

Type of Report: Committee
Council: 6 August 2018
Expiry Date: 9 August 2018
Application No: PLN-18-19
Address: 26 SWAN STREET , NORTH HOBART
Applicant: Gregory and Rosemary Morgan
93 Salamanca Place
Battery Point
Proposal: Partial Demolition, Alterations and Multiple Dwellings
Representations: Two (2)
Performance criteria: Inner Residential Zone Development Standards, Road and Railway Assets Code, Parking and Access Code, and Historic Heritage Code

1. Executive Summary

- 1.1 Planning approval is sought for partial demolition, alterations and multiple dwellings at 26 Swan Street.
- 1.2 More specifically the proposal includes:
- Internal alterations to the existing three storey dwelling to convert it into three separate dwellings, one on each level;
 - The construction of two two-storey dwellings, in the eastern corner of the property, one along the north eastern (side) boundary and one along the south eastern (rear) boundary;
 - Construction of a five car carpark at the rear of the existing dwelling, predominantly in the southern corner of the site;
 - Renewal of the two car parking spaces existing in the front, northern corner of the property.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
- 1.3.1 Zone Development Standards - Building Envelope, Private Open Space, Sunlight, Privacy and Waste Storage
- 1.3.2 Road and Railway Assets Code - Sight Distances

- 1.3.3 Parking and Access Code - Number of Onsite Parking Spaces, Number of Vehicle Accesses, Design of Vehicle Accesses, Layout of Parking Areas
 - 1.3.4 Historic Heritage Code - Heritage Listed and Heritage Precinct
- 1.4 Two (2) representations objecting to the proposal were received within the statutory advertising period between 15 and 29 March 2018.
- 1.5 The proposal is recommended for refusal.
- 1.6 The final decision is delegated to the Council.

2. Site Detail

- 2.1 The property is a 1019m² square lot on the south eastern side of Swan Street, near the western, cul-de-sac end of the road. The property lies within the North Hobart NH5 Heritage Precinct, and is individually heritage listed under the Historic Heritage Code of the *Hobart Interim Planning Scheme 2015*.

There is an existing three storey building centrally located on the site, containing a dwelling on the lower floor, and a second dwelling across the ground and first floors. There are two car parking spaces on the front, northern corner of the site, and the remainder of the site contains a number of established trees and shrubs.

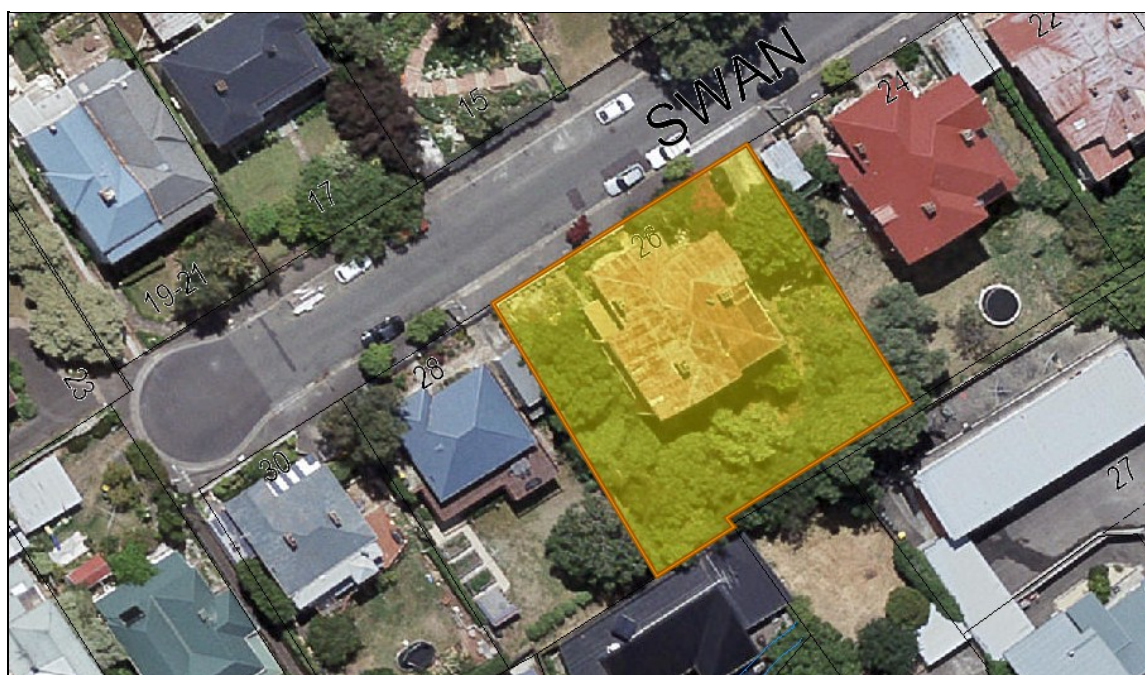


Figure 1: The location of the application site is highlighted in yellow.

3. Proposal

- 3.1 Planning approval is sought for partial demolition, alterations and multiple dwellings at 26 Swan Street.

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- Construction of a five car carpark at the rear of the existing dwelling, predominantly in the southern corner of the site;
- Renewal of the two car parking spaces existing in the front, northern corner of the property.



Figure 2: The proposed site plan approximately superimposed over the Council's GIS image of the site. Three dwellings are to be located within the main existing dwellings. Two new dwellings are to be located in the buildings labelled A and B in red.

