



*The City with Spirit*

## NOTICE OF MEETING

Notice is hereby given that a **Planning Authority Meeting** of the Devonport City Council will be held in the Aberdeen Room, Level 2, paranable centre, 137 Rooke Street, Devonport on Monday 5<sup>th</sup> June 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

**31 05 2023**

---

**Agenda for a Planning Authority Committee meeting of the Devonport City Council  
held on Monday 5 June 2023, in the Aberdeen Room, Level 2, paranple centre, 137  
Rooke Street, Devonport commencing at 5.15 PM.**

<b>Item</b>	<b>Page No.</b>
<b>1 APOLOGIES .....</b>	<b>3</b>
<b>2 DECLARATIONS OF INTEREST .....</b>	<b>3</b>
<b>3 DEVELOPMENT REPORTS .....</b>	<b>4</b>
3.1 PA2023.0039 - 2 SMITH STREET DEVONPORT - RESIDENTIAL (SINGLE DWELLING AND OUTBUILDING).....	4
3.2 PA2023.0047 - 101 PARKER STREET DEVONPORT - RESIDENTIAL ADDITIONS .....	47
3.3 PA2023.0003 - 16 LAWRENCE DRIVE DEVONPORT - RESIDENTIAL (MULTIPLE DWELLINGS) ONE ADDITIONAL UNIT .....	56
3.4 PA2023.0062 - 39 VICTORIA PARADE DEVONPORT - RESIDENTIAL (2 X MULTIPLE DWELLINGS) .....	65
<b>4 CLOSURE .....</b>	<b>83</b>

**ATTENDEES**

		<b>Apology</b>
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 PA2023.0039 - 2 SMITH STREET DEVONPORT - RESIDENTIAL (SINGLE DWELLING AND OUTBUILDING)

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 PA2023.0039 and grant a Permit to use and develop land identified as 2 Smith Street, Devonport for the following purposes:

- Residential (single dwelling and outbuilding)

Subject to the following conditions:

##### Planning Conditions

1. Unless requiring alteration by subsequent conditions, the use and development is to proceed generally in accordance with the submitted plans referenced as Project: 2 Smith Street, Devonport. TAS (project no. 221021 - drawing nos. 01.01, 01.02, 01.06, 01.09, 01.12 & 01.19, revision DA-02, dated 19/05/2023, a copy of which is attached and endorsed as documents for forming part of this Planning Permit.
2. Prior to the submission of the building and plumbing permit documentation, the developer must provide amended plans, showing a permanently fixed screen on the first floor deck where it is situated within 3m of the side boundaries and 4m of the rear boundary. The screening is to be 1.7m above the finished surface of the floor level with a uniform transparency of not more than 25%. The amended plans must be endorsed by Council's Executive Manager prior to submission of the building and plumbing permit documentation (refer to note).

##### Infrastructure & Works Conditions

3. Stormwater discharge from the proposed development is to be hydraulically detailed and designed by a suitably qualified hydraulic engineer, for all storm events up to and including a 20-year Average Recurrence Interval (ARI), and for a suitable range of storm durations to identify peak discharge flows. As part of their design, the hydraulic engineer is to limit stormwater discharge from the proposed development, by utilising a combination of pipe sizing and/or on-site detention, to that equivalent to only 50% of the development site being impervious. There is to be no uncontrolled overland flow discharge from the proposed development to any of the adjoining properties, for all the above nominated storm events. All design calculations are to be submitted for approval by the City Engineer prior to lodgement of any subsequent building permit applications.
4. Subject to condition 3, and as part of any subsequent plumbing permit application, the proposed development is to have a suitably sized stormwater connection generally in accordance with the Tasmanian Standard Drawings.

---

The size and location of the proposed stormwater connection is to be designed by a suitably qualified hydraulic engineer.

5. A permit to work within the road reserve must be sought and granted prior to any works being undertaken within the road reserve.
6. There is to be no uncontrolled overland flow of stormwater from the proposed development to any of the adjoining properties.
7. The surface water from the driveway and or any paved areas is to be collected and drained to the private stormwater drainage system.

#### TasWater Condition

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.

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.

Condition 2 is required to satisfy the acceptable solution of General Residential Zone development standard 8.4.6 A1 – *Privacy for all dwellings*. Council cannot support the corresponding performance criteria prescribed within P1 for the first floor deck as proposed.

The developer is to ensure all required action is undertaken to protect neighbouring buildings, infrastructure and vegetation. Building Protection Work may be applicable, and the developer is to liaise with a registered building surveyor regarding this matter.

Regarding pruning of neighbouring vegetation or trees the owner/developer must adhere to the requirements of the *Neighbourhood Disputes About Plants Regulations 2017*.

Hours of Construction shall be: Monday to Friday Between 7am - 6pm, Saturday between 9am -6pm and Sunday and statutory holidays 10am - 6pm.

No burning of any waste materials is to be undertaken on site. Any waste material is to be removed and disposed of at a licensed refuse waste disposal facility.

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*.

In regard to condition 8 the developer should contact TasWater – Ph 136 992 with any enquiries.

In regard to conditions 3-7 the developer 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 PA2023.0039.

## BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	2 Smith Street, Devonport
Applicant:	Ayrton Farrell
Owner:	Ayrton Farrell
Proposal:	Residential (single dwelling and outbuilding)
Existing Use:	Residential – outbuilding
Zoning:	General Residential
Decision Due:	5/06/2023 *Extension of time granted (initial decision due 24/5/23)

## SITE DESCRIPTION

The site is identified by certificate of title 110581/2 with the property address of 2 Smith Street, Devonport. The site is an internal lot and has an area of 489m<sup>2</sup>. Located on the property is an outbuilding and various concrete slabs. The site is flat and is immediately surrounded by single dwelling development.

The site is located within the Wenvoe and Hiller Street Local Heritage Precinct. This large precinct contains a mixture of residential homes, schools and a church.

Figure 1 is an aerial image of the site and surrounds. Figure 2 is a copy of the property title. Figure 3 is an image of the site looking from Smith Street and Figure 4 is a map of the Wenvoe and Hiller Street Local Heritage Precinct with the site identified.



Figure 1 – Aerial image of the site (outlined in blue) and surrounding locality (DCC, 2022)

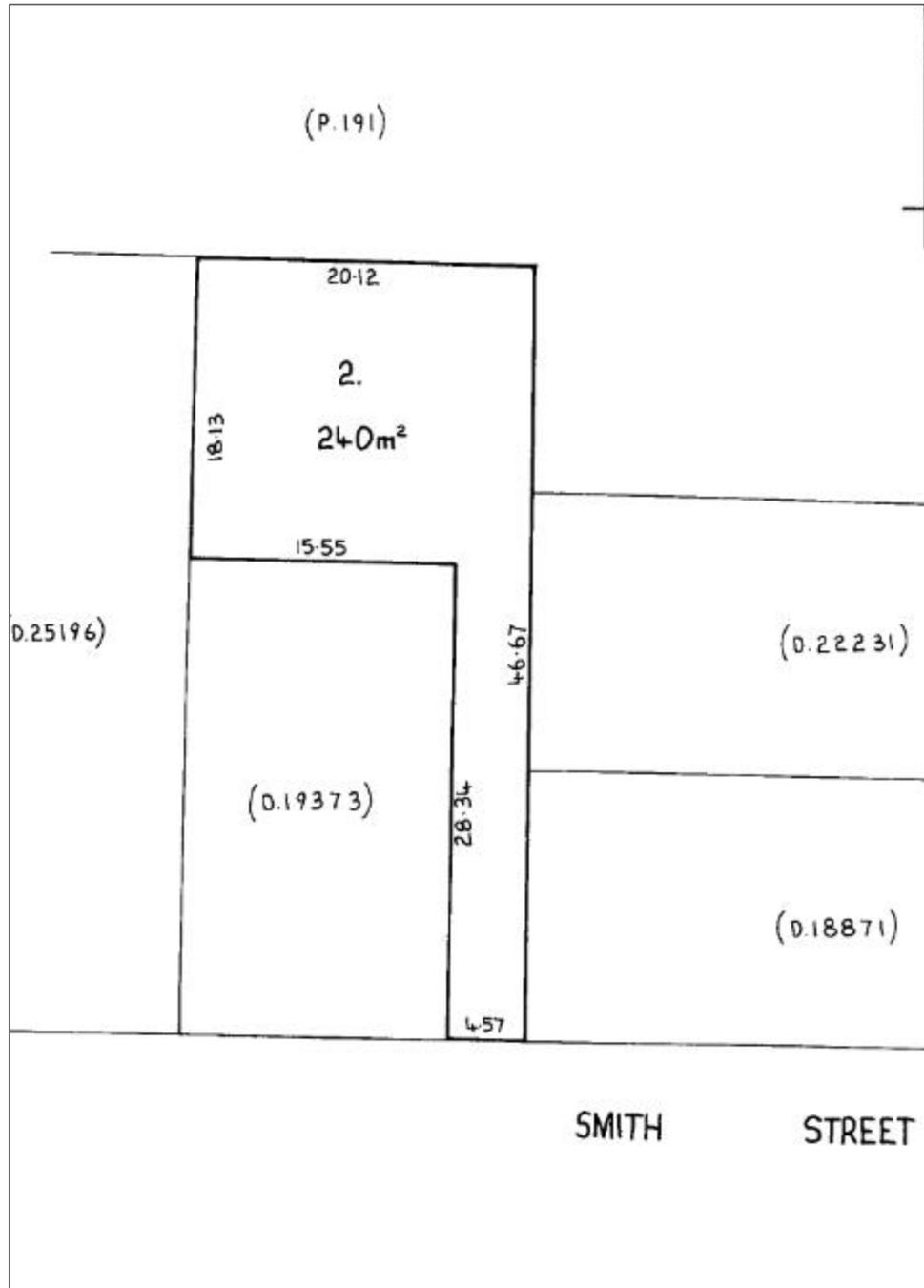
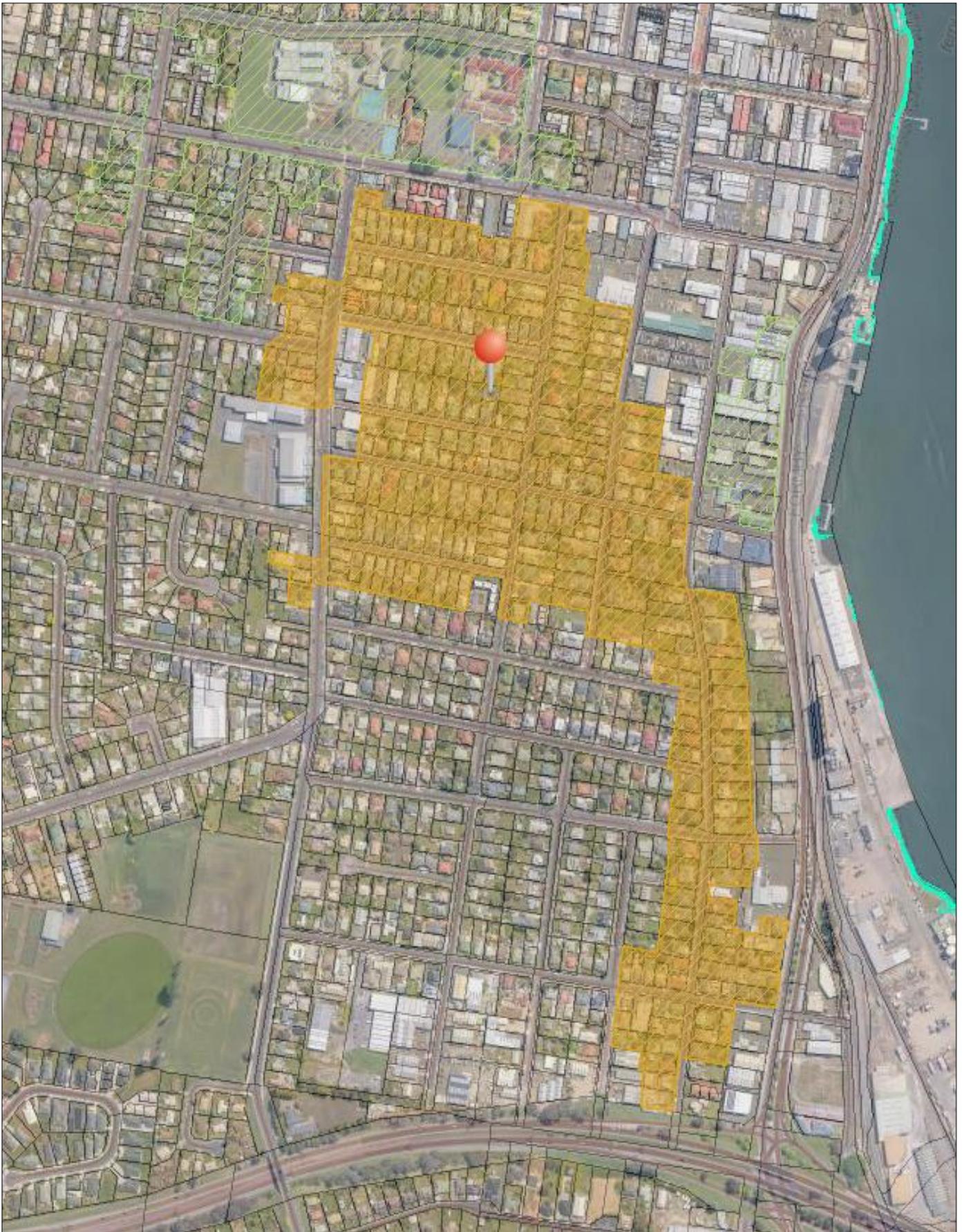


Figure 2 – Title Plan of the site – CT 110581/2 (LIST, 1994)

\*The title plan states the lot has an area of 240m². This is an anomaly as the lot dimensions calculate the site as having an area of 489m².



**Figure 3 – Image of the site looking from the Smith Street frontage (DCC, 2023)**



**Figure 4 - Map of the Wenvoe and Hiller Street Local Heritage Precinct with the site identified by the pin location (LISTmap, 2022)**

## APPLICATION DETAILS

The applicant is seeking approval to demolish the existing outbuilding and existing slabs and construct a two-storey dwelling and ancillary outbuilding.

The dwelling is proposed to be located within the centre of the lot and comprise three bedrooms, attached double carport and typical living amenities. The dwelling will have a floor area of 158m<sup>2</sup> (ground floor 62m<sup>2</sup> and first floor 96m<sup>2</sup>), not including the covered deck which will have an area of 21m<sup>2</sup> and the carport 38m<sup>2</sup>. The dwelling will have a low pitch skillion roof falling to the south and a maximum building height of approximately 6m.

The dwelling is proposed to be setback 5.08m to the southern boundary, 2m to the eastern side boundary and 2.3m to the western side boundary. The dwelling will have a setback of 5.58m to the rear boundary with the second storey deck proposed to be located 2.5m to the rear boundary.

The 6m x 4m colorbond shed is proposed to be located on the southern side of the dwelling and be constructed to the southern and western boundaries. The shed will have a maximum height of 2.95m and incorporate a single roller door.

Figure 5 is a photo of the site looking from the internal frontage showing the outbuilding to be removed. Figure 6 is a copy of the site plan. Figures 7 and 8 are the floor plans of the respective levels of the dwelling. Figure 9 is elevation details of the dwelling. Figure 10 is a 3-dimensional perspective of the dwelling and Figure 11 is the elevation details of the outbuilding.

A full copy of the planning application is **appended as an attachment** to this report.



**Figure 5 – Image of the site looking from the internal frontage showing the existing outbuilding (DCC, 2023)**

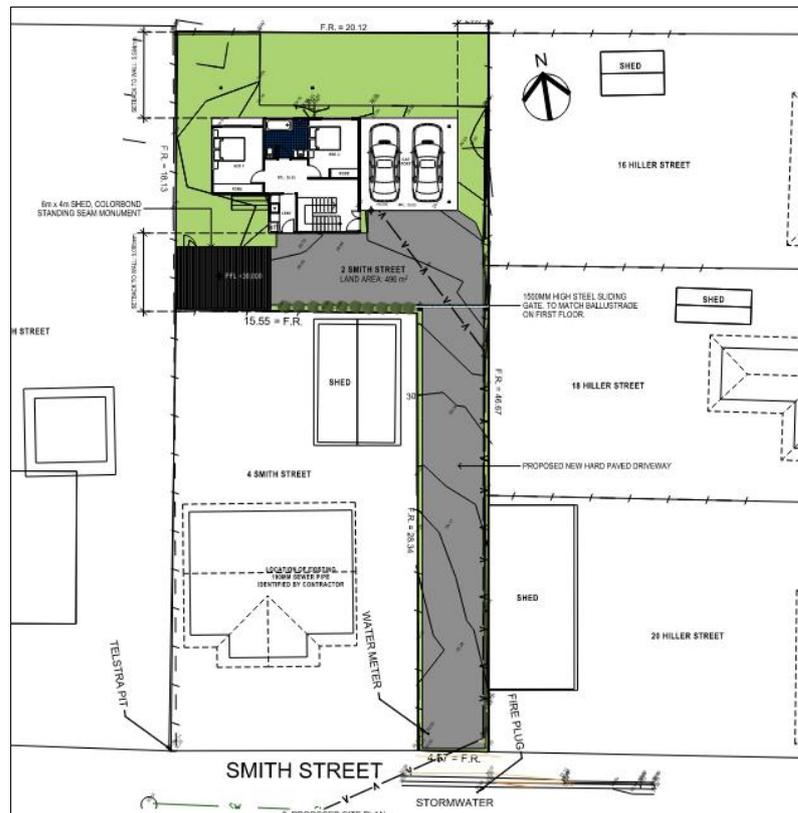


Figure 6 – Site plan (Cykel Architecture, 2023)

