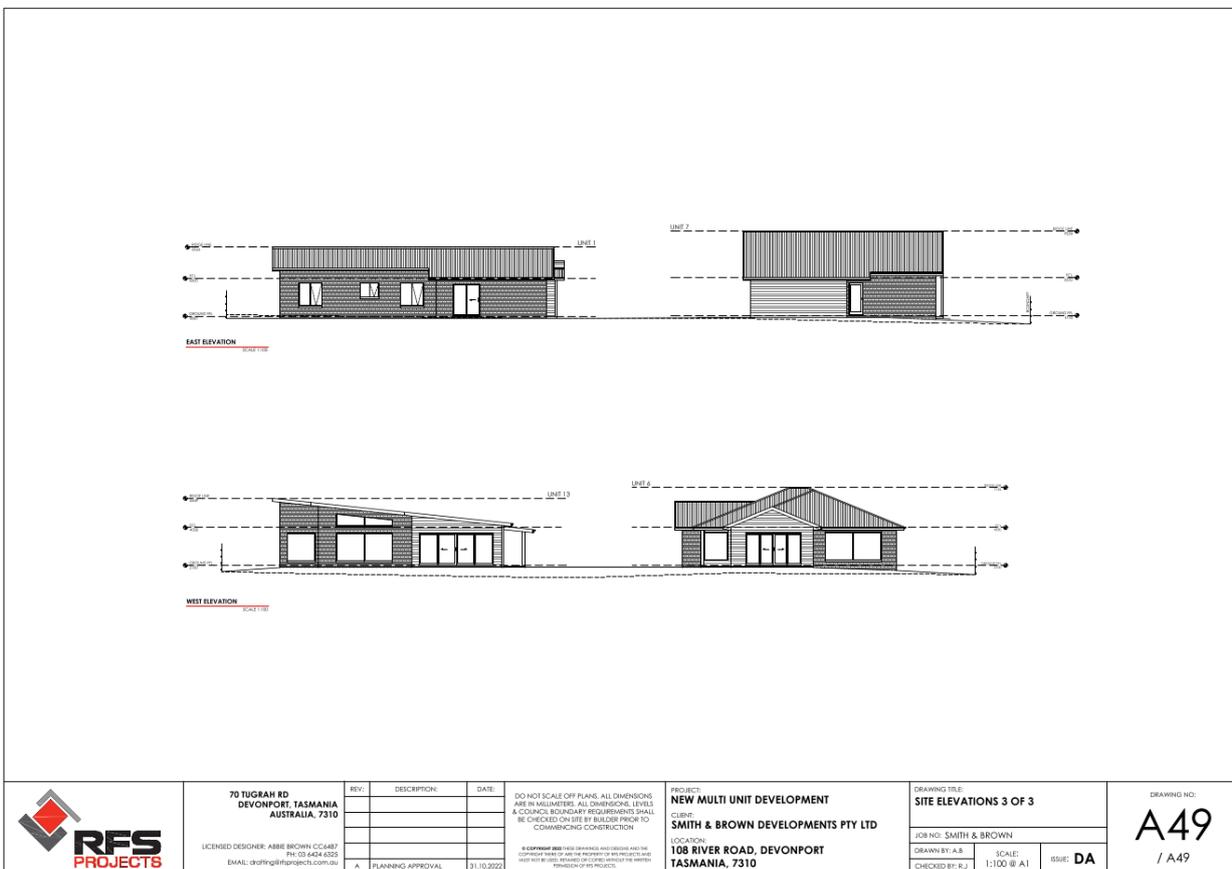


Figure 5 – Elevations: 3 of 3

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.

Residential use for multiple dwellings is permitted in the General Residential zone. The proposed development satisfies all the relevant acceptable solutions except for part 8.4.6. Where development cannot meet the relevant acceptable solutions for the design standards a planning permit can be sought under section 57 of the Act.