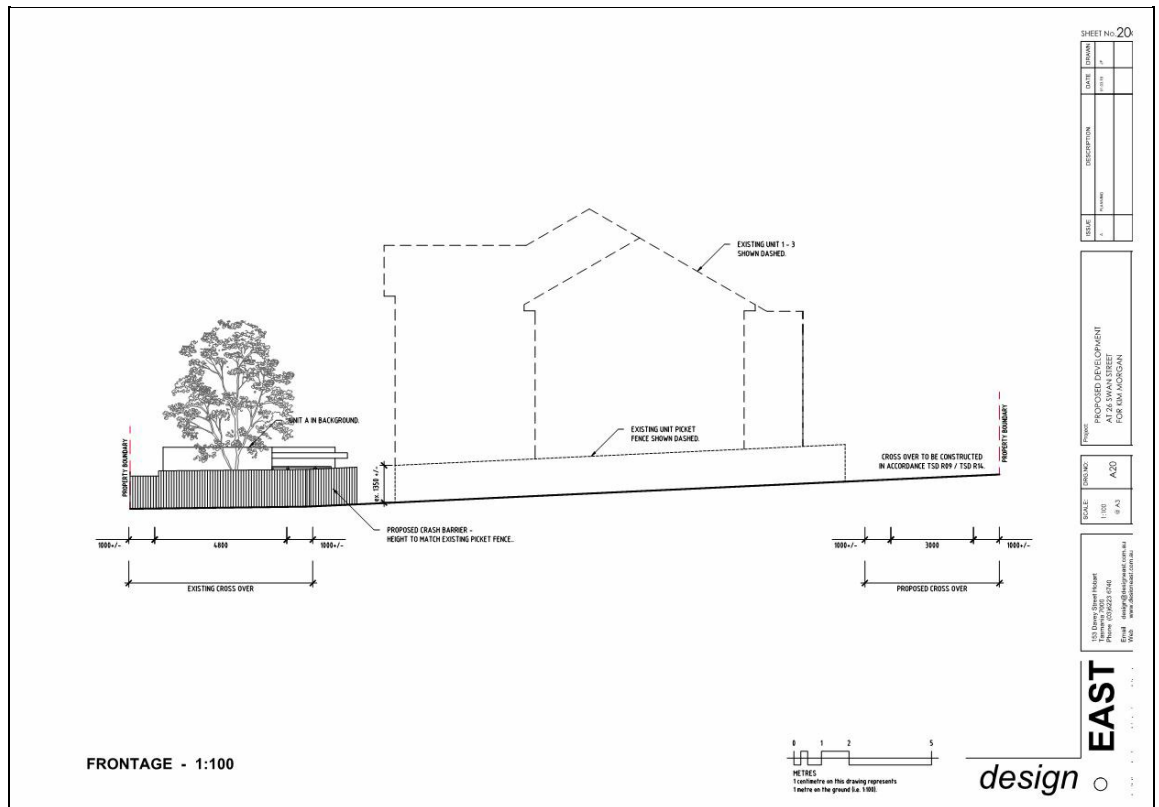


Figure 3: Proposed front (street, north western) elevation.

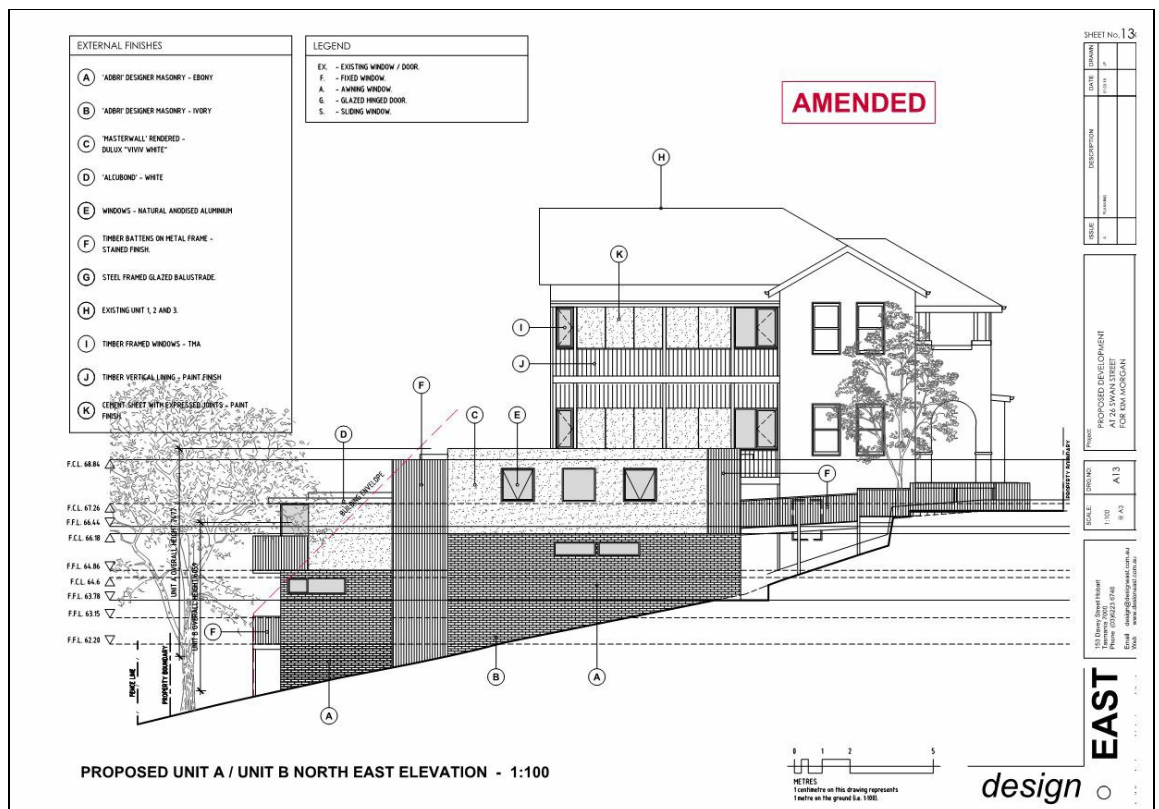


Figure 4: Proposed side (north eastern) elevation.