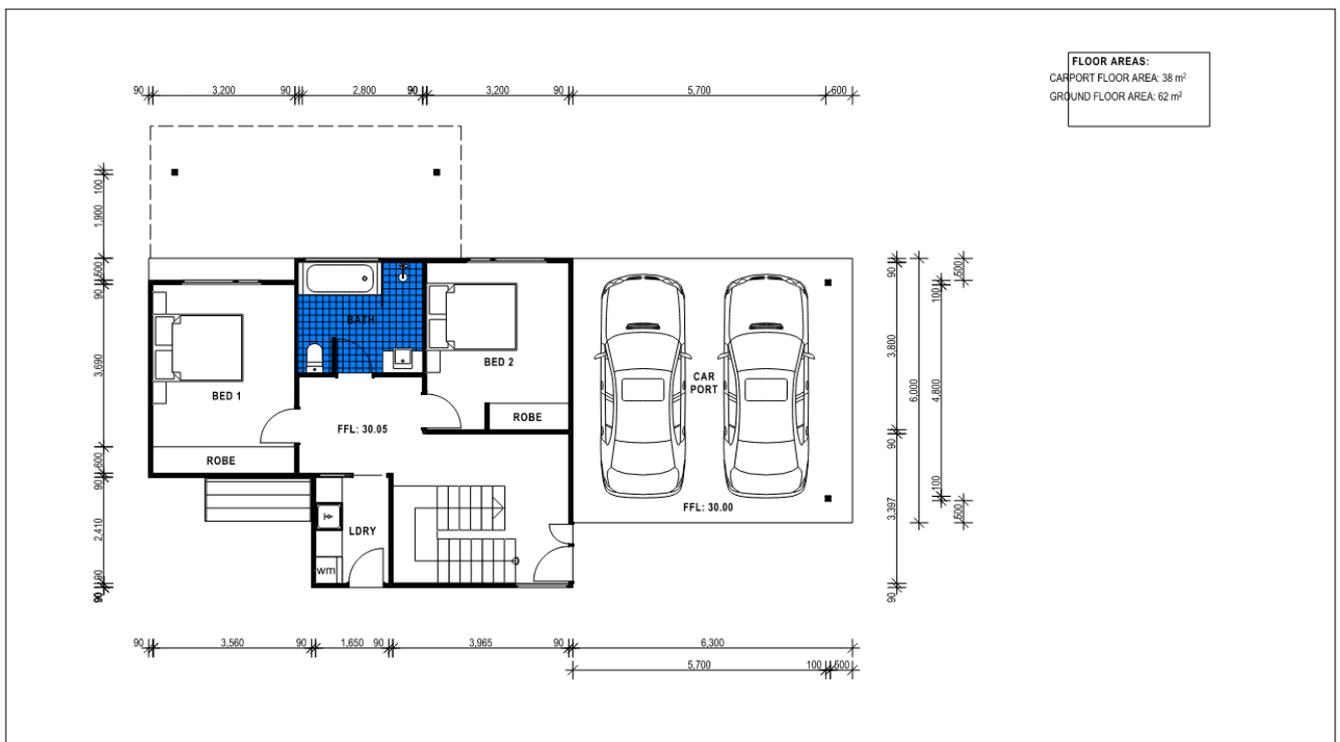


Figure 7 – Ground floor plan (Cykel Architecture, 2023)

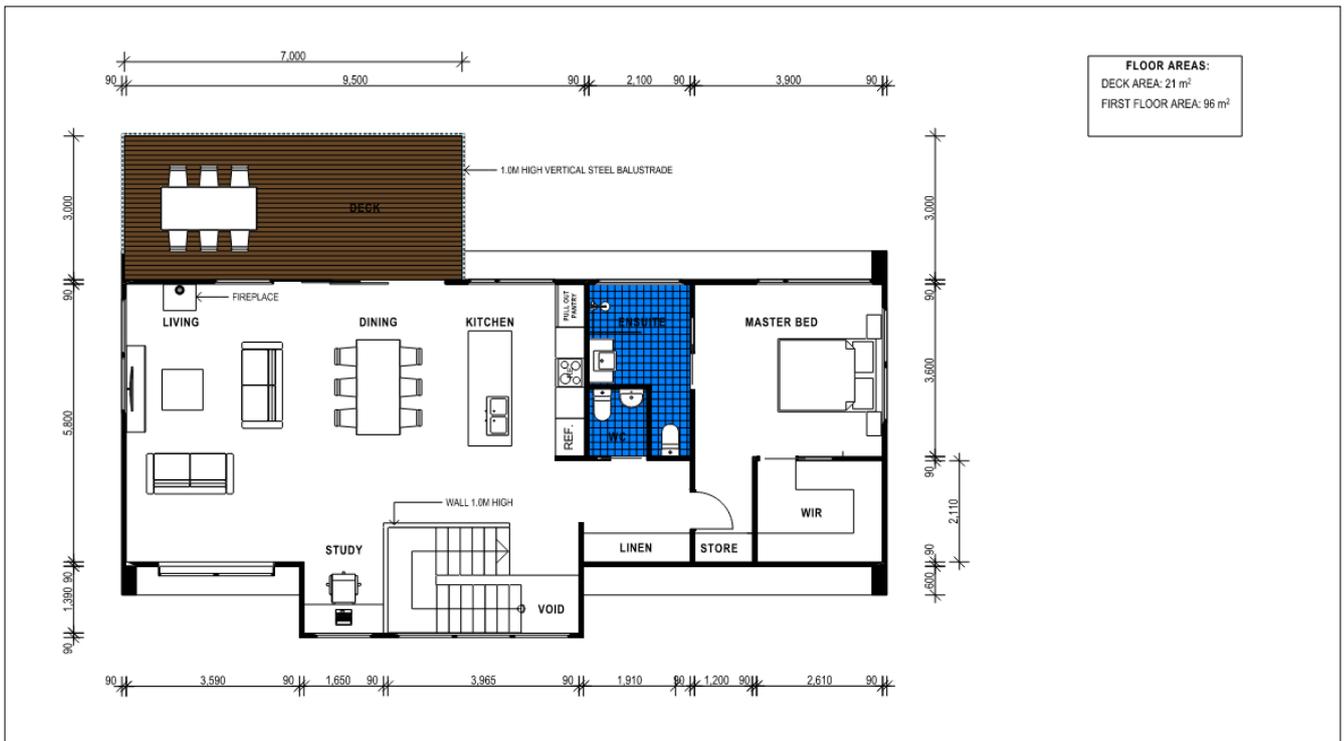


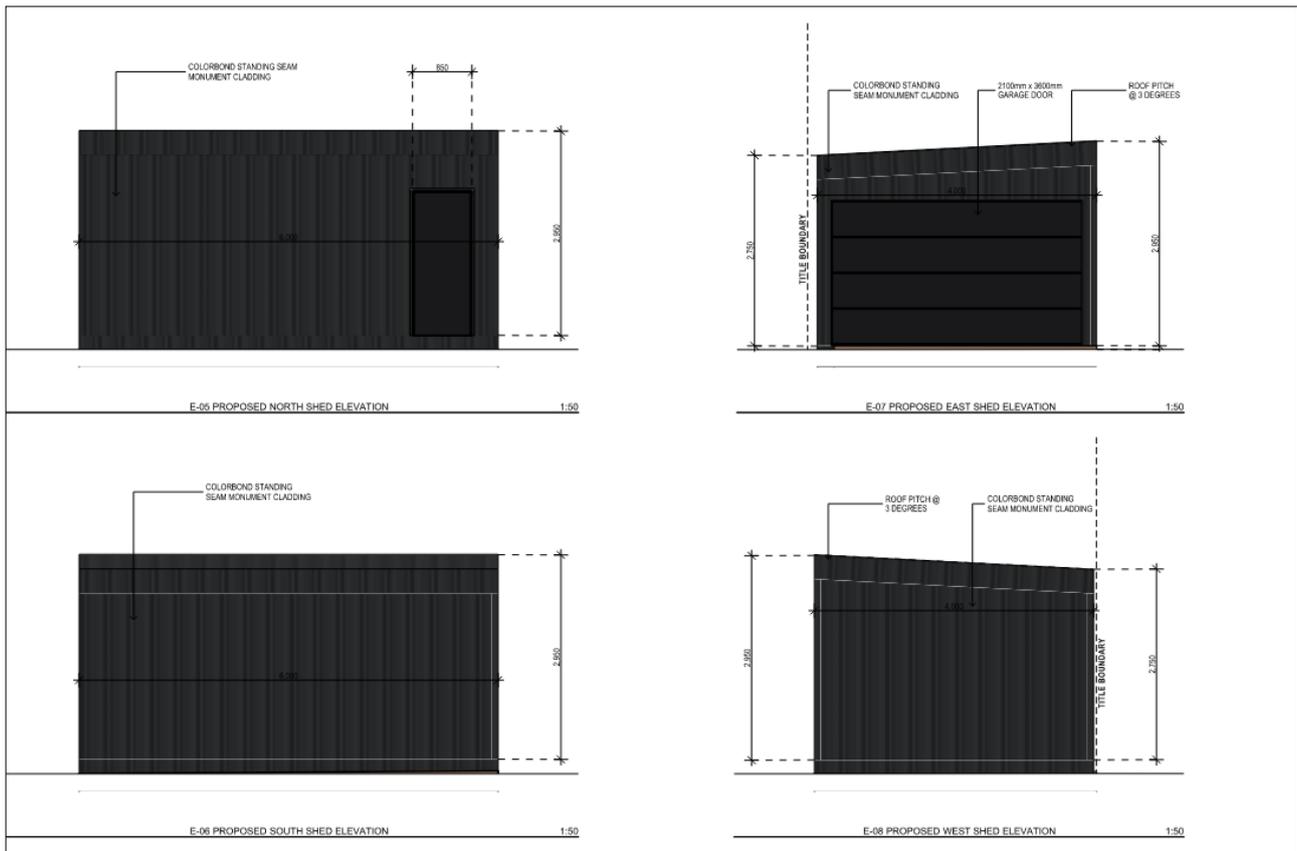
Figure 8 – First floor plan (Cykel Architecture, 2023)



Figure 9 – Dwelling elevation details (Cykel Architecture, 2023)



Figure 10 – 3D perspective of the dwelling looking from the north-east (Cykel Architecture, 2023)



**Figure 11 – Outbuilding elevations (Cyclak Architecture, 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 (including an ancillary outbuilding) 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 instances where the acceptable solutions cannot be met, the application must satisfy the corresponding performance criteria. The latter process invokes a Discretionary planning permit process where the Planning Authority can approve or refuse the application as per s57 of the *Land Use Planning and Approvals Act 1993*. The relevant clauses of the planning scheme are reproduced below, followed by assessment.

## **General Residential Zone**

### 8.4.2 Setback and building envelope for all dwellings

<p>Objective:</p> <p>The siting and scale of dwellings:</p> <p>(a) provides reasonably consistent separation between dwellings and their frontage within a street;</p> <p>(b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings;</p> <p>(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</p> <p>(d) provides reasonable access to sunlight for existing solar energy installations.</p>	
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<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> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p>	<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>

<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>
<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 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</li> </ul> </li> <li>(b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling: <ul style="list-style-type: none"> <li>i. does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or</li> <li>ii. does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</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> <li>iv. visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</li> </ul> </li> <li>(b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</li> <li>(c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on: <ul style="list-style-type: none"> <li>i. an adjoining property; or</li> <li>ii. another dwelling on the same site.</li> </ul> </li> </ul>

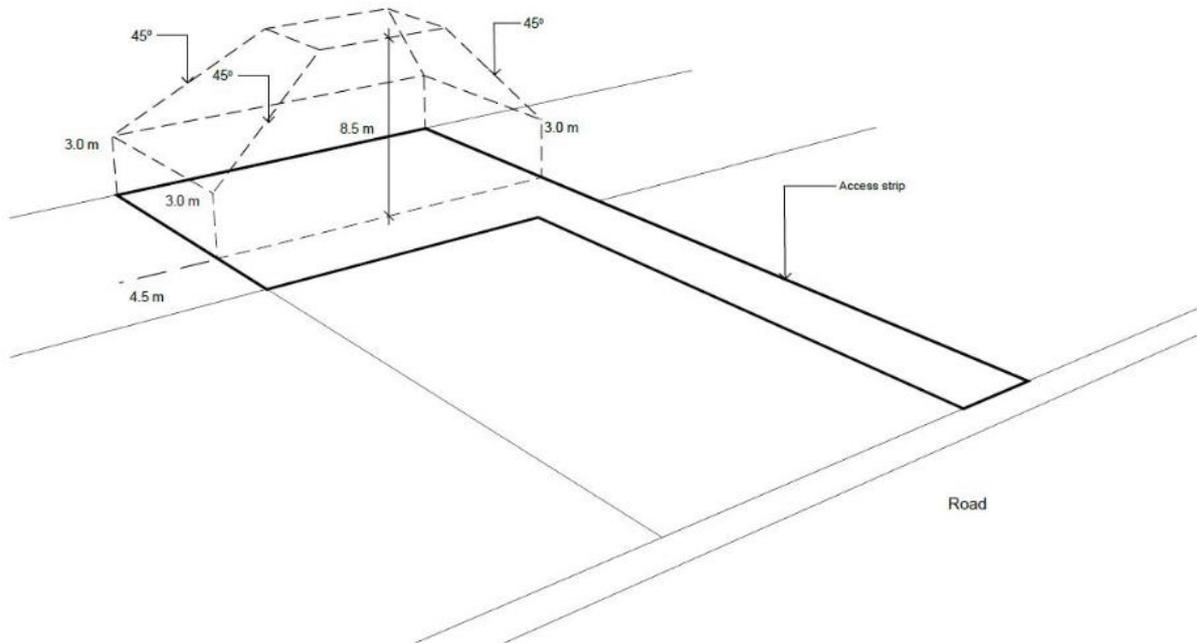
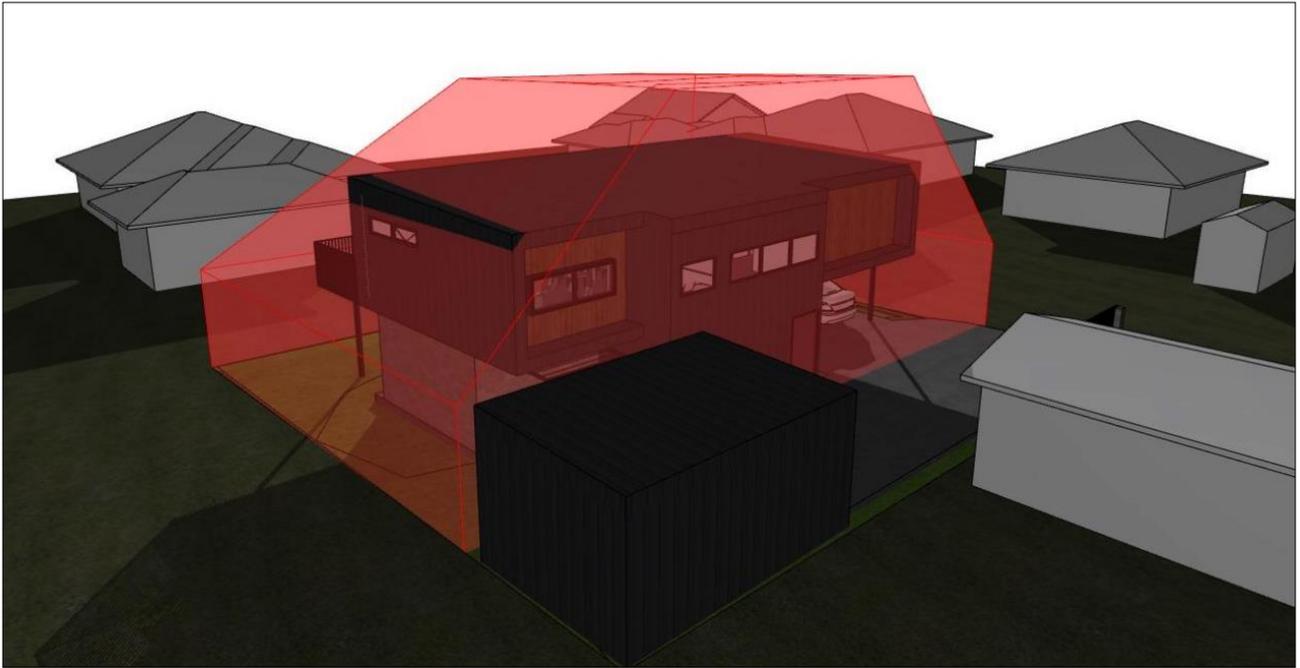


Figure 8.3 Building envelope for internal lots as required by clause 8.4.2 A3(a) and clause 8.5.1 A2(a)

**Comment:** A1/P1 and A2/P2 are not required to be examined for an internal lot.

In relation to the assessment of A3, the proposed outbuilding falls outside the prescribed setback for an internal lot (located within the 4.5m setback to the southern boundary, which adjoins the rear boundary of 4 Smith Street). In addition, both the dwelling and shed fall outside the acceptable 3-dimensional building envelope.

The applicant has provided building envelope perspectives which highlight the envelope variations (areas shown outside the red envelope). These perspectives are highlighted in Figures 12 and 13 on the next page.



**Figure 12 – Building envelope perspective 1 (Cykel Architecture, 2023)**



**Figure 13 – Building envelope perspective 1 (Cykel Architecture, 2023)**

In response to P3, the applicant has provided overshadowing diagrams for both March and June. These are reproduced below in Figures 14-19.



**Figure 14 – Shadow diagrams March 21 9AM (Cykel Architecture, 2023)**



**Figure 15 – Shadow diagrams March 21 12PM (Cykel Architecture, 2023)**



**Figure 16 – Shadow diagrams March 21 3PM (Cykel Architecture, 2023)**



**Figure 17 – Shadow diagrams June 21 9AM (Cykel Architecture, 2023)**



**Figure 18 – Shadow diagrams June 21 12PM (Cykel Architecture, 2023)**



**Figure 19 – Shadow diagrams June 21 3PM (Cykel Architecture, 2023)**

The shadowing diagrams provided for June 21<sup>st</sup> is when the shadowing has its greatest impact due to the low angle of the sun.

The June shadowing diagrams show that the dwelling most impacted by the proposal is the dwelling to the immediate west at 6 Smith Street. The shadowing impact will only occur in the morning hours and is not detrimental to the amenity of this property as it will still be afforded uninhibited sunlight from late morning for the rest of the day. The same consideration can be made for their private open space. The dwelling and outbuilding will overshadow areas of the backyard of 4 Smith Street, however the existing outbuilding on this property lessens the impact and the impact is considered acceptable.

The visual impact of the proposal when viewed from adjoining lots is minimal. The dwelling has a relatively small footprint and only exercises some minor variations to the building envelope. A compliant two level dwelling within the building envelope would have the same visual impact when viewed from adjoining lots. In addition, existing mature vegetation on adjoining properties mitigates the proposal's visual presence when viewed from adjoining properties.

The dwelling and outbuilding have a building separation consistent with the area. Numerous outbuildings within the area such as those observed on 4 and 6 Smith Street and 20 Hiller Street are constructed to or quite close to their respective boundaries. The building setbacks of the dwelling, which is set back over 2m to the closest property boundary is also consistent with adjoining dwellings.

No solar installations will be impacted by the dwelling and shed.

The performance criteria prescribed within P3 can be met.