8.4.6 Privacy for all dwellings

Objective: To provide a reasonable opportunity for privacy for dwellings.	
Acceptable Solutions	Performance Criteria
A3 A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of not less than: <ul style="list-style-type: none"> (a) 2.5m; or (b) 1m if: <ul style="list-style-type: none"> i. it is separated by a screen of not less than 1.7m in height; or ii. the window, or glazed door, to a habitable room has a sill height of not less than 1.7m above the shared driveway or parking space, or has fixed obscure glazing extending to a height of not less than 1.7m above the floor level. 	P3 A shared driveway or parking space (excluding a parking space allocated to that dwelling), must be screened, or otherwise located or designed, to minimise unreasonable impact of vehicle noise or vehicle light intrusion to a habitable room of a multiple dwelling.

P3 – The proposed development does not provide either 2.5m setback, screening, sill heights or obscured glazing to a number of windows to habitable rooms along the shared driveway to satisfy A3 of this clause. A condition on the permit will require habitable room windows setback less than 2.5m of the shared driveway; being units 1, 2, 4, 5, 6, 8, 10, 12 and 13, are to be provided with some sort of screening or alternative window solution to prevent vehicle light intrusion impacts. It is assumed windows will be double glazed to

prevent noise impacts, as is typically required to achieve minimum energy efficiency ratings in accordance with the *Building Act*. The performance criteria are satisfied.

C2.0 Parking and Sustainable Transport Code

The proposed development provides more than the number of parking spaces specified in Table C2.1 and is designed to comply with the relevant Australian standards. The proposal meets all but one relevant acceptable solution of the Parking and Sustainable Transport Code. The performance criteria are addressed below.

C2.6.5 Pedestrian access

Objective:	
That pedestrian access within parking areas is provided in a safe and convenient manner	
Acceptable Solution	Performance Criteria
<p>A1.1</p> <p>Uses that require 10 or more car parking spaces must:</p> <p>a) have a 1m wide footpath that is separated from the access ways or parking aisles, excluding where crossing access ways or parking aisles, by</p> <p>i. a horizontal distance of 2.5m between the edge of the footpath and the access way or parking aisle; or</p> <p>ii. protective devices such as bollards, guard rails or planters between the footpath and the access way or parking aisle; and</p> <p>b) be signed and line marked at points where pedestrians cross access ways or parking aisles.</p> <p>A1.2</p> <p>In parking areas containing accessible car parking spaces for use by persons with a disability, a footpath having a width not less than 1.5m and a gradient not steeper than 1 in 14 is required from those spaces to the main entry point to the building.</p>	<p>P1</p> <p>Safe and convenient pedestrian access must be provided within parking areas, having regard to:</p> <p>a) the characteristics of the site;</p> <p>b) the nature of the use;</p> <p>c) the number of parking spaces;</p> <p>d) the frequency of vehicle movements;</p> <p>e) the needs of persons with a disability;</p> <p>f) the location and number of footpath crossings;</p> <p>g) vehicle and pedestrian traffic safety;</p> <p>h) the location of any access ways or parking aisles; and</p> <p>i) any protective devices proposed for pedestrian safety.</p>

P1 – The proposed development requires more than 10 car parking spaces as shown in Figure 6. Pedestrian access has not been provided through the site in accordance with the acceptable solution A1.1. It is noted the development allocates car parking spaces for each dwelling within an attached garage, which will reduce pedestrian traffic through the site. It is considered a dedicated pedestrian pathway is not necessary for the proposed residential development as the pedestrian traffic will be minimal. The proposal satisfies the performance criteria.