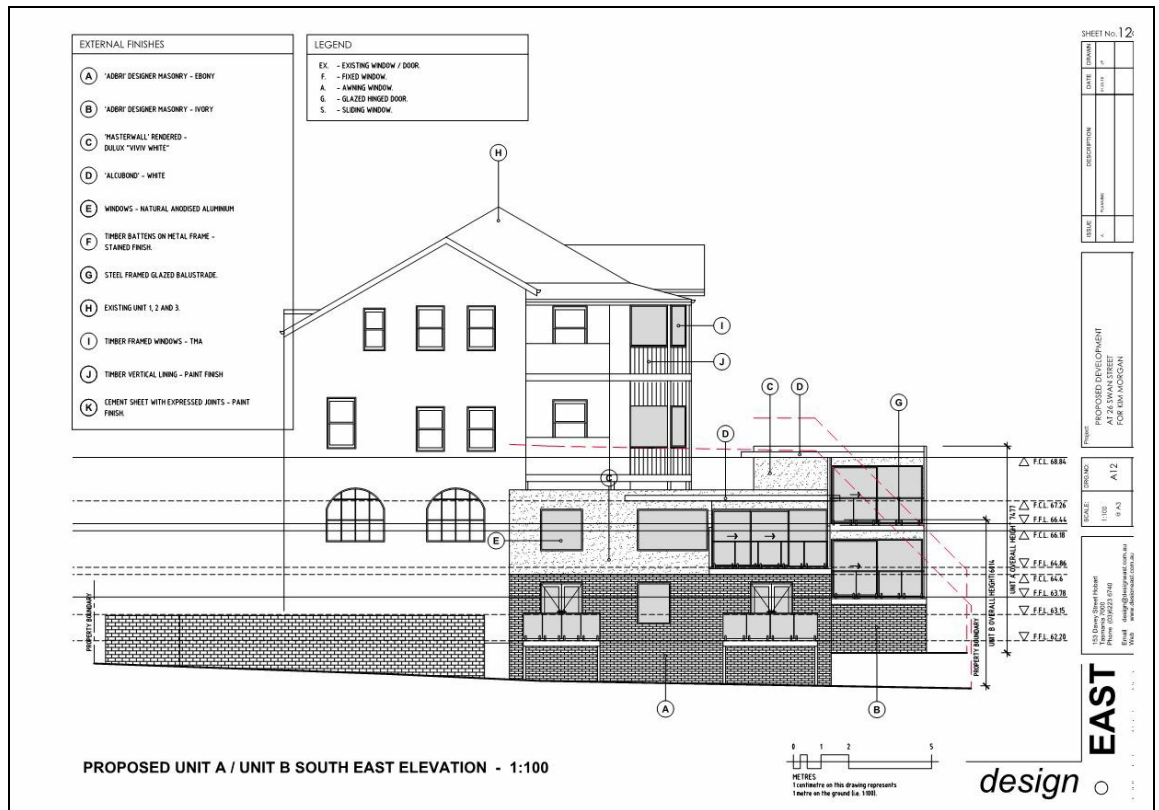


Figure 5: Proposed rear (south eastern) elevation.

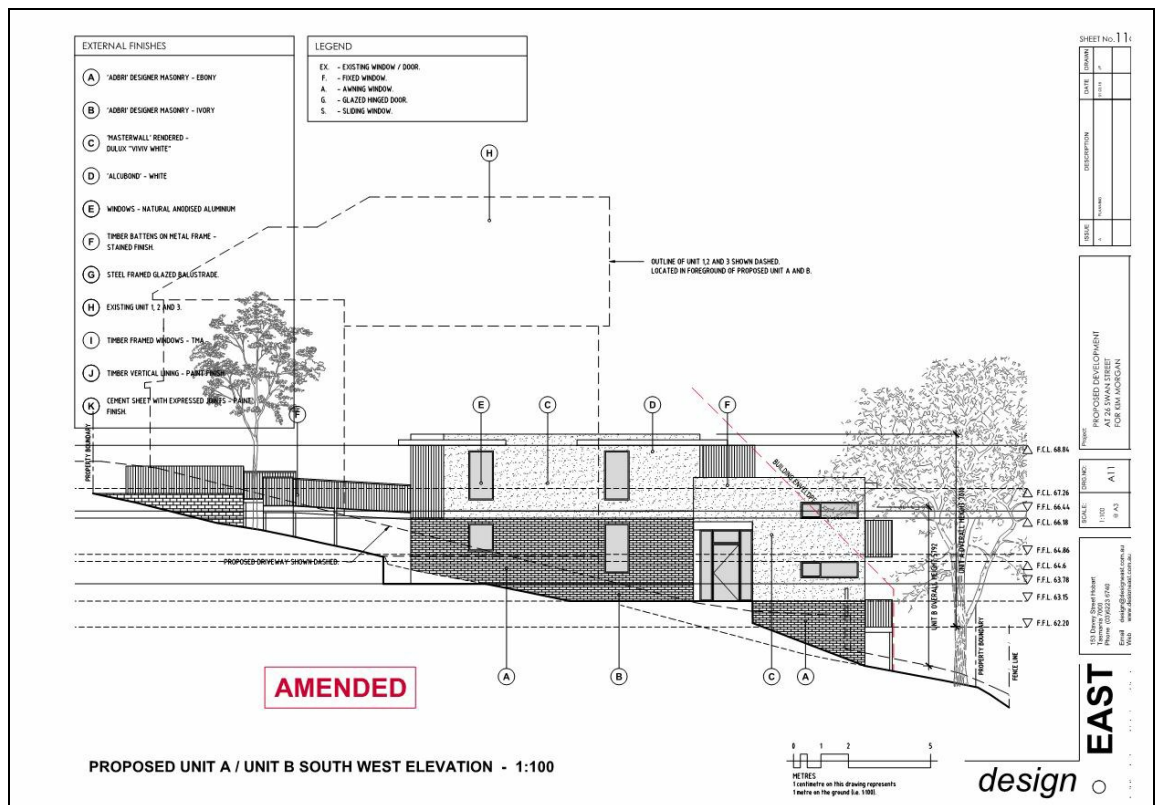


Figure 6: Proposed side (south western) elevation.

4. Background

- 4.1 The applicant was advised that Council's Senior Cultural Heritage Officer was not supportive of the proposal, and discussions commenced regarding possible changes to the design that would enable the officer to support the proposal. After several months, and several concepts for re-design, it was established that the applicant and Council's Senior Heritage officer could not reach a mutually agreeable re-design. The applicant has therefore requested that the Officer recommendation of refusal be put to Committee and Council for final determination.
- 4.2 The application was submitted in January 2018, prior to determination of the suite of planning appeals that have altered the way performance criteria can be assessed. At this time, there was less need for shadow diagrams to be provided with all applications because reference could still be had to the extent of compliance with an acceptable solution. As such, the applicant was not required to submit sun shadow diagrams. The application was advertised on 15 March 2018. Representations were made regarding sun shadow impacts during the advertising period. In light of the representations and the recent Tribunal decisions, the applicant was asked and agreed to provide sun shadow diagrams to confirm the officer assessment of the proposal. As these did not form part of the advertised document package, they have been included separately as Attachment E.

5. Concerns raised by representors

- 5.1 Two (2) representations objecting to the proposal were received within the statutory advertising period between 15 and 29 March 2018.
- 5.2 The following table outlines the concerns raised in the representations received. Those concerns which relate to a discretion invoked by the proposal are addressed in Section 6 of this report.