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

<p>Objective:</p> <p>That dwellings are compatible with the amenity and character of the area and provide:</p> <p>(a) for outdoor recreation and the operational needs of the residents;</p> <p>(b) opportunities for the planting of gardens and landscaping; and</p> <p>(c) private open space that is conveniently located and has access to sunlight.</p>	
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p><b>A1</b></p> <p>Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m wide); and</p> <p>(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).</p>	<p><b>P1</b></p> <p>Dwellings must have:</p> <p>(a) site coverage consistent with that existing on established properties in the area;</p> <p>(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:</p> <ol 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> </ol> <p>(c) reasonable space for the planting of gardens and landscaping.</p>
<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> <ol 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> </ol> <p>(b) has a minimum horizontal dimension of not less than:</p> <ol 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</li> </ol>	<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> <p>(a) conveniently located in relation to a living area of the dwelling; and</p> <p>(b) orientated to take advantage of sunlight.</p>

<p>that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer);</p> <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>	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

**Comment:** The dwelling and shed will have a site coverage of approximately 25% (125m<sup>2</sup>), which is well below the acceptable threshold of 50% stated within A1.

The dwelling will have a private open space allocation greater than 60m<sup>2</sup>. The area north of the dwelling will have a private open space location greater than 24m<sup>2</sup> with a minimum horizontal dimension of 4m. A2 (a) and (b) are satisfied.

#### 8.4.5 Width of openings for garages and carports for all dwelling

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 carport associated with the dwelling facing Smith Street is setback 35m. A1 is satisfied.

#### 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</p>	<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</p>

<p>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>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>
<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> <ul style="list-style-type: none"> <li>(a) the window or glazed door: <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> </li> <li>(b) the window or glazed door: <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</li> </ul> </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>

<p>a window or glazed door, to a habitable</p> <p>ii. room of another dwelling;</p> <p>iii. 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</p> <p>iv. 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%.</p>	
<p><b>A3</b></p> <p>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:</p> <p>(a) 2.5m; or</p> <p>(b) 1m if:</p> <p>i. it is separated by a screen of not less than 1.7m in height; or</p> <p>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.</p>	<p><b>P3</b></p> <p>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.</p>

**Comment:** The first floor balcony associated with the dwelling is setback 2.3m to the western side boundary and 2.5m to the rear boundary. To satisfy A1 of this standard, a balcony greater than 1m above natural ground level is required to have either a side setback of 3m and 4m to the rear boundary or 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%, is provided.

No privacy screen has been shown on the plans and therefore P1 is required to be assessed.

The objective of this standard is "to provide a reasonable opportunity for privacy for dwellings." In addition, P1 prescribes that balconies must either be screened or designed to minimise overlooking of a dwelling or their private open space.

To comply with the performance criteria, a privacy screen to a height of 1.7m to the western side boundary and northern rear boundary with a transparency no more than 25% is recommended to be included as a condition on the permit (if approved).

Alternatively, the deck could be redesigned to comply with the acceptable requirements of A1.

In regard to the assessment of A2, the first floor of the dwelling has a living room window within 3m of the western side boundary and a bedroom window within 3m of the eastern side boundary. Both windows have a sill height of not less than 1.7m above the floor level and therefore compliance with A2 (b) is achieved.

A3/P3 is not applicable to the assessment of this application.

#### 8.4.7 Frontage fences for all dwellings

Objective: The height and transparency of frontage fences: (a) provides adequate privacy and security for residents; (b) allows the potential for mutual passive surveillance between the road and the dwelling; and (c) is reasonably consistent with that on adjoining properties.	
Acceptable Solutions	Performance Criteria
<b>A1</b> No Acceptable Solution. <sup>1</sup>	<b>P1</b> A fence (including a free-standing wall) for a dwelling within 4.5m of a frontage must: (a) provide for security and privacy while allowing for passive surveillance of the road; and  (b) be compatible with the height and transparency of fences in the street, having regard to:  i. the topography of the site; and  ii. traffic volumes on the adjoining road.

<sup>1</sup> An exemption applies for fences in this zone

**Comment:** As the lot is internal no frontage fence is proposed.

No other prescribed standards within the General Residential Zone are applicable to the assessment of this application.

The applicable codes in the planning scheme are assessed below.

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

Under Table C2.5.1 of this Code, a total of 2 on-site car parking spaces are required for a dwelling with more than 2 bedrooms. The proposal development can satisfy this requirement. In addition, driveway and parking areas are required to have a durable all weather sealed surface and the plans demonstrate compliance.

#### **C6.0 Local Historic Heritage Code**

As mentioned earlier within the report, the site is identified within the Wenvoe & Hiller Street Local Heritage Precinct – Reference Number: DEV-C6.2.2. An extract regarding this particular precinct is reproduced in Table 1 below. Figure 5 provided earlier in the report shows the mapped precinct.

Reference Number	Town/Locality	Name of the Precinct	Description, Statement of Local Historic Heritage Values and Design Criteria/Conservation Policy
DEV-C6.2.2	Devonport	Wenvoe and Hiller Street Local Heritage Precinct	<p><b>Description</b></p> <p>The precinct contains a mixture of residential homes, schools and a church.</p> <p><b>Statement of Local Historic Heritage Significance</b></p> <p>This precinct is the major surviving heritage housing area of Devonport and is of very high heritage significance. Wenvoe Street is the main street through the area. The street rises to the west from Steele Street through an industrial area with the first residential buildings near Turton Street. As the street steeply rises a group of very fine houses are located on the slopes with good views and aspect to the north-east. At the southern end of the street are a group of houses and cottages extending into Elizabeth Street, a number of which were relocated from Zeehan. The street contains a wide range of buildings of value and a number of major properties.</p> <p>Macfie Street has also been impacted by industrial development at its northern end. As the street rises steeply heading west to Turton Street a group of two storey timber buildings are located on the high side with an early house at No. 27. The hill is topped by No. 44, a substantial two storey brick house. It is distinctive, as it is the most imposing building in the area with extensive views to the river and Bass Strait. Another significant house is at No. 47 again taking advantage of the extensive views.</p> <p>Hiller Street is located on the ridge and is comparatively level. However, houses on the eastern side are set down with the western houses set slightly above street level. The block between Steele and Turton Streets contains the finest group of buildings in the precinct with examples of various styles and fine decorative treatments. This area forms the core of the Wenvoe and Hiller Street Local Heritage Precinct.</p> <p>The streets oriented east-west generally have smaller scale buildings. Harold Street was a late subdivision from the lands around Pebble Lodge and contains a high</p>

			<p>consistency of buildings, a number of which are now altered and have non-characteristic fencing styles. While the street is wider than the other cross streets, the buildings are modest and representative of the wider development of early Devonport.</p> <p>Archer Street contains several unusual and fine buildings from several periods and a good collection of buildings of local heritage interest. It is a narrower street that typifies the pattern of early subdivision and development of the ridge area.</p> <p>Turton Street has a very high consistency of local heritage interest buildings that make up the basic housing stock of the area.</p> <p>Henry Street is an example of a more modest subdivision with small lot sizes and good consistent housing stock.</p> <p>Smith Street is the least coherent street containing a small number of contributory buildings. The other houses are however good examples of later development and provide a good setting for the more significant buildings.</p> <p>The key characteristics of this Local Heritage Precinct are:</p> <ul style="list-style-type: none"> <li>(a) its consistent building form and scale;</li> <li>(b) the contrasts between larger properties in the north-south streets and the more regular rows of smaller houses in the east-west cross streets;</li> <li>(c) the regular relationship of most houses to the street frontage; and</li> <li>(d) the predominant late 19th century and early 20th century style of the buildings.</li> </ul> <p><b>Design Criteria / Conservation Policy</b></p> <p>There are no design criteria or conservation policies for this precinct.</p>
--	--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Table 1: Overview of the Wenvoe and Hiller Street Local Heritage Precinct (Tasmanian Planning Scheme Devonport, 2020)**

The development is required to be assessed against the applicable provisions prescribed within clause C6.7 – *Development Standards for Local Heritage Precincts and Local Historic Heritage Precincts*. These are reproduced below followed by comment.

#### C6.7.1 Demolition within a local heritage precinct

Objective:	
That demolition within a local heritage precinct does not have an unacceptable impact on the local historic heritage significance of the precinct.	
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>Within a local heritage precinct, demolition of a building, works or fabric, including trees, fences, walls and outbuildings must:</p> <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 precinct listed in the relevant Local Provisions Schedule.</li> </ul>	<p><b>P1</b></p> <p>Within a local heritage precinct, demolition of a building, works or fabric, including trees, fences, walls and outbuildings, must not cause an unacceptable impact on the local historic heritage significance of the local heritage precinct as identified in the relevant Local Provisions Schedule, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the physical condition of the building, works, structure or trees;</li> <li>(b) the extent and rate of deterioration of the building, works, structure or trees;</li> <li>(c) the safety of the building, works, structure or trees;</li> <li>(d) the streetscape in which the building, works, structure or trees is located;</li> <li>(e) the special or unique contribution that the building, works, structure or trees makes to the streetscape or townscape values of the local heritage precinct identified in the relevant Local Provisions Schedule;</li> <li>(f) any options to reduce or mitigate deterioration;</li> <li>(g) whether demolition is a reasonable option to secure the long-term future of a building, works or structure; and</li> <li>(h) any economic considerations.</li> </ul>

**Comment:** The applicant proposes to demolish the existing outbuilding and slabs on the property to facilitate the development of the dwelling and outbuilding. The existing outbuilding can be seen from the property frontage in Smith Street and therefore A1 cannot be met. In this case, the existing outbuilding contains no heritage attributes and P1

can be satisfied. In relation to vegetation removal, no substantial trees are located on the property.

### 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
<p><b>A1</b></p> <p>Within a local heritage precinct or local historic landscape precinct, building and works, excluding demolition, must:</p> <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 precinct listed in the relevant Local Provisions Schedule.</li> </ul>	<p><b>P1.1</b></p> <p>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:</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) 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>P1.2</b></p> <p>Within a local heritage precinct, extensions to existing buildings 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) the character and appearance of the surrounding area;</li> <li>(c) the height and bulk of other buildings in the surrounding area;</li> </ul>

	<p>(d) the setbacks of other buildings in the surrounding area; and</p> <p>(e) any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.</p> <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> <p>(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</p> <p>(b) any relevant design criteria or conservation policies for the local historic landscape precinct, as identified in the relevant Local Provisions Schedule.</p>
<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> <p>(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;</p> <p>(b) height, form, style and materials of the proposed fence; and</p> <p>(c) the style, characteristics and setbacks of fences and gates in the surrounding area.</p>

**Comment:** A1(b) cannot be met as the dwelling will be visible from a road, predominately Smith Street but also other neighbouring streets within the site's vicinity. Subsequently, P1.1 is required to be assessed.

The performance criteria within P1.1 states that:

*“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”.*

Various tests prescribed within P1.1 are reproduced within (a) – (e) which the Planning Authority is required to have regard to when determining if the development can be supported under this standard. Consideration of these tests is below:

- (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;*

The heritage statement from the Local Provisions Schedule (shown in in Table 1) states the following regarding Hiller Street, Harold Street and Smith Street:

*"Hiller Street is located on the ridge and is comparatively level. However, houses on the eastern side are set down with the western houses set slightly above street level. The block between Steele and Turton Streets contains the finest group of buildings in the precinct with examples of various styles and fine decorative treatments. This area forms the core of the Wenvoe and Hiller Street Local Heritage Precinct.*

*The streets oriented east-west generally have smaller scale buildings. Harold Street was a late subdivision from the lands around Pebble Lodge and contains a high consistency of buildings, a number of which are now altered and have non-characteristic fencing styles. While the street is wider than the other cross streets, the buildings are modest and representative of the wider development of early Devonport.*

*Smith Street is the least coherent street containing a small number of contributory buildings. The other houses are however good examples of later development and provide a good setting for the more significant buildings."*

The development is proposed on an internal lot and will not impact the existing development pattern viewed along the streetscape of Smith Street or Hiller and Harold Streets. As mentioned, within the heritage precinct description within the Code, Smith Street contains the least number of contributory buildings and the development although visible from various streets is assessed as not impacting the overall precinct or the values identified.

- (b) *the character and appearance of the surrounding area;*

The term 'surrounding area' is not defined in the Local Historic Heritage Code or the planning scheme. The immediate area adjoining the site can be best described as early Victorian style and federation cottages constructed in the early 1900s. However, within a 100m radius of the site there are numerous examples of contemporary dwellings constructed in the late 20<sup>th</sup> century that do not have any apparent heritage attributes. Examples of these buildings are shown below in Figures 20 and 21. In addition, Figure 22 is an image of a dwelling at 10 Smith Street which is clad in brick rather than the predominant weatherboard for the area. The two latter observations are prevalent throughout the mapped Wenvoe & Hiller Street Local Heritage Precinct. The development is assessed as being compatible with the surrounding area.



Figure 20 – Multiple dwelling development at 9 Harold Street, constructed in 1986 (DCC, 2023)



**Figure 21 – Multiple dwelling development 29 Hiller Street, constructed in 1977 (DCC, 2023)**



**Figure 22 – Single dwelling clad in brick at 10 Smith Street (DCC, 2023)**

(c) *the height and bulk of other buildings in the surrounding area;*

The dwelling is proposed to be constructed over two storeys. There are no other two storey buildings identified within Smith Street or Harold Street. The eastern side of Hiller Street, within 100m of the site, has numerous dwellings constructed over two storeys, refer to examples in Figures 23 and 24. In addition, a number of houses constructed within the surrounding area have high pitched roofs characteristic of their era of construction. The proposed dwelling is to have a low pitch skillion roof and as a double storey building it is seen to be compatible with the surrounding area in relation to bulk and height.



**Figure 23 – Two storey dwelling located at 19 Hiller Street (DCC, 2023)**



**Figure 24 – Two storey dwelling located at 27 Hiller Street (DCC, 2023)**

(d) *the setbacks of other buildings in the surrounding area; and*

The development is seen to be consistent with other building setbacks within the site's vicinity.

(e) *any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.*

There are no design criteria or conservation outcomes included within the Local Historic Heritage Code for the Wenvoe and Hiller Street Local Heritage Precinct.

Overall, the siting of the dwelling and the outbuilding are assessed as satisfying the performance criteria prescribed within P1.1.

P1.2 is not required to be assessed as these criteria are applicable to extensions to existing buildings, nor is P1.3 which only applies to local historic landscape precincts.

In relation to A2/P2 of this standard, the lot is internal, and no front fence or gates are shown adjacent to the Smith Street frontage.

### **C16.0 Safeguarding of Airports Code**

The site is mapped within an airport obstacle limitation area overlay under this Code. The proposal is not required to be further examined under this Code as it is comfortably under the 115m AHD threshold.

### **COMMUNITY ENGAGEMENT**

On 21/03/2023, 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 29/04/2023;
- (b) Making a copy of the proposal available in Council Offices from the 29/04/2023;
- (c) Notifying adjoining property owners by mail on 27/04/2023; and
- (d) Erecting a Site Notice for display from the 28/04/2023.

The period for representations to be received by Council closed on 12/05/2023.

### **REPRESENTATIONS**

Eleven representations were received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*.

A copy of each representation in their entirety is **appended as an attachment** to this report.

A summary of the representations received, and the Planning Officer's evaluation is provided in Table 2 below.

<b>Representor</b>	<b>Overview of concerns raised in Representation</b>	<b>Planning Officer's Evaluation of Representation</b>
Jan Coggins	1. Smith Street and the surrounding area has	1. The site is located within the Wenvoe & Hiller Street Local Heritage Precinct under the

<p>4 Smith Street</p>	<p>a strong heritage feeling. The dwelling should be downsized to single level. The black colour finish of the dwelling and shed is not appropriate.</p> <ol style="list-style-type: none"> <li>2. Impact on property valuation to home and surrounding locality.</li> <li>3. Questioning the accuracy of the overshadowing plans provided.</li> <li>4. Southern facing windows on the first floor of the dwelling will overlook into my home and backyard.</li> <li>5. Question regarding if boundary fencing is proposed as part of the development.</li> <li>6. Drainage concerns regarding driveway and increase in stormwater runoff and impact to my property.</li> <li>7. Current driveway has screening plants between the boundaries of the properties. Will this be preserved?</li> <li>8. Relocation of sewer drainage.</li> <li>9. Concerns regarding parking. The property has limited availability for street parking.</li> </ol>	<p>Local Heritage Code of the <i>Tasmanian Planning Scheme – Devonport</i>. The Code does not contain any design criteria or conservation outcomes for this precinct e.g. external paint finishes. The assessment has also found that the impact to the streetscape of the area will not be detrimentally compromised.</p> <ol style="list-style-type: none"> <li>2. The impact to property valuation is not a consideration under the planning scheme.</li> <li>3. The applicant has provided overshadowing diagrams in support of the 3-dimensional building envelope variation. The shadow diagrams have been reviewed and can be supported. For example, at 12noon on the 21<sup>st</sup> of June the angle of the sun in Devonport will be approximately 29°. Based on the southern height of the dwelling being approximately 5.6m this will cast a shadow of 10m which is consistent with the shadowing analysis provided by the applicant.</li> <li>4. The southern windows as proposed comply with the privacy standards of the General Residential Zone. However, the applicant has revised the southern windowsill heights to be higher and less intrusive after talking to the representor. The amended plans are appended as part of the application documentation with the previous plans superseded (refer to Discussion section of the report).</li> <li>5. No boundary fencing has been included within the planning documentation. Any boundary fencing is required to be negotiated between neighbouring property owners.</li> <li>6. Legislation under the <i>Building Act 2016</i> and <i>Urban Drainage Act 2013</i> ensure runoff from the property is discharged into the Council stormwater system. This will be reaffirmed as a condition on the planning permit.</li> <li>7. This matter is to be resolved between affected landowners and not Council.</li> <li>8. As part of the initial planning stage of this development, it was observed the sewer connection for 4 Smith Street intersects</li> </ol>
-----------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>through the centre of the subject lot. The applicant has worked with TasWater and the sewer will be redirected along the western side boundary of the lot to the reticulated main located within the property of 1 Harold Street. No issues are envisaged regarding this component of the development.</p> <p>9. The site contains two on-site parking spaces which complies with the planning scheme for a single dwelling with 2 or more bedrooms.</p>
John Rand 14 Hiller Street	<p>1. Concerns regarding the location of the first-floor deck and overlooking into adjacent properties.</p> <p>2. The windows associated with the study on the first floor will cause overlooking into the property of 2 Smith Street.</p> <p>3. The contemporary building design is out of character for the area which and will negatively impact neighbouring dwellings constructed in the early 1900s.</p> <p>4. Concerns regarding that the 130–150 year old tree located on my property will need to be removed to facilitate the development.</p>	<p>1. The planning assessment has determined that a privacy screen will need to be erected on the western and northern sections of the deck to satisfy the privacy standard for dwellings. This will be conditioned on the planning permit if approved by the Planning Authority.</p> <p>2. Refer to the planning officer's commentary in the previous representation regarding the changing of the window heights along the southern wall of the dwelling.</p> <p>3. Refer to the planning officer's commentary in the previous representation regarding the assessment of the development within the Wenvoe &amp; Hiller Street Local Heritage Precinct.</p> <p>4. The tree will not be required to be removed. The developer may prune some of the tree limbs within the site's confines and a note on the permit will direct the owner/developer to the requirements of the <i>Neighbourhood Disputes About Plants Regulations 2017</i> for guidance on this matter.</p>
Rachel & Adrian Sullivan 3 Harold Street	<p>1. Double storey home will be visible from multiple streets within the Local Heritage Precinct.</p> <p>2. Privacy concerns for neighbouring dwellings due to no screening proposed for the dwelling.</p>	<p>1. Refer to earlier commentary within this Table regarding heritage considerations for the development.</p> <p>2. A condition will be included on the permit regarding screening for the first floor deck to satisfy the privacy standard for dwellings.</p> <p>3. The overshadowing impact from the single dwelling and outbuilding has been assessed and it has been determined to not have an</p>