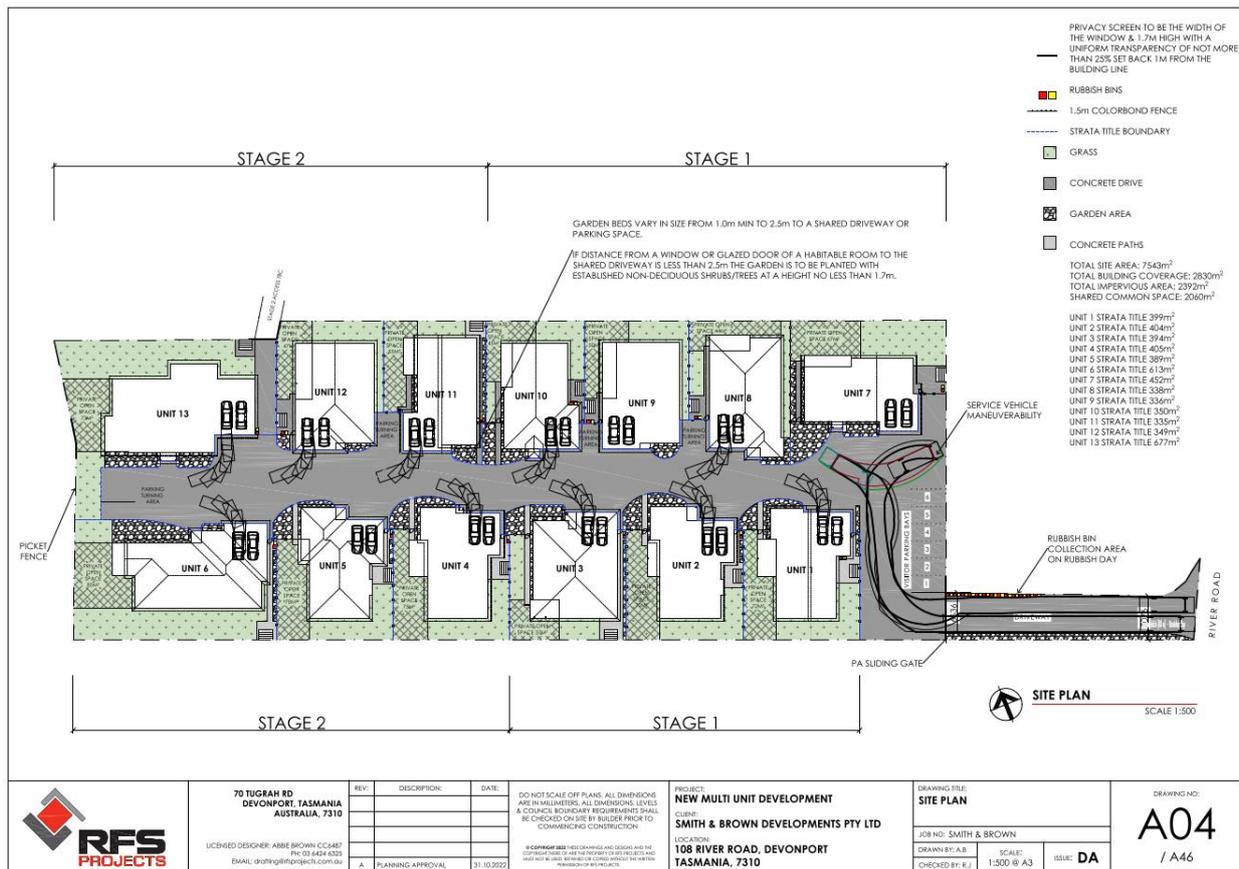


Figure 6 – Vehicle parking and movement plan

COMMUNITY ENGAGEMENT

On 11/11/2022, 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 01/04/2023;
- (b) Making a copy of the proposal available in Council Offices from the 01/04/2023;
- (c) Notifying adjoining property owners by mail on 30/03/2023; and
- (d) Erecting a Site Notice for display from the 31/03/2023.

The period for representations to be received by Council closed on 19/04/2023.

REPRESENTATIONS

One representation was received within the prescribed 14-day public notification period required by the *Land Use Planning and Approvals Act 1993*. The representation received by an adjoining property owner is concerned with the application not including an 'Environmental Impact Assessment' to address noise during and post construction and stormwater retention onsite.

- As an adjoining property owner, the representor is concerned with potential amenity impacts from machinery noise, future residential noise and stormwater events causing a nuisance. They believe an environmental impact assessment should be provided by the applicant to address these matters.

Comment: The legislative trigger requiring an environmental impact assessment is linked to the Environmental Management and Pollution Control Act 1994 (EMPCA) and is only referred to in LUPAA where the EPA is the relevant regulator for major project assessments. For this reason an Environmental Impact Assessment was not requested.

The matters regarding noise and stormwater during construction are addressed in standard conditions and notes contained within the planning permit. As residential development the future inhabitants will be required to manage noise as any other existing residential development in the area.