Amenity
One representor is concerned that the location of the proposed new driveway will impact on the amenity of adjacent dwellings due to the noise of vehicles entering and exiting the site. They have requested that suitable materials be conditioned to minimise this possible noise.
One representor is concerned that the scale and location of the proposed development will dominate adjacent properties, particularly those to the south west of the application site, causing loss of privacy and amenity.
Heritage
One representor is concerned about the potential impacts the development will have on the heritage streetscape.
One representor is concerned that the proposed development has the potential to impact the health of significant trees, both within the site and on adjacent properties.
Vehicle Safety / Access
One representor is concerned that the gradient of the driveway, and its proximity to property boundaries could result in a vehicle entering an adjacent property should the driver lose control.
One representor has requested that safety barriers be installed to ensure that vehicles are retained in the application site.
One representor has requested that the driveway be relocated further from the south western property boundary to further protect the existing walnut tree on that side of the property.
One representor has indicated that they do not believe the current, south western, abandoned crossover is adequate, and has requested that a new crossover be constructed for the proposed new development.
Stormwater Disposal
One representor is concerned that the existing stormwater from the site as shown on the plans as exiting the site via an adjacent property is not contained within an easement, and has sought clarification that the existing service is sufficient to service the proposed works.

6. Assessment

- 6.1 The *Hobart Interim Planning Scheme 2015* is a performance based planning scheme. To meet an applicable standard, a proposal must demonstrate compliance with either an acceptable solution or a performance criterion. Where a

proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to approve or refuse the proposal relates only to the performance criteria relied on.

6.2 The site is located within the Inner Residential Zone of the *Hobart Interim Planning Scheme 2015*.

6.3 The existing use is Residential (two multiple dwellings). The proposed use is Residential (five multiple dwellings). The existing use is a permitted use in the zone. The proposed use is a permitted use in the zone.

6.4 The proposal has been assessed against:

6.4.1 Part D - 11 Inner Residential Zone

6.4.2 Part E - E5.0 Road and Railway Assets Code

6.4.2 Part E - E6.0 Parking and Access Code

6.4.3 Part E - E7.0 Stormwater Management Code

6.4.4 Part E - E13.0 Historic Heritage Code

6.5 The proposal relies on the following performance criteria to comply with the applicable standards:

6.5.1 Inner Residential Zone Development Standards:

Setbacks and Building Envelope - Part D 11.4.2 P3

Site Coverage and Private Open Space - Part D 11.4.3 P1 and P2

Sunlight - Part D 11.4.4 P1

Privacy - Part D 11.4.6 P1 and P2

Waste Storage - Part D 11.4.8 P1

6.5.2 Road and Railway Assets Code:

Sight Distance at Accesses, Junctions and Level Crossings - Part E E5.6.4 P1

6.5.3 Parking and Access Code:

Number of Car Parking Spaces - Part E E6.6.1 P1

Number of Vehicular Accesses - Part E E6.7.1 P1

6.5.4 Historic Heritage Code:

Development Standards for Heritage Places - Part E E13.7.1 P1 and E13.7.2 P1, P2, P3, P4 and P5

Development Standards for Heritage Precincts - Part E E13.8.1 P1 and E13.8.2 P1, P2 and P3

6.6 Each performance criterion is assessed below.

6.7 Setback and Building Envelope Part D 11.4.2 P3

6.7.1 The acceptable solution at clause 11.4.2 A3 requires works to be contained within a three dimensional building envelope, starting at 3m high at the property boundary, then increasing at a 45 degree angle to a maximum height of 9.5m.

6.7.2 The proposal includes Dwelling A having a maximum wall height of 7.47m at a setback of 1.2m from the north eastern boundary, Dwelling B having a maximum height of 7.1m at a setback of 5m, and 7m at 4m from the rear boundary, and a car parking deck with a maximum finished surface level of 1.2m, and a vehicle crash barrier 1m above this at a setback of 2.58m from the rear boundary.

6.7.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.7.4 The performance criterion at clause 11.4.2 P3 provides as follows:

The siting and scale of a dwelling must:

(a) not cause unreasonable loss of amenity by:

(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or

(ii) overshadowing the private open space of a dwelling on an adjoining lot; or

(iii) overshadowing of an adjoining vacant lot; or

(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and

(b) provide separation between dwellings on adjoining lots that is

compatible with that prevailing in the surrounding area.