	<p>3. Significant overshadowing impact to neighbouring properties due the building envelope variations sought.</p> <p>4. Decrease in property values to surrounding homes.</p>	<p>unreasonable impact on the amenity of the area.</p> <p>4. The impact to property valuation is not a consideration under the planning scheme.</p>
<p>Scott Cooper 1 Harold Street</p>	<p>1. The dwelling is out of character for the area and should not be allowed within a heritage precinct.</p> <p>2. The dwelling falls outside the acceptable building envelope.</p> <p>3. The dwelling will impact the privacy of my yard.</p> <p>4. The associated sewer connections for the development are near the trunk of a 100 year old tree.</p> <p>5. The demolition of the outbuilding and the associated sewerage works will destabilise a block wall intersecting over the shared boundary.</p>	<p>1. Refer to earlier commentary within this Table regarding heritage considerations for the development.</p> <p>2. The development does fall outside the acceptable building envelope. The proposal has been examined against the performance criteria for this standard and the amenity impacts to neighbouring properties are not considered detrimental.</p> <p>3. A condition is proposed to be included on the permit for the developer to incorporate screening on the northern section of the first floor deck within 4m of the site's rear boundary. The windows facing the northern boundary are located within the acceptable privacy thresholds.</p> <p>4. The tree trunk is not anticipated to be affected from the works as it located within the property confines of 14 Hiller Street and the sewer connections will be to the reticulated main located near the rear boundary of 1 Harold Street. However, a condition will be included on the permit regarding this matter.</p> <p>5. This matter will be considered as part of the applicable building and permit process. The developer may need to carry out Protection Work – further information can be found out here - <a href="https://www.cbos.tas.gov.au">Standard Limitations (cbos.tas.gov.au)</a>.</p>
<p>Vanessa Lake 6 Smith Street</p>	<p>1. The development is not consistent with the Wenvoe and Hiller Street Local Heritage Precinct.</p>	<p>1. Refer to earlier commentary within this Table regarding heritage considerations for the development.</p> <p>2. Refer to earlier commentary within this Table regarding overshadowing impacts from the proposal. Regarding the impact to weatherboards, both these dwellings have</p>

	<ol style="list-style-type: none"> <li>2. The residential amenity of the neighbouring dwellings will be severely reduced due to the overshadowing from the development. In addition. The weatherboards of the dwellings at 4 and 6 Smith Street will be impacted and may rot if not regularly maintained.</li> <li>3. Privacy concerns, particularly from the first floor of the dwelling.</li> </ol>	<p>sufficient access to sunlight for most times and days of the year.</p> <ol style="list-style-type: none"> <li>3. Refer to earlier commentary within this Table regarding privacy considerations.</li> </ol>
Phylis Sullivan 7 Smith Street	<ol style="list-style-type: none"> <li>1. The development of a double story house with the primary colour black is not consistent with the building form of the local area.</li> <li>2. Due to the height of the building, privacy issues will occur.</li> <li>3. Shadowing impact of the development to neighbouring dwellings.</li> <li>4. Trees to removed and impacted from the development.</li> </ol>	<ol style="list-style-type: none"> <li>1. Refer to earlier commentary within this Table regarding heritage considerations for the development.</li> <li>2. Refer to earlier commentary within this Table regarding privacy considerations.</li> <li>3. Refer to earlier commentary within this Table regarding overshadowing impacts from the proposal</li> <li>4. No neighbouring trees will be impacted by the development other than potential pruning works for limbs that sit over the property boundary.</li> </ol>
Amy Dick 3 Smith Street	<ol style="list-style-type: none"> <li>1. Issue with limited street parking in Smith Street and the proposal will exacerbate this situation.</li> </ol>	<ol style="list-style-type: none"> <li>1. The development complies with the parking requirements under the Parking Code of the planning scheme.</li> <li>2. Refer to earlier commentary within this Table regarding heritage considerations for the development.</li> </ol>

	2. The development does not have any consideration for the heritage feel of the area.	
Margaret & Ross Belbin – 8 Smith Street	<p>1. The property is not in keeping with the heritage overlay-reference to Amendment AM97/05.</p> <p>2. Could Council advise the steps that have been undertaken to address the heritage overlay.</p>	<p>1. Refer to earlier commentary within this Table regarding heritage considerations for the development. The application has been assessed the current and applicable provisions within the Local Historic Heritage Code of the planning scheme.</p> <p>2. The heritage matters have been addressed within the assessment of this report.</p>
Isaac Fergusson – 16 Hiller Street	<p>1. Concerns regarding the structural integrity of a party wall between the properties due to the existing outbuilding proposed to be demolished.</p> <p>2. The development of a two storey dwelling will create privacy issues for all surrounding neighbouring properties.</p> <p>3. Overshadowing to my property after 3pm.</p> <p>4. Development is not in keeping with the heritage area.</p>	<p>1. Refer to earlier commentary within this Table regarding similar concerns raised by Scott Cooper of 1 Harold Street.</p> <p>2. Refer to earlier commentary within this Table regarding privacy considerations.</p> <p>3. The overshadowing impact to this property from this property will not detrimental.</p> <p>4. Refer to earlier commentary within this Table regarding heritage considerations</p>
Barb Campbell – 12 Hiller Street	1. Impact of the development to the large tree located at 14 Hiller Street.	1. Refer to earlier commentary within this Table regarding this matter.
Camille Thomas	1. Development is out of keeping for the heritage area and will impact	1. Refer to earlier commentary within this Table regarding heritage considerations for the development.

	<p>surrounding historic buildings.</p> <p>2. Impact of the development to the large tree located at 14 Hiller Street.</p>	<p>2. Refer to earlier commentary within this Table regarding this matter.</p>
--	---------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------

**Table 2: Overview of the Representations received and Planning Officer's evaluation (Tasmanian Planning Scheme Devonport, 2020)**

## DISCUSSION

The applicant, although not privy to the representations detail was aware the development proposal attracted a high amount of feedback. In some cases, the applicant/representors have contacted one another to discuss the development.

As mentioned in Table 1, the applicant has since provided amended dwelling plans. The plan changes included altering the sill heights of the windows along the southern elevation and reducing the size of the first floor deck to achieve a 3.1m rear setback rather than 2.5m as initially proposed. In essence, the plans did not substantially change the proposal as initially sought and did not constitute significant changes to warrant the application to be readvertised. Should the application be approved by the Planning Authority, the amended plans will be those stamped as approved with the earlier plans stamped as superseded.

The revised location of the first floor deck and the proposed setbacks cannot satisfy the acceptable solution for 8.4.6 A1 – *Privacy for dwellings*. A condition on the permit (if approved) will be included for a privacy screen to be erected per the acceptable solution.

Lastly, the application has been referred to TasWater and Council Departments with an interest in development applications. Feedback received has been included as conditions or notes where appropriate. In relation to TasWater requirements, the sewer drainage for 4 Smith Street will be realigned along the site's western boundary due to currently intersecting through the middle of the site and would be under the proposed development. The new connections for both the development and 4 Smith Street will be to the reticulated main located within 1 Harold Street and need to be per TasWater's requirements.

## 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 - PA2023.0039 - 2 Smith Street [**3.1.1** - 24 pages]
2. TasWater Submission to Planning Authority Notice - PA2023.0039 - 2 Smith Street [**3.1.2** - 3 pages]
3. All representations PA2023.0039 - 2 Smith Street [**3.1.3** - 24 pages]

## 3.2 PA2023.0047 - 101 PARKER STREET DEVONPORT - RESIDENTIAL ADDITIONS

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 PA2023.0047 and grant a Permit to develop land identified as 101 Parker Street, Devonport for the following purposes:

- Residential additions

Subject to the following conditions:

1. The Development is to proceed generally in accordance with the submitted plans referenced as Drawing No. 1523 (1-7) dated 24/02/2023 by Weeda Drafting, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. The surface water from the driveway and or any paved areas is to be collected and drained to the private stormwater drainage system.
3. All stormwater collected from this work is to be directed into the existing property stormwater pipe in accordance with the National Construction Code.
4. Use of the studio is to be solely by residents of the dwelling and must not be for any commercial activity.
5. During the construction or use of the development as approved, 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.

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 demolition/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.

The developer is to manage any asbestos found during demolition in accordance with the *How to Safely Remove Asbestos Code of Practice* issued by Safe Work Australian (October 2018) and disposal of all hazardous wastes is to be undertaken in strict compliance with the *Environmental Management and Pollution Control (Waste Management) Regulations 2020*.

In regard to conditions 2-3, the applicant 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 PA2023.0047.

### BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	101 Parker Street, Devonport
Applicant:	Scott Bransden
Owner:	MS FC Blake-Smith
Proposal:	Residential additions
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	18/05/2023 – extension granted until 5 <sup>th</sup> June 2023

### SITE DESCRIPTION

The subject site is situated to the south of Parker Street comprising an existing dwelling and outbuilding. Adjoining properties comprise residential development of single dwellings and multiple dwellings. The subject site and surrounding developments are illustrated in Figure 1.



Figure 1 – Aerial view (LISTmap)

**APPLICATION DETAILS**

The applicant is seeking approval for construction of a new carport, covered alfresco area, and studio along the eastern side of the existing dwelling. The proposed studio will be for storage and use by the residents for playing and recording of musical instruments. The development will require the demolition of the existing outbuilding. The proposed development is illustrated in Figures 2 – 6. A full copy of the planning application is **appended as an attachment** to this report.

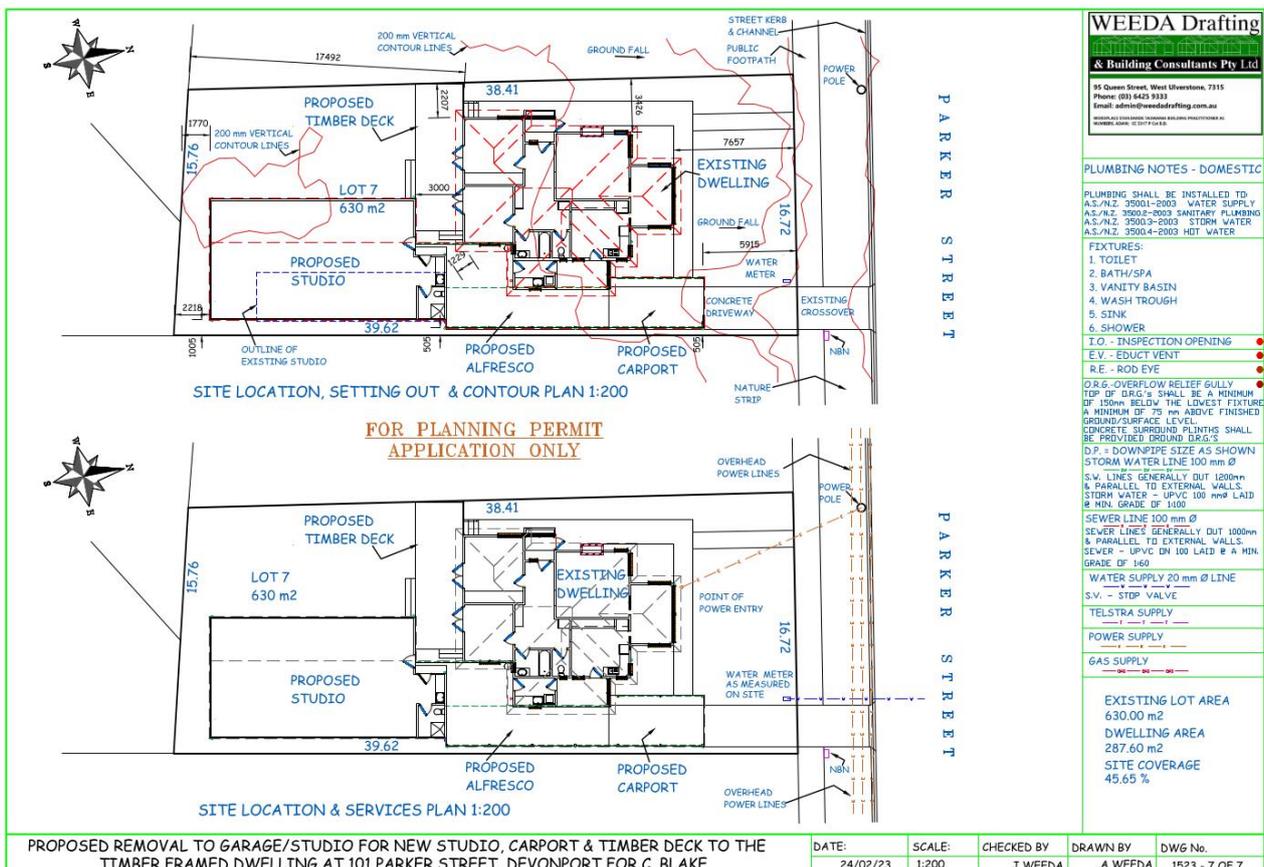


Figure 2 – Site plan (Weeda Drafting)

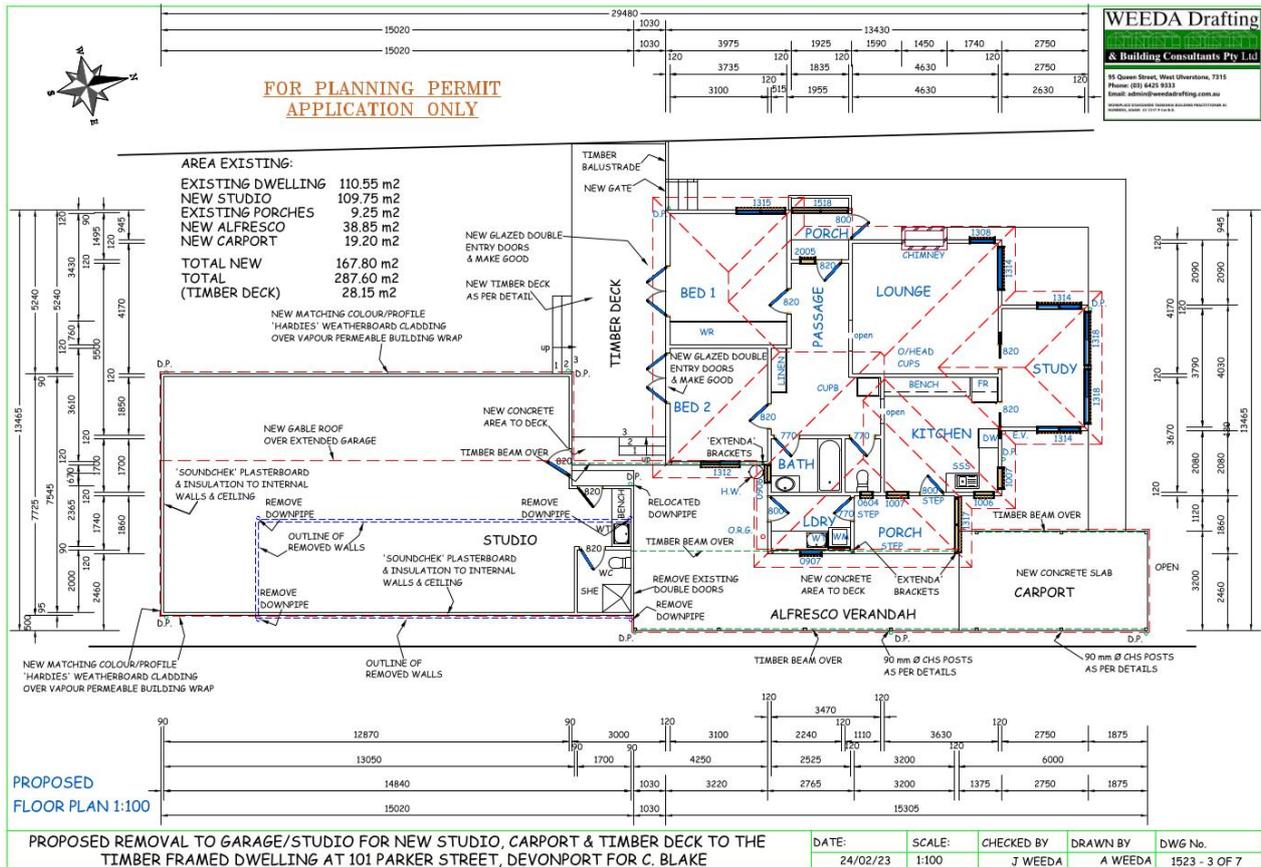


Figure 3 – Floor plan (Weeda Drafting)