DISCUSSION

When determining an application for a planning permit the permit authority must consider the matters outlined in clause 6.10.1 of the Tasmanian Planning Scheme, including any representations, but only insofar as each matter is relevant to the particular discretion being sought. The discretions sought in this instance relate to habitable windows along a shared driveway and not providing a pedestrian pathway through the site. An assessment of the performance criteria against the discretionary matters discusses how the minor variation to the acceptable solution will have no impact upon adjoining properties. The proposal has been reviewed by internal departments and TasWater, who have provided standard conditions to be included in the planning permit.

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 proposed development for thirteen multiple dwellings seeks a minor variation to the acceptable solutions for design standards which are internal elements of the site. The representators concerns have been addressed and are appropriately managed by permit conditions. A planning permit can be issued subject to standard conditions.

ATTACHMENTS

1. Application PA2022.0199 - 108 River Road [**3.2.1** - 55 pages]
2. Representation PA2022.0199 - 108 River Road [**3.2.2** - 1 page]
3. TasWater Submission to Planning Authority Notice PA2022.0199 - 108 River Road [**3.2.3** - 2 pages]

3.3 AM2022.04 & PA2022.0121 - 246 BROOKE STREET EAST DEVONPORT - REZONE FROM AGRICULTURE ZONE TO GENERAL RESIDENTIAL ZONE AND 39 LOT SUBDIVISION

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

Endorser: **Kylie Lunson, Executive Manager**

RECOMMENDATION

That the Planning Authority resolve that:

- The Tasmanian Planning Commission be advised that the Planning Authority remains satisfied that the draft amendment meets the Local Provisions Schedule criteria in accordance with section 34(2) of the *Land Use Planning and Approvals Act 1993*;
- A copy of this report and representations be forwarded to the Tasmanian Planning Commission;
- The TasWater SPAN is to be included as part of condition 14 of draft permit PA2022.0121. A revised draft copy of the permit is to be provided to the Tasmanian Planning Commission; and
- Certification of the draft amendment, as per resolution 23/11, remains supported.

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 consider the representations received within the exhibition period for draft amendment AM2022.04 and concurrent planning application PA2022.0121.

PREAMBLE

Council acting as a Planning Authority considered an application under Section 40T of the *Land Use Planning and Approvals Act 1993* on 23rd January 2023. The application sought approval for the following:

- Remove the Agricultural Zone from 246 Brooke Street, East Devonport (CT 9450/29);
- Introduce the General Residential Zone to 246 Brooke Street, East Devonport (CT 9450/29); and
- 39 lot subdivision.

The Planning Authority unanimously certified the draft amendment and permit application (resolution 23/11). For reference, the initial report and associated application documentation is appended as **Attachment 3**.

COMMUNITY ENGAGEMENT

The draft amendment and permit were placed on public exhibition on 4th February 2023 for 28 days in accordance with section 40G of the *Land Use Planning and Approvals Act*. During this time, state agencies and interested community members had the opportunity to comment via representation.

A total of seven representations were received within the exhibition period.

In accordance with sections 40k & 42 of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must provide a report to the Tasmanian Planning Commission (TPC) within 35 days of the public exhibition concluding. The report must assess the representations' merit, including any modifications to the draft amendment (s.40k) or permit (s.42).

The initial date for the Planning Authority to provide this report was 10th April 2023. The TPC granted an extension until 12th May 2023. The time extension was extended so that the TasWater SPAN could be issued which forms part of the draft planning permit, condition 14.

REPRESENTATIONS

An overview of the representations received, and the Planning Authority's response is appended as **Attachment 1** to this report.

A full copy of each representation received is appended within **Attachment 2**.

STATUTORY REQUIREMENTS

Section 40k of the *Land Use Planning and Approvals Act 1993* requires that the Planning Authority must be satisfied that the draft amendment meets the Local Provisions Schedule (LPS) criteria as prescribed within section 34. No alterations to the draft amendment or concurrent planning permit have been suggested that result in modifications to the initial assessment of the LPS criteria and therefore the proposal continues to meet the LPS criteria.

FINANCIAL IMPLICATIONS

No financial implications are predicted as a result of this combined amendment and permit application.

CONCLUSION

The representations regarding this proposal are not deemed to have raised any issues that require any changes to the combined amendment and permit, except for the inclusion of the TasWater SPAN, forming part of condition 14 of the permit.

4 CLOSURE