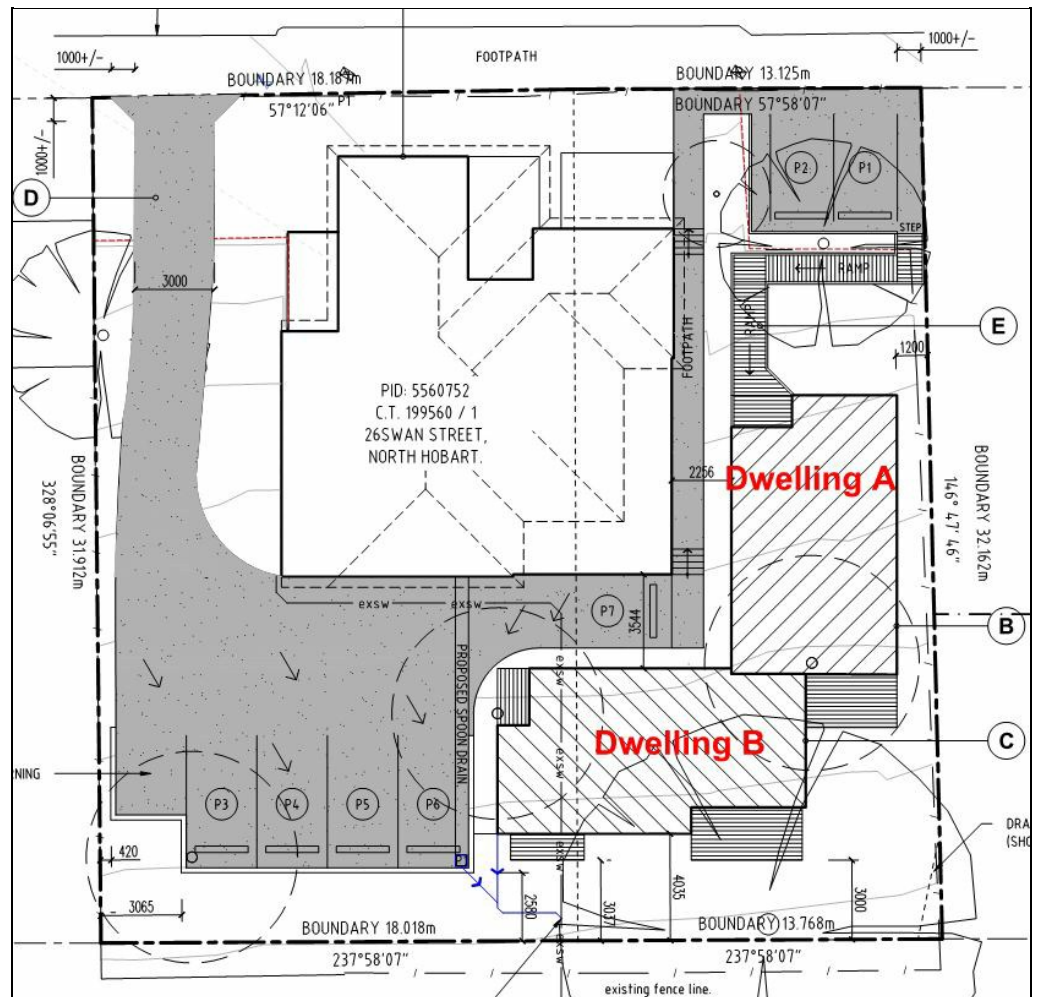


Figure 7: The proposed site plan showing the location of Dwellings A and B.

- 6.7.5 The extent of the dwelling that is outside the building envelope for Dwelling A is shown in figure 8 below.

Recent Tribunal decisions, including *The House Family Office Pty Ltd v Hobart City Council*, have determined that when assessing an application against the performance criterion, reference must not be had to the building envelope authorised by the acceptable solution. That is, the permitted building envelope does not provide the test of 'reasonableness' against which a discretionary application is assessed. Instead, the development must be assessed on its merits against the provisions of the performance criterion; that is, (a) does the development cause an unreasonable loss of amenity to neighbours by reduction in sunlight to a habitable room (other than a bedroom), overshadowing of private open space, or visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot, and (b) does the development provide separation between dwellings on adjoining

lots that is compatible with that prevailing in the vicinity?

Overshadowing:-

Dwelling A is located to the south west of the adjacent dwelling at 24 Swan Street. As such, it will not cause any unreasonable loss of sunlight or overshadowing to that dwelling.

Visual Impact:-

The facade of Dwelling A contains various materials and finishes, as well as several windows in the upper level, to help break up the visual bulk. However, a reduction of height for the privacy screen on the north eastern side of the south eastern, upper level rear deck would assist in giving the appearance of stepping the new building down the site when viewed from the adjacent property at 24 Swan Street. As such, were Council to support the application, it would be recommended that a condition be included in the permit reducing the maximum height of the screen to 1.8m above the finished floor level of the deck.

The surrounding area is considered to be the Inner Residential zoned land ranging from 4 Swan Street and 13 Newdegate Street to the east through to 9 Lower Jordan Hill Road to the west.

Swan Street has a mixture of separations between dwellings, ranging from a large number of dwellings with very limited separation, to the dwellings at 24 and 26 Swan Street which have an unusually large separation, in the context of the street. The dwellings in Newdegate Street are situated on less regular lots, and are less uniformly situated within these lots, making a uniform, identifiable separation difficult to quantify. The proposed new dwelling will retain an above average separation between it and the adjacent dwelling at 24 Swan Street, whilst providing a separation comparable to others in the street for the buildings on the site.

Dwellings along Newdegate Street and Swan Street present a variety of dwelling types, including multiple dwellings within a single building, multiple dwellings in separate buildings, and single dwellings on lots. As such, there is no overarching dwelling type for the area that the proposed works could be considered consistent or inconsistent with. Whilst the form of the dwellings in Swan Street is more consistent in terms of the traditional roof forms present, the same cannot be said for Newdegate Street, which includes a variety of roof forms and dwelling designs. As such, the overall surrounding area, in terms of the Inner Residential Zone assessment, cannot be considered to have a prevailing built form which

must be adhered to. Accordingly, the built form is not considered to have a negative impact on the amenity and enjoyment of adjacent dwellings in terms of bulk, massing, or consistency with setback and surrounds.