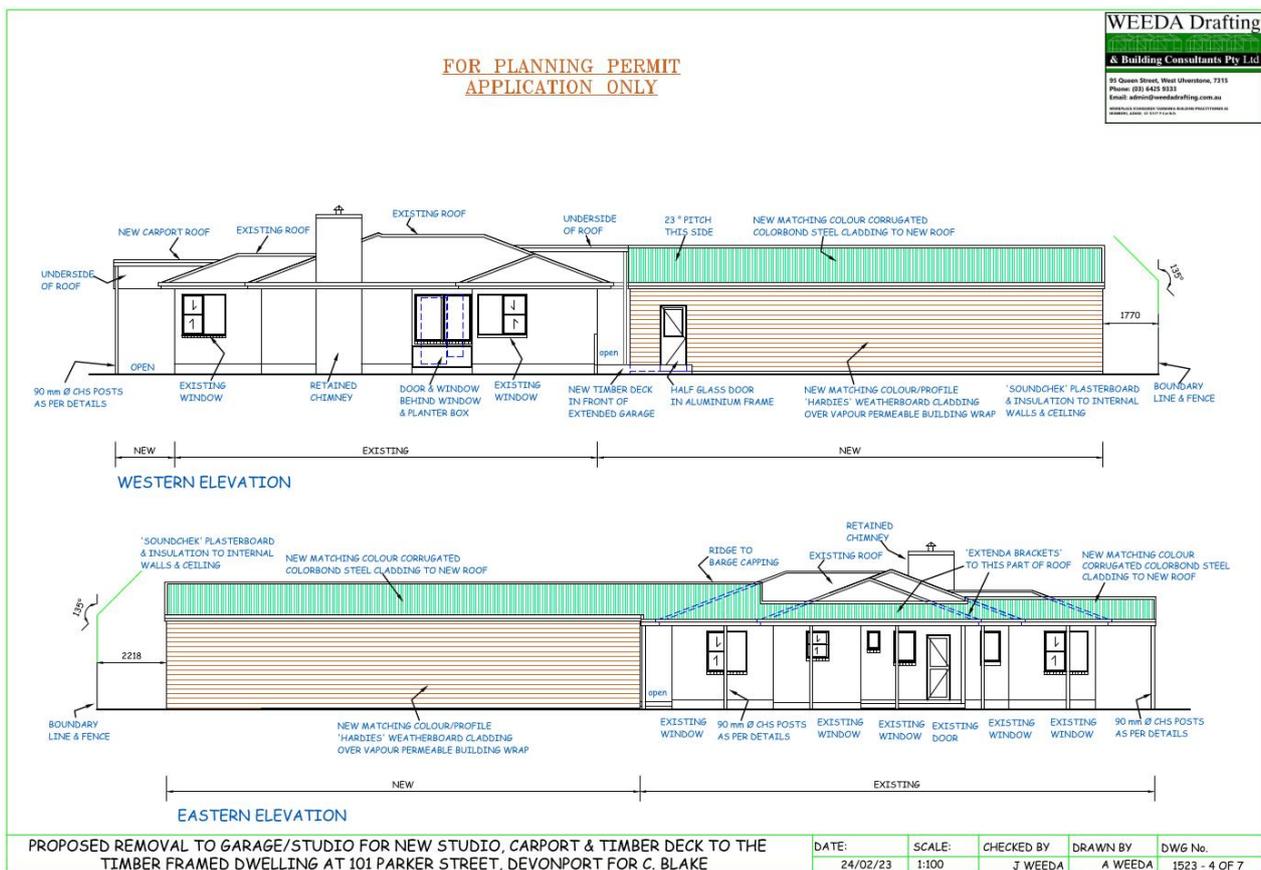


Figure 4 – Elevations: 1 of 2 (Weeda Drafting)

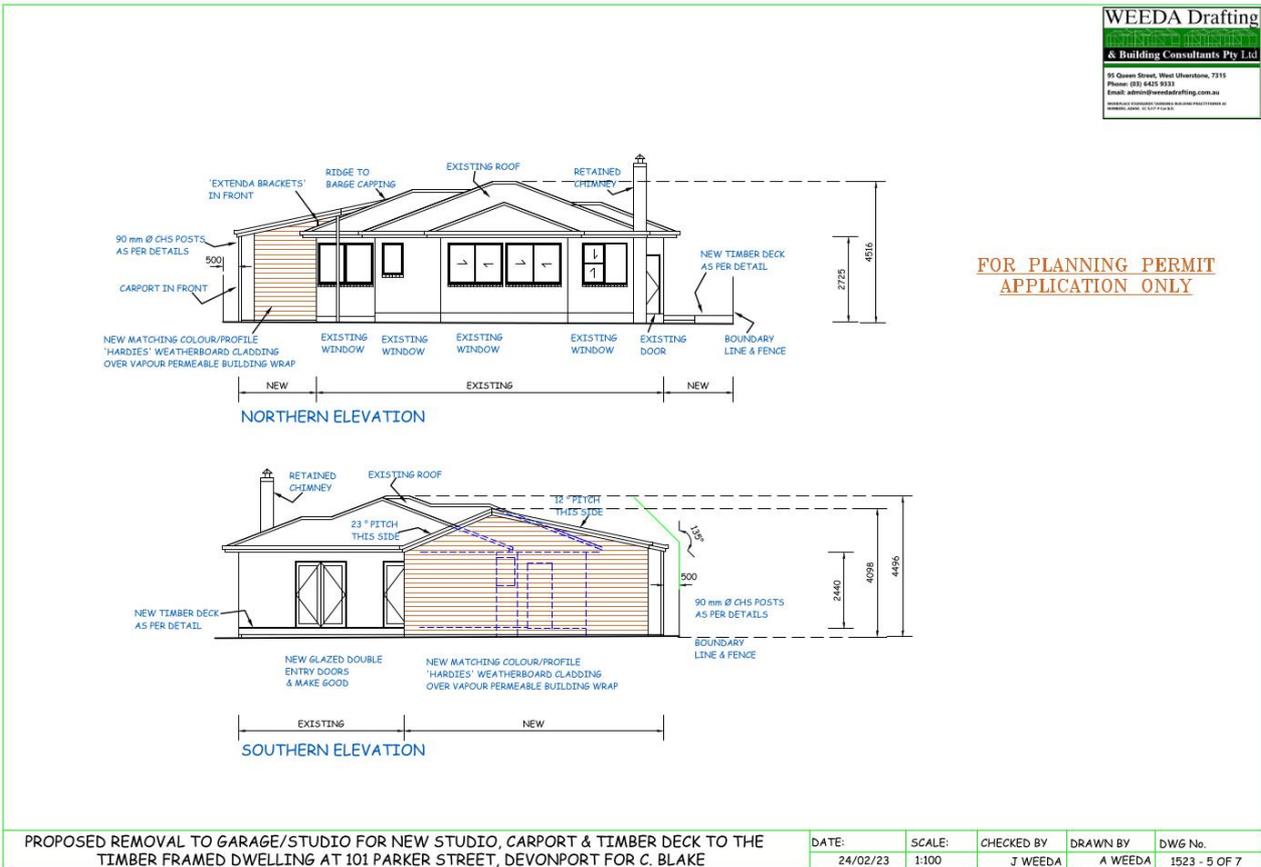


Figure 5 - Elevations: 2 of 2 (Weeda Drafting)

Assessment of an application for a Use or Development

What is proposed?: *Demolition of existing garage, construction of new garage/studio. Construction of new deck & roof structure.*

Description of how the use will operate: *Use of building will be largely storage and a music studio for playing musical instruments & recording music. Use by owners/residents of the dwelling for use into late afternoon/early evening.*

Figure 6 – Application description (Bransden)

**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. Where development cannot meet the relevant acceptable solutions for the design standards a planning permit can be sought under section 57 of the Act.

The proposed development meets the relevant acceptable solutions, except for clause 8.4.2 A3.

<p><b>Objective:</b> 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>	
<p><b>Acceptable Solutions</b></p>	<p><b>Performance Criteria</b></p>
<p><b>A3</b> 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 from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of</li> </ul> </li> </ul>	<p><b>P3</b> 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> <li>iv. visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</li> </ul> </li> <li>(b) provide separation between dwellings on adjoining properties that is</li> </ul>

<p>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> <ol style="list-style-type: none"> <li>i. does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or</li> <li>ii. does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</li> </ol>	<p>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> <ol style="list-style-type: none"> <li>i. an adjoining property; or</li> <li>ii. another dwelling on the same site.</li> </ol>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

P3 – the proposed development will be situated along the eastern side boundary with a 0.5m to 1m setback, exceeding 9m in building length.

The orientation of the lot ensures overshadowing impacts will not be unreasonable to neighbouring properties. The single storey height of the studio building is consistent with the separation between dwellings in the area, while the open sided alfresco and carport will help to reduce the visual bulk when viewed from adjoining properties. The scale of development proposed is typical of residential development and the separation between the buildings is consistent with existing patterns in the area. There are no existing solar installations that will be impacted by the proposed development. P3 can be satisfied.

The proposal meets the relevant acceptable solutions of applicable codes. There are no specific area plans which apply to the subject site.

### COMMUNITY ENGAGEMENT

On 06/04/2023, 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 29/04/2023;
- (b) Making a copy of the proposal available in Council Offices from the 29/04/2023;
- (c) Notifying adjoining property owners by mail on 27/04/2023; and
- (d) Erecting a Site Notice for display from the 28/04/2023.

The period for representations to be received by Council closed on 12/05/2023.

### REPRESENTATIONS

Ten representations were received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*. A copy of the representations is **appended to this report**.

The representations are concerned with matters relating to the potential for commercial type uses within the studio, noise impacts, on-street parking issues and issues due to the setback of proposed development.

- Advertised application material misleading

*Comment: It is understandable that people unfamiliar with drafting conventions for development find it difficult to get a full picture of what the application is*

seeking. It is also acknowledged that the confusion caused by the lack of details as to what the studio was to be used for was an oversight of the planning officer. The applicant has provided written description as to the use of the studio (Figure 6), however the omission of this detail does not affect the description as determined by the planning officer, being for **residential additions**. Were the proposed development to be used for something other than by the residents of the dwelling, the description of the application would have communicated this use class.

- Use for non-residential purposes

*Comment: The application was made for the studio, carport, and alfresco as development associated with the existing residential development. It is understandable that the word 'studio' can be interpreted in different ways, however the use classification as determined by the planning officer assumes the applicant is truthful with their descriptions on an application form. The use of the proposed studio must operate no differently as if it were a room within the existing dwelling.*

*A condition of the permit will ensure the studio is for the sole use of residents of the dwelling and must not be for any commercial activity.*

- Noise/amenity concerns, both studio and alfresco

*Comment: The noise likely to generate from the proposed residential additions must not be more than what is considered acceptable as it would be for any usual dwelling. Council has delegation under the Environmental Management and Pollution Control Act 1994 and the Local Government Act 1993 to deal with nuisance, such as noise.*

*A standardised condition of the permit will ensure that during the construction or use of the development as approved, all measures are to be taken to prevent nuisance.*

- Parking issues, loss of on-street parking

*Comment: The use of the proposed studio will be for the residents of the dwelling, therefore car parking can be accommodated on-site, and will not have any effect to the availability of on-street parking.*

- Shadowing of neighbouring properties

*Comment: The subject site is situated with the long access running north to south. This means that any development within the site has the potential to cause the most detriment to the adjoining southern properties. The property adjoining the southern boundary will have a small increase to overshadowing from the proposed development, compared to the existing outbuilding. The size and shape of existing properties ensures they will not be significantly affected by overshadowing due to the setback and height of the proposed development.*

- Boundary off-set issues with maintenance and fire safety

*Comment: Any matters regarding fire rating will be managed under the Building Act 2016. Maintenance will be at the owner's discretion.*

**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 discretion sought in this instance relates to the length of residential building additions within 1.5m of a side boundary. An assessment of the performance criteria against the discretionary matter discusses how the variation to the acceptable solution will have minimal to no impact upon adjoining properties.

The proposal has been reviewed by internal departments 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 residential additions to an existing dwelling seeks a variation to the acceptable solutions for building works longer than 9m within 1.5m of a side boundary. The concerns raised by representation have been addressed and do not require variation to the proposal. A planning permit can be issued subject to conditions.

**ATTACHMENTS**

1. Application PA2023.0047 - 101 Parker Street [**3.2.1** - 14 pages]
2. All representations PA2023.0047 - 101 Parker Street [**3.2.2** - 21 pages]

### 3.3 PA2023.0003 - 16 LAWRENCE DRIVE DEVONPORT - RESIDENTIAL (MULTIPLE DWELLINGS) ONE ADDITIONAL UNIT

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

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 PA2023.0003 and grant a Permit to use and develop land identified as 16 Lawrence Drive, Devonport for the following purposes:

- Residential (multiple dwellings) one additional unit

Subject to the following conditions:

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as Proposed Change of Use of Pool Room to a Dwelling Unit, Project no. 11222, Dwg No. 1-10 dated 04/11/22 by Weeda Drafting and Building Consultants Pty Ltd, copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. 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.
3. 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.

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.

Street Addressing:

- Existing dwelling will be addressed as 1/16 Lawrence Drive
- Proposed dwelling (rear unit) will be addressed as 2/16 Lawrence Drive

In regard to condition 3 the applicant/developer should contact TasWater – Ph 136992 with any enquiries.

In regard to condition 2, the applicant should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

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

### RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

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

### SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2023.0003.

### BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	16 Lawrence Drive, Devonport
Applicant:	Golden Homes (TAS) Pty Ltd
Owner:	Mr MY Kan & Ms W Gao
Proposal:	Residential (multiple dwellings) one additional unit
Existing Use:	Residential
Zoning:	General Residential
Decision Due:	01/06/2023 - extension granted to 05/06/2023

### SITE DESCRIPTION

The site is located on the northern side of Lawrence Drive, opposite Hillcrest Primary School. The lot has an area of 753m<sup>2</sup> and contains an existing house with an enclosed swimming pool at the rear. The property is surrounded by established residential lots. Figure 1 shows an aerial view of the subject site and surrounding area.



**Figure 1 - Aerial view of subject site and surrounding area (Source: DCC)**

#### **APPLICATION DETAILS**

The applicant is seeking approval for multiple dwellings through the conversion of the pool building to a unit. Figures 2-4 show the proposal plans. The application detail is **appended as an attachment** to this report.

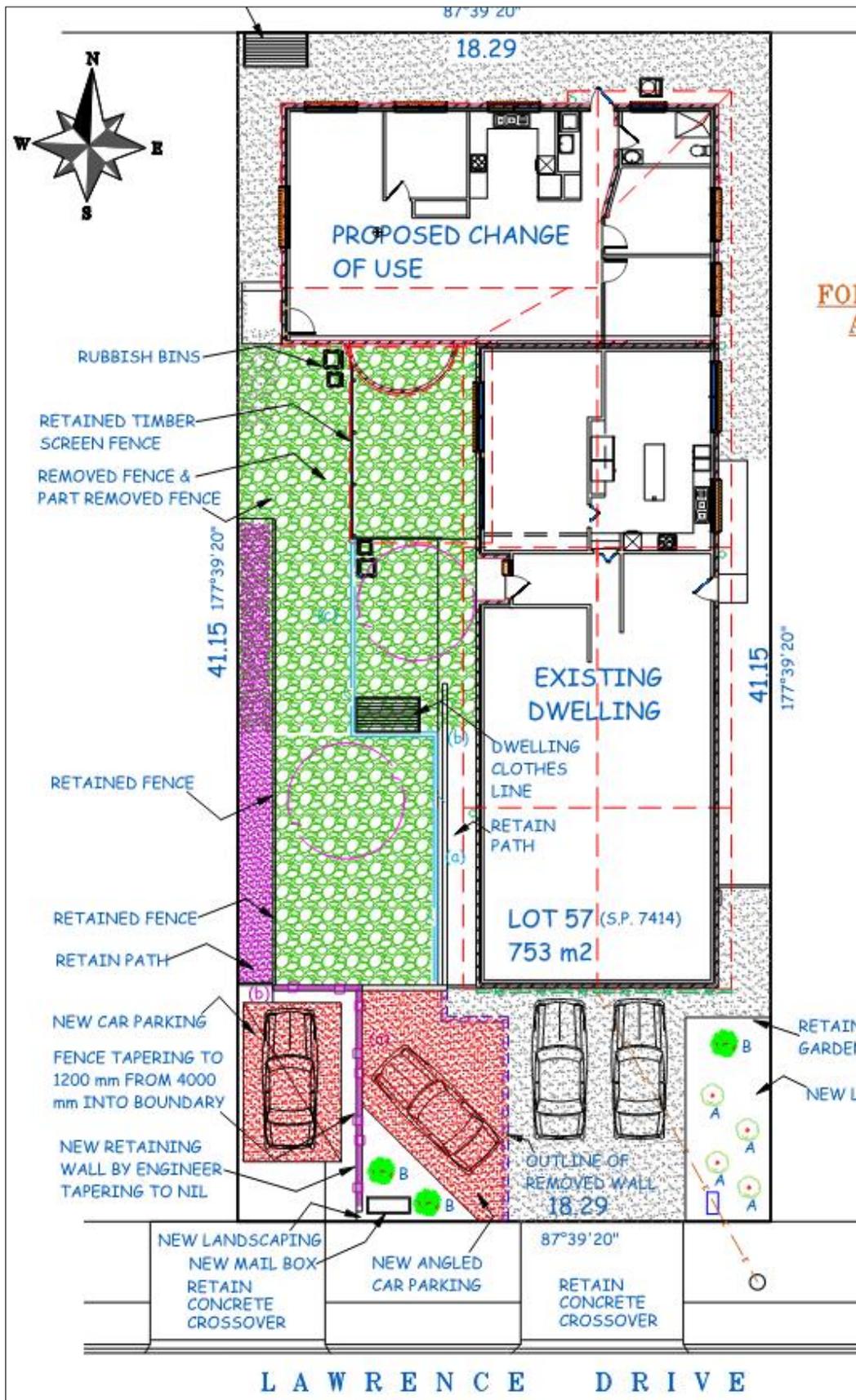


Figure 2 - Site plan (Source: applicant)