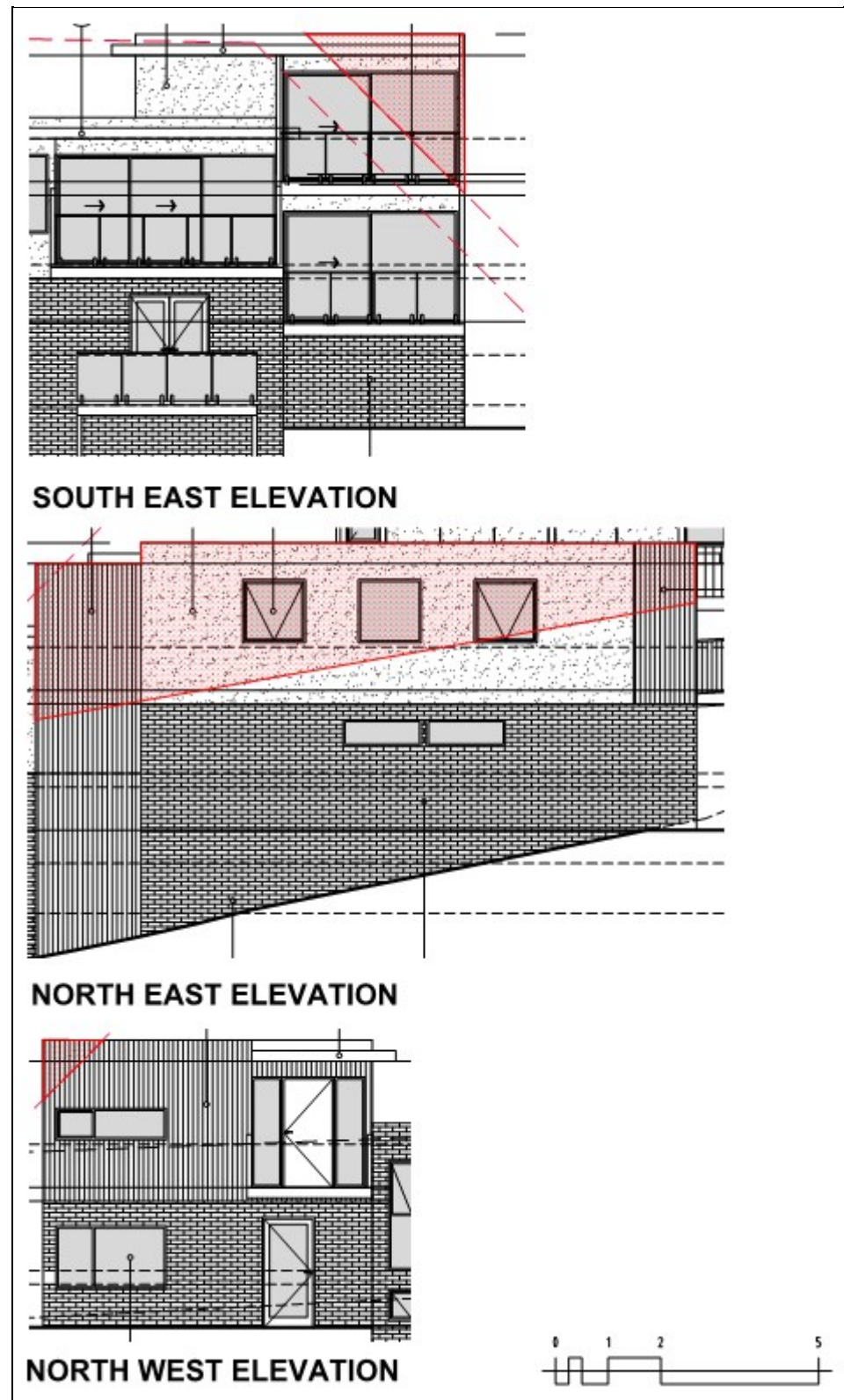


Figure 8: Demonstration of the extent of Dwelling A that is located outside of the building envelope.

- 6.7.6 The extent of the dwelling that is outside the building envelope for Dwelling B is shown in figure 9 below.

Again, in light of recent Tribunal decisions, the key questions for Dwelling B are (a) does it cause an unreasonable loss of amenity to neighbours by reduction in sunlight to a habitable room (other than a bedroom), overshadowing of private open space, or visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot, and (b) does it provide separation between dwellings on adjoining lots that is compatible with that prevailing in the vicinity?

Overshadowing:-

There will be some afternoon shading of the rear yard at 27 Newdegate Street from the proposed new dwelling. There will be a small amount of morning shadow to the rear of the dwelling at 1 Lower Jordan Hill Road in the morning, but there will still be sunlight to the rear of the dwelling from midday into the afternoon. There will be increased morning shading to the rear yard of 28 Swan Street from the rear dwelling. The bulk of the overshadowing from Dwelling B will be over the rear yard at 33 Newdegate Street. However, the dwelling is located sufficiently forward on the lot that there will still be sunlight to the private open space.

Visual Impact:-

The rear of proposed Dwelling B has various materials, windows and three small decks which will break the massing of the building and ensure that the visual bulk is not unreasonable when viewed from the adjacent properties to the south east.

The surrounding area is considered be the General Residential zoned land ranging from 4 Swan Street and 19 Newdegate Street to the east through to 9 Lower Jordan Hill Road to the west.

Swan Street has a mixture of separations between dwellings, ranging from a large number of dwellings with very limited separation, to the dwellings at 24 and 26 Swan Street which have an unusually large separation, in the context of the street. The dwellings in Newdegate Street, are situated on less regular lots, and are less uniformly situated within these lots, making a uniform, identifiable separation difficult to quantify. The proposed new dwelling will retain an adequate separation from the rear boundary to be generally in accordance with others in the area.

Dwellings along Newdegate Street and Swan Street present a variety of

dwelling types, including multiple dwellings within a single building, multiple dwellings in separate buildings, and single dwellings on lots. As such, there is no overarching dwelling type for the area that the proposed works could be considered consistent or inconsistent with. Whilst the form of the dwellings in Swan Street is more consistent in terms of the traditional roof forms present, the same cannot be said for Newdegate Street, which includes a variety of roof forms and dwelling designs. As such, the overall surrounding area, in terms of the Inner Residential Zone assessment cannot be considered to have a prevailing built form which must be adhered to. Accordingly, the built form is not considered to have a negative impact on the amenity and enjoyment of adjacent dwellings in terms of bulk, massing, or consistency with setback and surrounds.