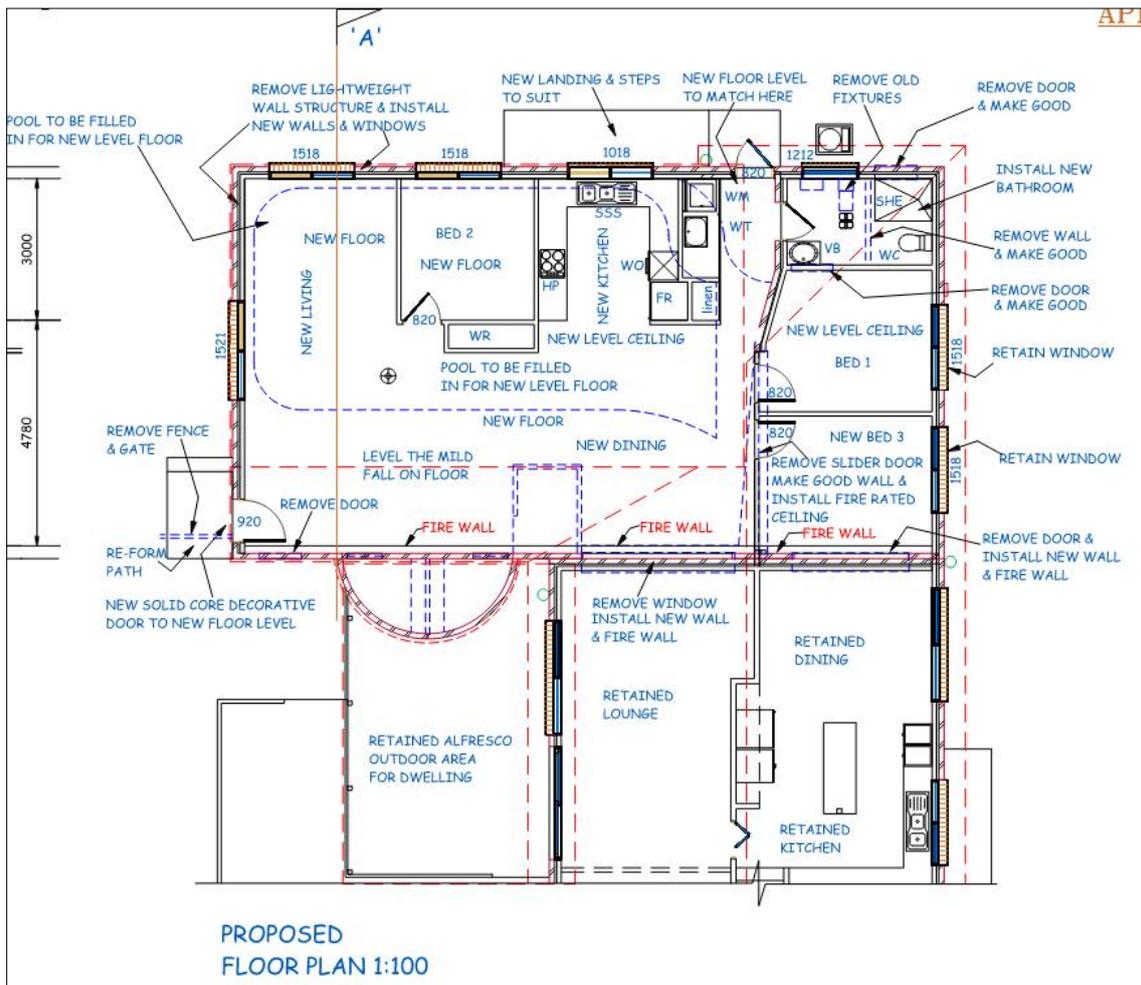


Figure 3 - Proposed floor plan (Source: applicant)

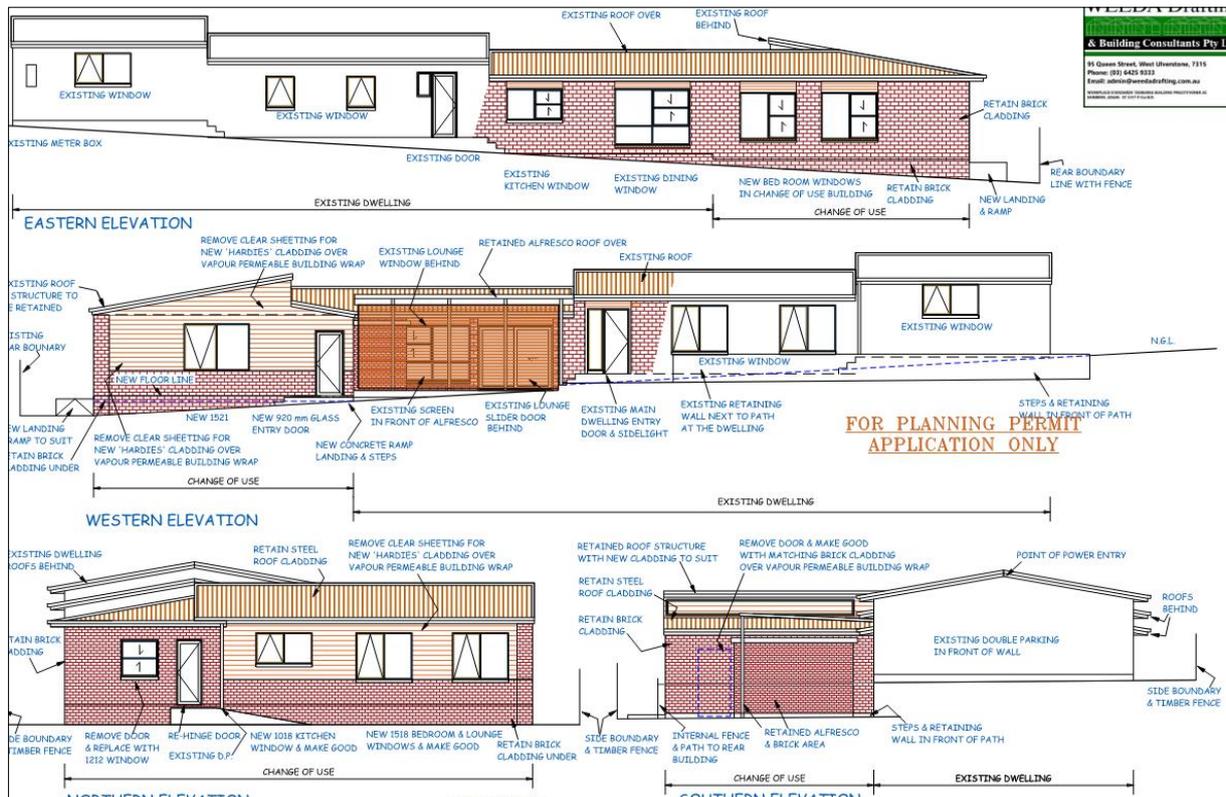


Figure 4 - Elevations (Source: applicant)

## PLANNING ISSUES

The land is zoned General Residential under the *Tasmanian Planning Scheme – Devonport, 2020*. The intent 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 development in the form of multiple dwellings is permitted in the zone provided all applicable standards within the zone and any relevant codes are met.

All standards within the General Residential zone are met at the acceptable solution level, these include dwelling density, private open space provision, privacy, and waste storage. As the buildings are existing the setback, height and building envelope requirements are not applicable.

The proposal does not meet the standards for car parking provision as a visitor parking space is not provided. In instances where the standards cannot be met at the acceptable solutions level the corresponding performance criteria must be satisfied. The relevant performance criteria are reproduced below, followed by assessment.

The Parking and Sustainable Transport Code deals with the parking for the proposal.

### C2.5.1 Car parking numbers

Objective:	That an appropriate level of car parking spaces are provided to meet the needs of the use.	
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	
<p><b>A1</b></p> <p>The number of on-site car parking spaces must be no less than the number specified in Table C2.1, excluding if:</p> <ol style="list-style-type: none"> <li>(a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan;</li> <li>(b) the site is contained within a parking precinct plan and subject to Clause C2.7;</li> <li>(c) the site is subject to Clause C2.5.5; or</li> <li>(d) it relates to an intensification of an existing use or development or a change of use where:</li> </ol>	<p><b>P1.1</b></p> <p>The number of on-site car parking spaces for uses, excluding dwellings, must meet the reasonable needs of the use, having regard to:</p> <ol style="list-style-type: none"> <li>(a) the availability of off-street public car parking spaces within reasonable walking distance of the site;</li> <li>(b) the ability of multiple users to share spaces because of: <ol style="list-style-type: none"> <li>(i) variations in car parking demand over time; or</li> <li>(ii) efficiencies gained by consolidation of car parking spaces;</li> </ol> </li> </ol>	

<p>(i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or</p> <p>(ii) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows:</p> <p><math>N = A + (C - B)</math></p> <p>N = Number of on-site car parking spaces required</p> <p>A = Number of existing on site car parking spaces</p> <p>B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1</p> <p>C = Number of on-site car parking spaces required for the proposed use or development specified in Table C2.1.</p>	<p>(c) the availability and frequency of public transport within reasonable walking distance of the site;</p> <p>(d) the availability and frequency of other transport alternatives;</p> <p>(e) any site constraints such as existing buildings, slope, drainage, vegetation and landscaping;</p> <p>(f) the availability, accessibility and safety of on-street parking, having regard to the nature of the roads, traffic management and other uses in the vicinity;</p> <p>(g) the effect on streetscape; and</p> <p>(h) any assessment by a suitably qualified person of the actual car parking demand determined having regard to the scale and nature of the use and development.</p> <p><b>P1.2</b></p> <p>The number of car parking spaces for dwellings must meet the reasonable needs of the use, having regard to:</p> <p>(a) the nature and intensity of the use and car parking required;</p> <p>(b) the size of the dwelling and the number of bedrooms; and</p> <p>(c) the pattern of parking in the surrounding area.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Comment – Table C2.1 requires 2 parking spaces per unit and 1 visitor parking space per 4 units. This equates to 5 parking spaces for the proposed development. As only 4 spaces are proposed clause P1.2 must be satisfied.

The number of parking spaces proposed meets the reasonable needs of the use as two spaces are proposed per unit. Although a visitor parking space is not proposed the street is generally quiet, outside of school drop off and pick up times, and parking is readily available.

The performance criteria is met.

### COMMUNITY ENGAGEMENT

On 11/02/2023, 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 29/04/2023;
- (b) Making a copy of the proposal available in Council Offices from the 29/04/2023;
- (c) Notifying adjoining property owners by mail on 27/04/2023; and
- (d) Erecting a Site Notice for display from the 28/04/2023.

The period for representations to be received by Council closed on 12/05/2023.

### 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 is from the owners of the neighbouring property to the west and the concerns raised are reproduced below.

Our primary concern being lack of drainage for surface water due to the proposed increase of concrete area. This includes parking bays, footpaths, steps and private open spaces of unit and current dwelling.

Secondly, we hold further concerns over the parking bay closest to the western boundary. It is not shown if it will be contoured to the current pathway, which falls 600mm from south to north with concrete retaining wall.

We are also concerned that the proposed new landing at the front door entrance will cause a damming effect on surface water, which would then redirect water onto our property due to a lack of suitable drainage.

Lastly, we have concerns in relation to the units/main dwelling as to their purpose, what they are to be used for? It is clearly shown there is a provision for more than seven persons.

#### Figure 5 - Representation

Section 6.10.1 of the planning scheme provides that a representation must only be considered insofar as each matter is relevant to the discretion being exercised.

In light of the above the issues surrounding stormwater runoff and the proposed purpose cannot be considered, however, the applicants must comply with the requirements of the *Urban Drainage Act* and ensure that stormwater runoff does not enter neighbouring properties.

The western parking space will be built up to original ground level and a retaining wall constructed to allow the new angled parking space to be accessed via the eastern crossover. The proposed parking space is required to meet the requirements of the Australian Standards and any retaining walls must be constructed to engineer designed plans.

No issues have been raised in the representation that warrant changes to the proposed development.

### 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 by Council's Development and Infrastructure and Works staff and can be approved with conditions.

**ATTACHMENTS**

1. Application PA2023.0003 - 16 Lawrence Drive [**3.3.1** - 17 pages]
2. TasWater Submission to Planning Authority Notice PA2023.0003 - 16 Lawrence Drive [**3.3.2** - 2 pages]

### 3.4 PA2023.0062 - 39 VICTORIA PARADE DEVONPORT - RESIDENTIAL (2 X MULTIPLE DWELLINGS)

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 PA2023.0062 and grant a Permit to use and develop land identified as 39 Victoria Parade, Devonport for the following purposes:

- Residential (2 x multiple dwellings)

Subject to the following condition:

#### Planning Conditions

1. The Use and Development is to proceed generally in accordance with the submitted plans referenced as Sullivan Apartments – DA Issue 00825 - Drawings DA.01-DA.28, dated 04.04.23 by Andrew Smith Architects. A copy of which is attached and endorsed as documents forming part of this Planning Permit.

#### Infrastructure & Works Conditions

2. Stormwater discharge from the proposed development is to be hydraulically detailed and designed by a suitably qualified hydraulic engineer, for all storm events up to and including a 20 -year Average Recurrence Interval (ARI), and for a suitable range of storm durations to identify peak discharge flows. As part of their design the hydraulic engineer is to limit stormwater discharge from the proposed development, by utilising a combination of pipe sizing and/or on-site detention, to that equivalent to only 50% of the development site being impervious. There is to be no uncontrolled overland flow discharge from the proposed development to any of the adjoining properties, for all the above nominated storm events. All design calculations are to be submitted for approval by the City Engineer prior to lodgement of any subsequent building permit applications.
3. Subject to condition 2, and as part of any subsequent plumbing permit application, the proposed development is to have a suitably sized stormwater connection generally in accordance with the Tasmanian Standard Drawings. The size and location of the proposed stormwater connection is to be designed by a suitably qualified hydraulic engineer.
4. The new driveway is to be constructed generally in accordance with the Tasmanian Standard Drawing TSD-R09-v3.
5. The developer is to remove the redundant driveway crossovers and reinstate with kerb and channel and nature strip to Council's specification.

6. Stormwater services are to be disconnected and temporarily capped for re-use. Any capped service is to be inspected by a Council officer.
7. The developer is to be responsible for making good and/or cleaning any footpaths, road surfaces or other element damaged or soiled because of the project.
8. The contractor is to ensure the proposed access shall not cause any undue disturbance to neighbouring properties nor the regular vehicular movement of traffic within the road reserve during the demolition process.
9. A permit to work within the road reserve must be sought and granted prior to any works being undertaken within the road reserve.
10. The developer is to ensure that building, driveway, and car parking areas are set at suitable levels to ensure that stormwater site drainage can be piped at suitable gradients to the required service connection point.
11. There is to be no uncontrolled overland flow of stormwater from the proposed development to any of the adjoining properties.
12. If the existing street tree adjacent to the site's vehicular accesses is to be removed, the developer must seek written consent from Council's Infrastructure & Works Manager for approval.

#### TasWater Condition

13. 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.

Regarding future street addressing, the following is to apply:

- Apartment A - Unit 1, 2A James Street; and
- Apartment B – Unit 2, 2A James Street.

Hours of Construction shall be: Monday to Friday Between 7am - 6pm, Saturday between 9am -6pm and Sunday and statutory holidays 10am - 6pm.

The developer is to manage any asbestos found during demolition in accordance with the *How to Safely Remove Asbestos Code of Practice* issued by Safe Work Australian (October 2018) and disposal of all hazardous wastes is to be undertaken in strict compliance with the *Environmental Management and Pollution Control (Waste Management) Regulations 2020*.

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*.

In regard to condition 12 the developer should contact TasWater – Ph 136992 with any enquiries.

In regard to conditions 2-11 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 PA2023.0062.

### BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	39 Victoria Parade, Devonport
Applicant:	Andrew Smith Architects
Owner:	Mr PD Sullivan & Mrs FL Sullivan
Proposal:	Residential (2 x multiple dwellings)
Existing Use:	Residential (single dwelling and shed)
Zoning:	General Residential
Decision Due:	07/06/2023

### SITE DESCRIPTION

The site is identified by the certificate of title 170913/1 with the property address of 39 Victoria Parade, Devonport. The site has frontages to Victoria Parade to the west and James Street to the south. An existing weatherboard dwelling was constructed in 1939 and a shed is also located on the site. The site is flat and is adjoined by residential development with public open space located on the opposite side of Victoria Parade. Figure 1 is a copy of the property's title plan and Figure 2 is an aerial image of the site and surrounding locality. Figures 3 and 4 are images of the dwelling looking from Victoria Parade and James Street respectively.

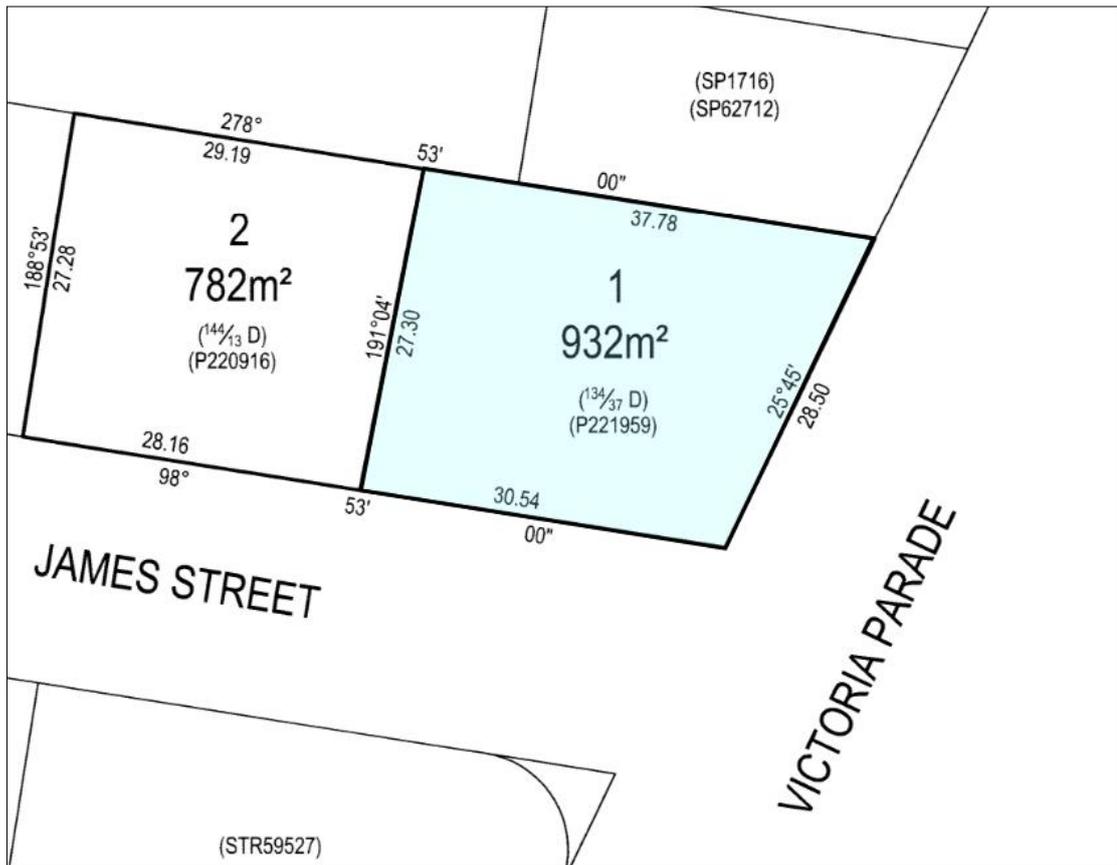


Figure 1 - Title Plan of the subject site SP170913/1 (TheLIST, 2016)

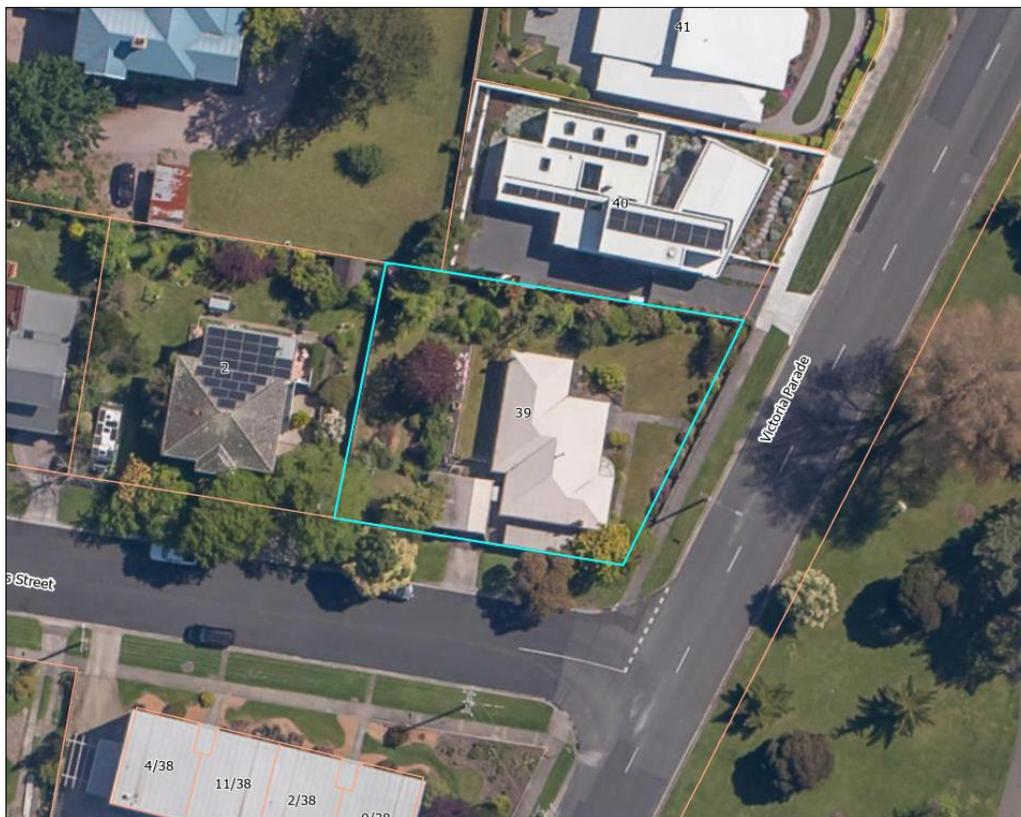


Figure 2 - Aerial image of the subject site outlined in blue and surrounding locality (DCC, 2022)



**Figure 3 – Current image of the site looking east from Victoria Parade (DCC, 2022)**



**Figure 4 – Current image of the subject site looking north from James Street (DCC, 2022)**

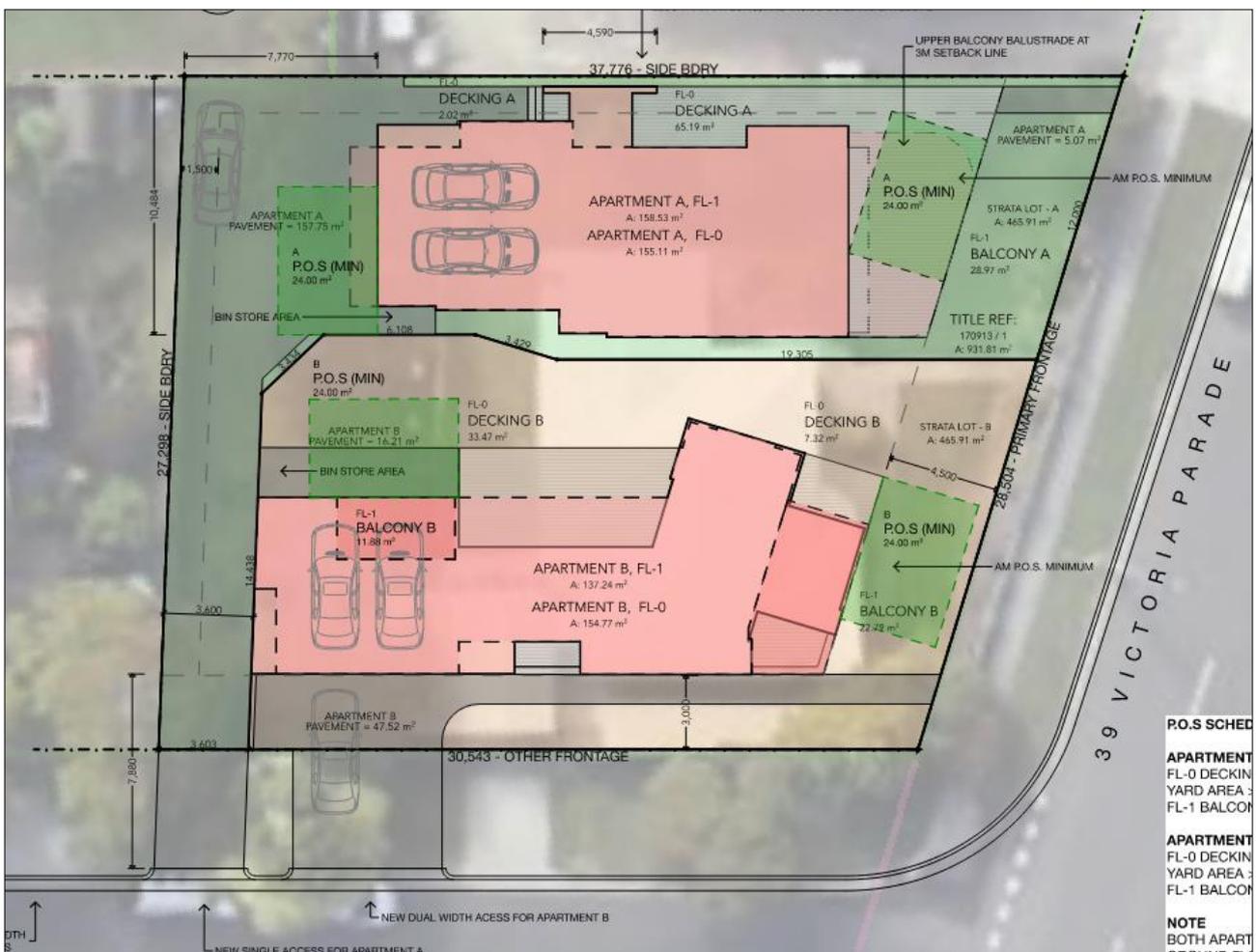
**APPLICATION DETAILS**

The applicant is seeking approval to demolish existing buildings and construct 2 x dwellings on the site which is classified as a multiple dwelling development under the planning scheme.

Each dwelling (Apartment A & B) will be constructed over two levels and accommodate three bedrooms with a dual bay garage and typical living facilities.

A new single width access is proposed to access Apartment A from the western boundary of James Street and Apartment B will be accessed from a new dual width access to the west of the existing site access. The current access for the site will become redundant and become kerb and channel.

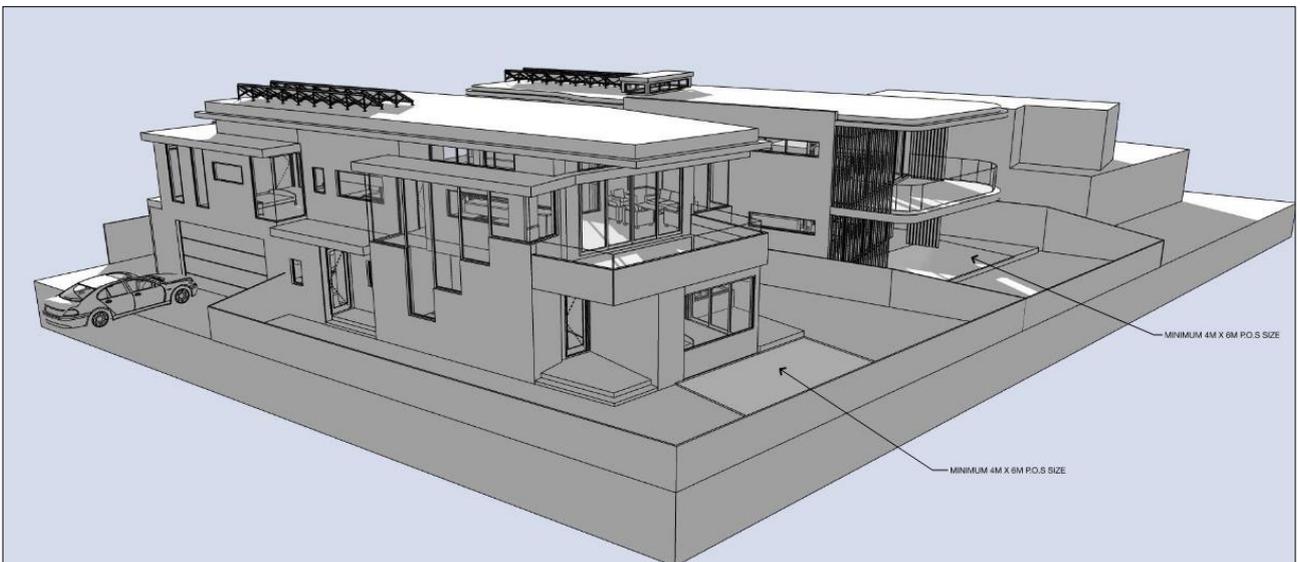
Figure 5 is a copy of the site plan and Figures 6-9 are various visual perspectives of the development. A full copy of the development application is **appended as an Attachment** to this report.



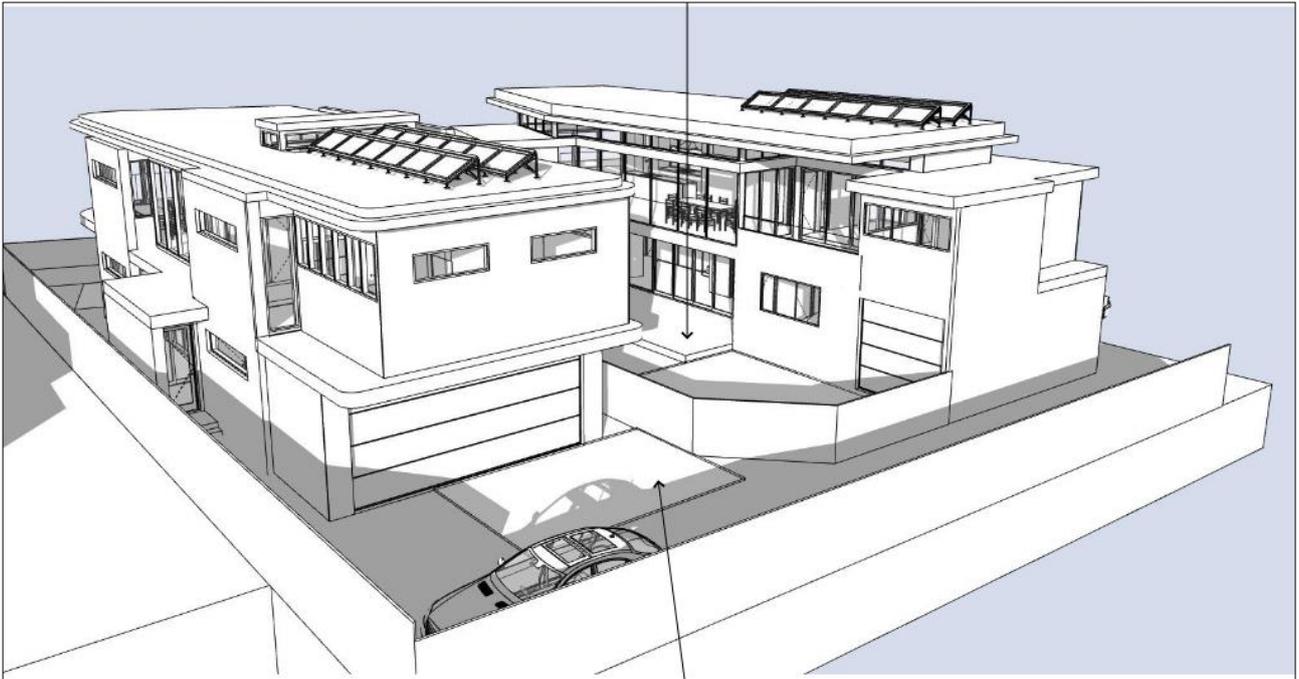
**Figure 5 – Site plan (andrew smith architects, 2023)**



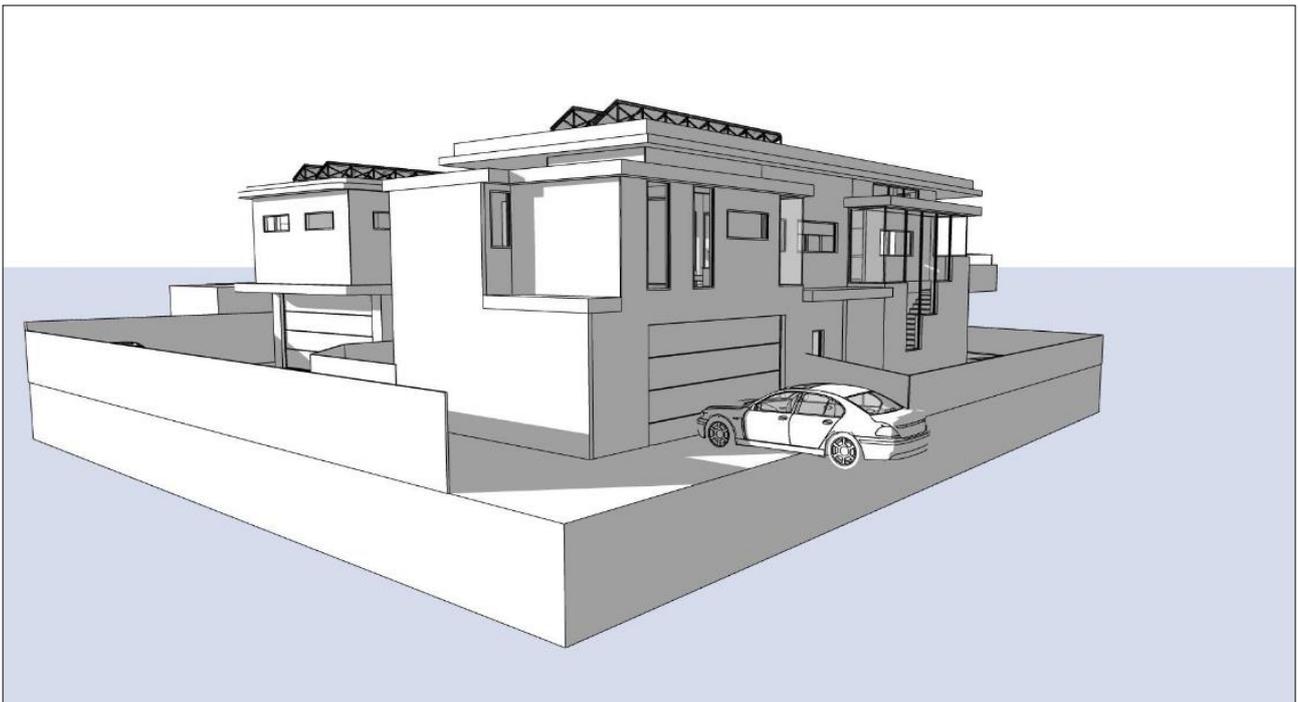
**Figure 6 - Perspective view from the north-east (andrew smith architects, 2022)**



**Figure 7 - Perspective view from the south-east (andrew smith architects, 2022)**



**Figure 8 – Perspective view from the north-west (andrew smith architects, 2022)**



**Figure 9 - Perspective view from the south-west (andrew smith architects, 2022)**

## 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 in the form of multiple dwellings is categorised as Permitted under the Use Table of the General Residential Zone. Provided the development can meet the development standards within the zone and applicable codes at the acceptable solutions level, the application is not required to be advertised and must be approved pursuant to section 58 of the *Land Use Planning and Approvals Act 1993* (LUPAA).

If the proposal cannot meet the relevant acceptable solutions, the application is Discretionary and is required to be advertised. The corresponding performance criteria are assessed to determine if a planning permit pathway can be achieved. This process invokes section 57 of the LUPAA.

In this case, the application relies on the performance criteria for the development standards shown in Table 1. All other development standards have been assessed as complying with the acceptable solutions. For information purposes, the applicant has provided a planning compliance statement which addresses the applicable planning scheme criteria. Where the acceptable solutions have been met, these have been examined and can be supported without the need for further comment.

<b>Development Standard</b>	<b>Reason why the performance criteria is invoked</b>
8.4.2 – <i>Setbacks and building envelope for all dwellings</i> (General Residential Zone)	Both dwellings can satisfy the acceptable building setbacks, however Apartment A seeks a variation to the acceptable 3-dimensional building envelope which requires assessment against P3 of this standard.
C2.5.1 – <i>Car Parking Numbers</i> (Traffic Generating Use and Parking Code)	Each dwelling provides a minimum of two on-site parking spaces in accordance with Table C2.1 of the Code. However, no communal visitor parking space is proposed for the development as the dwellings will be subject to a future strata

	title (essentially two separate lots). Therefore, a mutual visitor parking space is not proposed and P1 of this standard is required to be assessed.
C2.6.3 – Number of accesses for vehicles (Traffic Generating Use and Parking Code)	Two separate vehicle accesses are proposed from the James Street frontage which requires assessment of P1 of this standard.

**Table 1 – Discretions identified for PA2023.0062**

A copy of the development standards where the performance criteria are invoked are reproduced below followed by assessment.