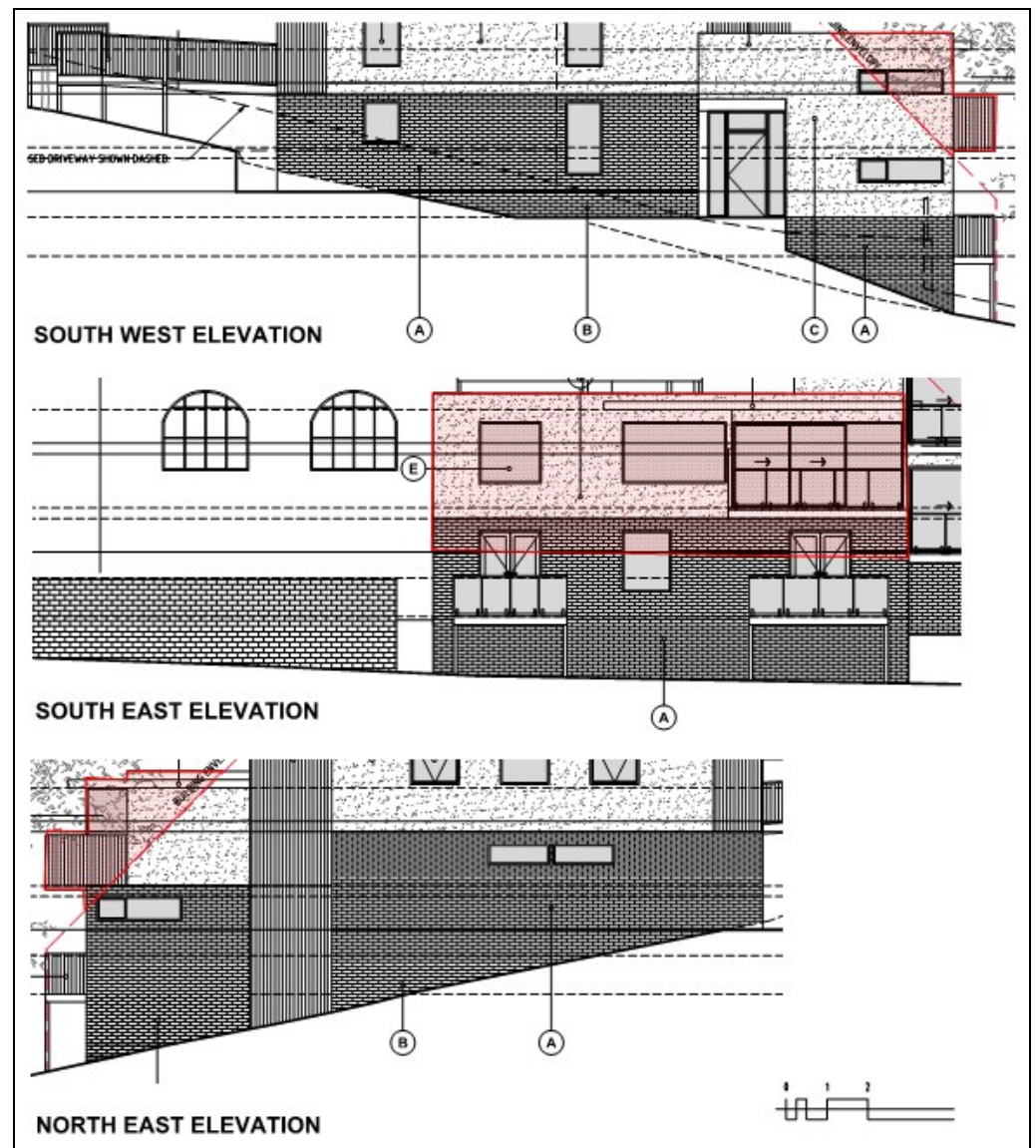


Figure 9: Demonstration of the extent of Dwelling B that is located outside of the building envelope.

6.7.7 The orientation of the site, and the height and setback of the carparking

deck is such that it will not cause overshadowing of the adjacent property to the rear throughout the morning. In the middle of the day, the overshadowing will not be significantly more than the existing dwelling on the site. By afternoon the shadow will have moved sufficiently that it will no longer have any significant impact on the dwelling to the south, south west of the site. As such, the overshadowing of the car parking deck is not considered unreasonable.

Given that the combined height of the car parking deck and vehicle barrier is 2.2m at its highest point, reducing down to 1.8m at the lowest point, and a permitted rear fence for the site can be up to 2.1m, it is considered that the visual bulk will be minimal, and not unreasonable in the context of the site and surrounds.

6.7.8 The proposal complies with the performance criterion.

6.8 Site Coverage and Private Open Space Part D 11.4.3 P1 and P2

6.8.1 The acceptable solutions at clause 11.4.3 A1 and A2 require a minimum provision of 50m² of north facing private open space for Dwellings 1, A and B, and 12m² of north facing private open space for Dwellings 2 and 3.

6.8.2 The proposal includes a 17.8m² north east facing and a 8.7m² south east facing deck for Dwelling 1, a 12.5m² north western facing deck for Dwelling 2, a 8.74m² south facing verandah for Dwelling 3, a 6m² south eastern facing deck for Dwelling A, and an 8.4m² and two 3.2m² south eastern facing decks for Dwelling B.

6.8.3 The proposal does not comply with the acceptable solutions; therefore assessment against the performance criterion is relied on.

6.8.4 The performance criterion at clauses 11.4.3 P1 and P2 provide as follows:

P1 - Dwellings must have:

(a) private open space that is of a size and dimensions that are appropriate for the size of the dwelling and is able to accommodate:

(i) outdoor recreational space consistent with the projected requirements of the occupants and, for multiple dwellings, take into account any communal open space provided for this purpose

within the development; and
(ii) operational needs, such as clothes drying and storage;

unless the projected requirements of the occupants are considered to be satisfied by public open space in close proximity; and

(b) reasonable space for the planting of gardens and landscaping.

P2 - A dwelling must have private open space that:

(a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play that is:

(i) conveniently located in relation to a living area of the dwelling; and

(ii) orientated to take advantage of sunlight;

unless the projected requirements of the occupants are considered to be satisfied by communal open space or public open space in close proximity.

6.8.5 The site is approximately 200m from the North Hobart shopping strip, which includes a range of recreational facilities including bars, cafes restaurants, and the state cinema, as well as a laundromat. There is also a small park at the junction of Elizabeth and Swan Streets. Each of the dwellings has sufficient private outdoor space to provide for outdoor dining and relaxation on site. There is also sufficient land surrounding the development that it can reasonably provide for gardens that are appropriate for the occupants should they wish to develop small landscaped areas.

6.8.6 The proposal complies with the performance criterion.

6.9 Sunlight D 11.4.4 P1

6.9.1 The acceptable solution at clause 11.4.4 A1 requires all proposed dwellings to have a habitable room with a window facing within 30 degrees of north.

6.9.2 The proposal includes all buildings oriented on the block such that none of the windows face within 30 degrees of north.

6.9.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.9.4 The performance criterion at clause 11.4.4 P1 provides as follows:

A dwelling must be sited and designed so as to allow sunlight to enter at least one habitable room (other than a bedroom).

6.9.5 All habitable rooms in the converted dwelling face south east. This will enable sunlight to enter the rooms through the morning. The habitable rooms in the new Dwellings A and B face both north east and north west, which will allow all day sunlight to enter them.

6.9.6 The proposal complies with the performance criterion.

6.10 Privacy Part D 11.4.6 P1 and P2

6.10.1 The acceptable solution at clause 11.4.6 A2 requires windows of habitable rooms to be set back 3m from property boundaries, or to have a sill height greater than 1.7m above the finished floor level.

6.10.2 The proposal includes the living room windows for Dwelling A having a sill height of 1m and a setback of 1.2m from the side boundary. It also includes a car parking deck with a setback of 2.6m from the rear boundary.

6.10.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.10.4 The performance criterion at clause 11.4.6 P2 provides as follows:

P1 - A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:

(a) a dwelling on an adjoining lot or its private open space; or

(b) another dwelling on the same site or its private open space; or

(c) an adjoining vacant residential lot.