### General Residential Zone

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

Objective: The siting and scale of dwellings:	
<p>(a) provides reasonably consistent separation between dwellings and their frontage within a street;</p> <p>(b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings;</p> <p>(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</p> <p>(d) provides reasonable access to sunlight for existing solar energy installations.</p>	
Acceptable Solutions	Performance Criteria
<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> <p>(a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by:</p> <ol 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 from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height</li> </ol>	<p><b>P3</b></p> <p>The siting and scale of a dwelling must:</p> <p>(a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:</p> <ol 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> <li>iv. visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</li> </ol>

<p>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>does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</p>	<p>(a) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(b) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:</p> <p>i. an adjoining property; or</p> <p>another dwelling on the same site.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

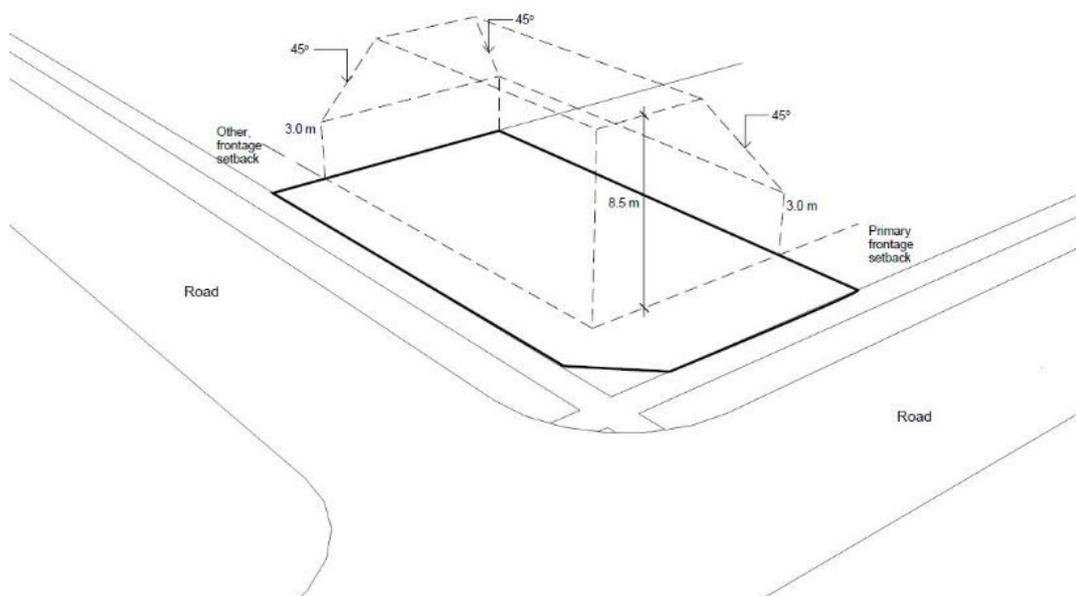


Figure 8.2 Building envelope for corner lots as required by clause 8.4.2 A3(a) and clause 8.5.1 A2(a)

**Comment:** As mentioned in Table 1, a section of the northern wall of Apartment A falls outside the acceptable 3-dimensional building envelope. Various building envelope studies have been provided by the applicant, highlighting the envelope variation. Examples are shown in Figures 10-12.

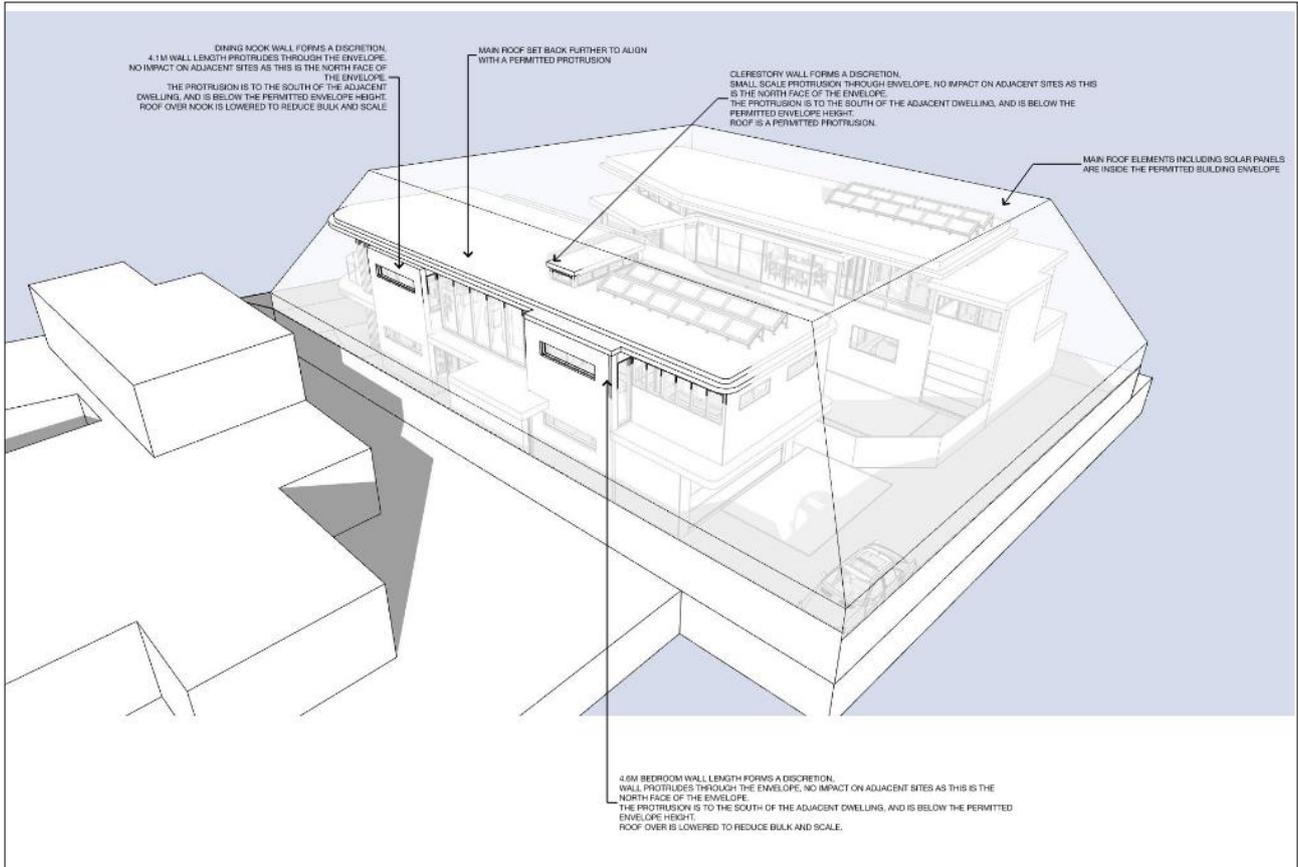


Figure 10 – Building envelope study looking from the north-west (andrew smith architects, 2023)

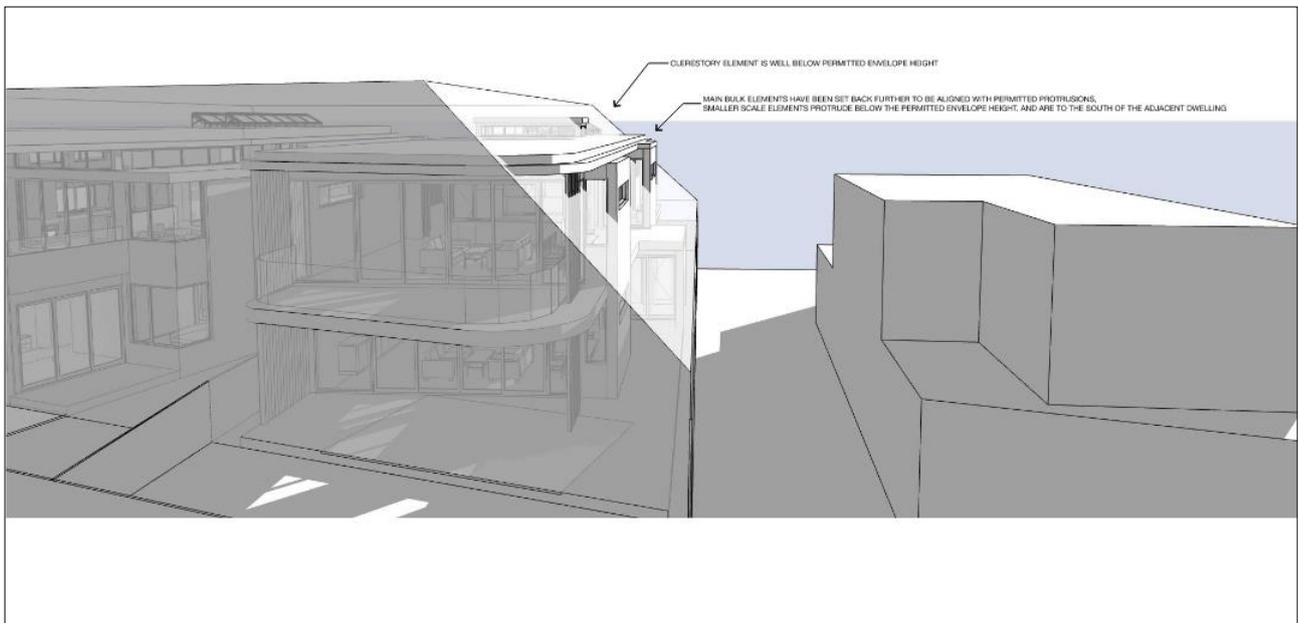
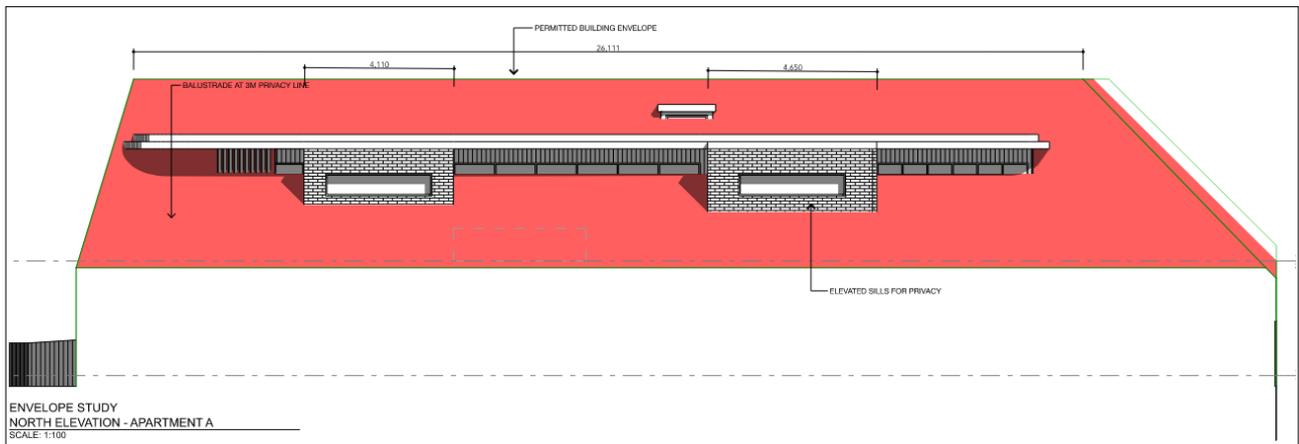


Figure 11 – Building envelope study looking from the east (andrew smith architects, 2023)



**Figure 12 – Building envelope study – north elevation (andrew smith architects, 2023)**

In addition, the applicant has provided the following supporting rationale in support of P3.

In support of P3(a):

*"The adjoining property to the North is a 2-storey structure, with minimal openings to the South. This structure will not be impacted by the proposal and has limited exposure to the proposed protrusions.*

*The adjoining property to the West has limited view of the protrusions, and the bulk and scale of the main structures form their outlook. The proposed main structures are in their site line, and are inside the permitted envelope, and therefore have no impact."*

In support of P3(b):

*"The plan position of structures follows or exceeds the permitted setbacks, with stepped forms and delineation of walls. The proposal provides adequate separation and is consistent with the local area."*

In support of P3(c):

*"The proposal has no impact on solar energy installations on adjoining or the proposal site."*

The supporting rationale has been reviewed and P3 is determined satisfied.

## Traffic Generating Use and Parking Code

### C2.5.1 Car parking numbers

Objective:	
That an appropriate level of car parking spaces are provided to meet the needs of the use.	
Acceptable Solutions	Performance Criteria
<p><b>A1</b></p> <p>The number of on-site car parking spaces must be no less than the number specified in Table C2.1, excluding if:</p> <p>(a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan;</p> <p>(b) the site is contained within a parking precinct plan and subject to Clause C2.7;</p> <p>(c) the site is subject to Clause C2.5.5; or</p> <p>(d) it relates to an intensification of an existing use or development or a change of use where:</p> <p>(i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or</p> <p>(ii) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows:</p>	<p><b>P1.1</b></p> <p>The number of on-site car parking spaces for uses, excluding dwellings, must meet the reasonable needs of the use, having regard to:</p> <p>(a) the availability of off-street public car parking spaces within reasonable walking distance of the site;</p> <p>(b) the ability of multiple users to share spaces because of:</p> <p>(i) variations in car parking demand over time; or</p> <p>(ii) efficiencies gained by consolidation of car parking spaces;</p> <p>(c) the availability and frequency of public transport within reasonable walking distance of the site;</p> <p>(d) the availability and frequency of other transport alternatives;</p> <p>(e) any site constraints such as existing buildings, slope, drainage, vegetation, and landscaping;</p> <p>(f) the availability, accessibility, and safety of on-street parking, having regard to the nature of the roads, traffic management and other uses in the vicinity;</p> <p>(g) the effect on streetscape; and</p> <p>(h) any assessment by a suitably qualified person of the actual car parking demand determined having</p>

<p><math>N = A + (C - B)</math></p> <p>N = Number of on-site car parking spaces required</p> <p>A = Number of existing on-site car parking spaces</p> <p>B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1</p> <p>C = Number of on-site car parking spaces required for the proposed use or development specified in Table C2.1.</p>	<p>regard to the scale and nature of the use and development.</p> <p><b>P1.2</b></p> <p>The number of car parking spaces for dwellings must meet the reasonable needs of the use, having regard to:</p> <p>(a) the nature and intensity of the use and car parking required;</p> <p>(b) the size of the dwelling and the number of bedrooms; and</p> <p>(c) the pattern of parking in the surrounding area.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Comment:** Apartment A will be provided with a total of three on-site parking spaces. Apartment B also shows three allocated parking spaces. However, the third parking space overhangs the James Street road reserve and cannot be accepted. As mentioned in Table 1, the performance criteria are invoked as a mutually accessible parking space is not provided. P1.2 must be assessed in this case, as the proposal is for dwellings.

Any visitors to Apartment A will likely park on-site and visitors to Apartment B will need to park on the street, consistent with parking in the surrounding area. P1.2 can be supported.

### C2.6.3 Number of access for vehicles

<p>Objective</p> <p>That:</p> <p>(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;</p> <p>(b) accesses do not cause an unreasonable loss of amenity of adjoining uses; and</p> <p>(c) the number of accesses minimise impacts on the streetscape.</p>	
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p><b>A1</b></p> <p>The number of accesses provided for each frontage must:</p> <p>(a) be no more than 1; or</p> <p>(b) nor more than the existing number of accesses;</p> <p>whichever is the greater.</p>	<p><b>P1</b></p> <p>The number of accesses for each frontage must be minimised, having regard to:</p> <p>(a) any loss of on-street parking; and</p> <p>(b) pedestrian safety and amenity;</p> <p>(c) traffic safety;</p> <p>(d) residential amenity on adjoining land; and</p> <p>(e) the impact on the streetscape.</p>

**Comment:** Concerning P1, the additional access has been considered by Council's Infrastructure and Works Department and can be supported. The second access will reduce on-street parking on the northern section of James Street adjacent to the site,

however, this is tolerated and considered safer as the new access locations will be further from the Victoria Parade and James Street tangent than the site's existing access.

Currently there is no footpath on James Street where the proposed access locations will be located. As a result, pedestrian safety will not be impacted.

An existing street tree may need to be removed to construct the accesses. If this is the case, further approval from Council's Infrastructure & Works Department will be required and a new street tree will likely need to be planted by the developer. This matter will be reaffirmed as a permit condition.

P1 for this standard is satisfied.

### **Demolition**

The demolition of the existing dwelling and shed is not required to be considered as the application includes approval for future dwellings. It is noted the property is not subject to a heritage overlay under the Local Historic Heritage Code.

### **COMMUNITY ENGAGEMENT**

On 26/04/2023, 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 13/05/2023;
- (b) Making a copy of the proposal available in Council Offices from the 13/05/2023;
- (c) Notifying adjoining property owners by mail on 11/05/2023; and
- (d) Erecting a Site Notice for display from the 11/05/2023.

The period for representations to be received by Council closed on 26/05/2023.

### **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 the adjoining property owner to the west – 2 James Street. The representation was submitted over two parts which are shown below in Figures 13 and 14 followed by comment.

**Details of representation**

Shading, Visual impact, Parking obstructions

**Figure 13 – Representation, part 1 (Jeremy Roach, 2023)**

**From:** Jeremy Roach <jeremyroach@rocketmail.com>  
**Sent:** Saturday, 20 May 2023 5:45 PM  
**To:** Devonport City Council; Office  
**Subject:** Re: Submission of a Representation for PA2023.0062 Confirmation from Jeremy Roach

You don't often get email from jeremyroach@rocketmail.com. [Learn why this is important](#)

Hello DCC

Thank you for the correspondence regarding PA2023.0062 I didn't note in my initial representation the issue of an additional driveway so close to the intersection of Victoria Parade and James Sreett, both roads have high usage and due to occupants living at 38 Victoria Parade accessing the units directly across the road from James Street, it's very congested currently and a hazard to access James Street, turning onto the street already poses a hazard.

Can you please advise if I need to do another representation or this will be included in the existing one?

Could you also please advise on where I can seek legal advise specifically in regards to development should it be required.

Regards Jeremy

**Figure 14 – Representation, part 2 (Jeremy Roach, 2023)**

**Comment:** The representation provides no further details regarding overshadowing and visual impact. The proposal falls within the acceptable building envelope along the shared boundary between the two properties and the variation sought along the northern side boundary will not impact this particular property.

In regard to part 2 of the representation, the parking variation and additional access has been considered against the applicable performance criteria prescribed within the Traffic Generating Use and Parking Code and can be supported. On occasions when vehicles are parked too close to the intersection, the representor is recommended to report to Police or Council who can take necessary enforcement action.

In summary, no design changes or additional conditions to the plans or permit are required. The representation is to be noted by the Planning Authority.

**DISCUSSION**

The proposal was referred to TasWater. This authority provided a Submission to Planning Authority Notice (SPAN) which will be included as a permit condition and is **appended as an attachment** to this report.

The application has also been assessed by Council Departments with an interest in development applications. Feedback received has been included as conditions or notes where appropriate.

**FINANCIAL IMPLICATIONS**

No financial implications are predicted unless an appeal is made against the Council's decision to the 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 of the *Tasmanian Planning Scheme – Devonport*. The application has demonstrated that either the acceptable solutions or performance criteria can be met and conditional approval for the development is recommended.

**ATTACHMENTS**

1. Application PA2023.0062 - 39 Victoria Parade [**3.4.1** - 46 pages]
2. TasWater Submission to Planning Authority Notice PA2023.0062 - 39 Victoria Parade [**3.4.2** - 2 pages]

## **4 CLOSURE**