P2 - A window or glazed door, to a habitable room of a dwelling, that has a floor level more than 1 m above the natural ground level, must be screened, or otherwise located or designed, to minimise direct views to:

(a) a window or glazed door, to a habitable room of another dwelling; and

(b) the private open space of another dwelling; and

(c) an adjoining vacant residential lot.

- 6.10.5 The car parking deck is set back 2.6m from the rear boundary, and has a finished surface level of 1.2m at the highest point, reducing to 0.8m and compliant at the lowest point. A section of approximately 6.8m has a finished surface level of 1.0m or above, and is therefore the only discretionary portion of the car parking area.

Whilst it may be possible to require screening of this portion of the parking area, the screen has the potential to block sunlight and solar access, and as such would prove a less desirable outcome. Additionally, this section is at the end of the parking spaces, not the sides, so people will less frequently be standing in the area. Given that there is a 1m high, solid safety barrier at the edge of the parking area people in vehicles will have views into the adjacent properties limited.

It is therefore considered that there is not unreasonable overlooking of the adjacent properties as a result of the proposed car parking area.

- 6.10.6 The dwelling at 24 Swan Street is set back approximately 7m from the shared boundary. The private open space for the dwelling is located primarily at the rear of the dwelling. The proposed Dwelling A at 26 Swan Street is configured such that the kitchen and dining rooms have habitable windows facing the dwelling at 24 Swan Street, with the living area and deck facing away from the adjacent site. The windows of the proposed Dwelling A that face 24 Swan Street also have a sill height of 1m above the finished floor level, which will reduce overlooking of the adjacent property and its garden.

Given the separation, and the orientation of the living space, it is considered that the overlooking of the adjacent dwelling is not unreasonable.

6.10.7 The proposal complies with the performance criterion.

6.11 Waste Storage Part D 11.4.8 P1

6.11.1 The acceptable solution at clause 11.4.8 A1 requires 1.5m² to be provided per dwelling for the storage of garbage bins, other than within the front setback or within 5m of any dwelling.

6.11.2 The proposal includes no garbage bin storage area has been nominated on the proposal plans.

6.11.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.11.4 The performance criterion at clause 11.4.8 P1 provides as follows:

A multiple dwelling development must provide storage, for waste and recycling bins, that is:

(a) capable of storing the number of bins required for the site; and

(b) screened from the frontage and dwellings; and

(c) if the storage area is a communal storage area, separated from dwellings on the site to minimise impacts caused by odours and noise.

6.11.5 The need for garbage storage facilities has been discussed with the applicant, as has an appropriate location and design. Accordingly, it is recommended that a condition be included in any approval granted requiring a garbage storage facility of at least 7.5m² with 1.2m high screens to be constructed between the existing dwelling and the driveway in an area that is convenient for all occupants of the site. This will ensure that the garbage bin storage area does not detract from the streetscape values of the property, whilst adequately containing it on the site.

6.11.6 The proposal complies with the performance criterion.

6.12 Sight Distance at Accesses, Junctions and Level Crossings Part E E5.6.4 P1

6.12.1 The acceptable solution at clause E5.6.4 A1 requires "an access or junction must comply with the Safe Intersection Sight Distance shown in Table E5.1".

6.12.2 The proposal includes a proposed access (driveway to rear parking area) with a 1m by 1m sight triangle at the street frontage.

6.12.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.12.4 The performance criterion at clause E5.6.4 P1 provides as follows:

The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles, having regard to:

(a) the nature and frequency of the traffic generated by the use;

(b) the frequency of use of the road or rail network;

(c) any alternative access;

(d) the need for the access, junction or level crossing;

(e) any traffic impact assessment;

(f) any measures to improve or maintain sight distance; and

(g) any written advice received from the road or rail authority.

6.12.5 The application has been assessed by Council's Development Engineer, who has advised that, subject to conditions, the proposed new access will be safe and legible for all road users.

6.12.6 The proposal complies with the performance criterion.

6.13 Number of Car Parking Spaces Part E E6.6.1 P1

6.13.1 The acceptable solution at clause E6.6.1 P1 requires two car parking spaces per dwelling plus two visitor spaces (a total of 12 spaces).

6.13.2 The proposal includes one car parking space per dwelling plus two visitor spaces (a total of seven (7) spaces).

6.13.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.13.4 The performance criterion at clause 6.6.1 P1 provides as follows:

The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:

- (a) car parking demand;*
- (b) the availability of on-street and public car parking in the locality;*
- (c) the availability and frequency of public transport within a 400m walking distance of the site;*
- (d) the availability and likely use of other modes of transport;*
- (e) the availability and suitability of alternative arrangements for car parking provision;*
- (f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*
- (g) any car parking deficiency or surplus associated with the existing use of the land;*
- (h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;*
- (i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;*
- (j) any verified prior payment of a financial contribution in lieu of parking for the land;*
- (k) any relevant parking plan for the area adopted by Council;*
- (l) the impact on the historic cultural heritage significance of the*

site if subject to the Local Heritage Code;

(m) whether the provision of the parking would result in the loss, directly or indirectly, of one or more significant trees listed in the Significant Trees Code.

- 6.13.5 The proposal has been assessed by Council's Development Engineer, who has advised that there is sufficient car parking provided for the intended use of the site, and has recommended a condition requiring that the two existing car parking spaces be dedicated as visitor car parking at the front of the property to limit the on-street car parking of visitors to the site.

Given the size of the dwellings, and their proximity to the public transport, services and amenities available on Elizabeth Street and in North Hobart, it is considered that one car parking space per dwelling and two visitor spaces is adequate for the location.

- 6.13.6 The proposal complies with the performance criterion.

6.14 Number of Vehicular Accesses Part E E6.7.1 P1

- 6.14.1 The acceptable solution at clause E6.7.1 A1 requires one vehicle crossover per street frontage.

- 6.14.2 The proposal includes two vehicle crossovers in the Swan Street frontage.

- 6.14.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

- 6.14.4 The performance criterion at clause E6.7.1 P1 provides as follows:

The number of vehicle access points for each road frontage must be minimised, having regard to all of the following:

(a) access points must be positioned to minimise the loss of on-street parking and provide, where possible, whole car parking spaces between access points;

(b) whether the additional access points can be provided without compromising any of the following:

(i) pedestrian safety, amenity and convenience;

- (ii) traffic safety;*
- (iii) residential amenity on adjoining land;*
- (iv) streetscape;*
- (v) cultural heritage values if the site is subject to the Local Historic Heritage Code;*
- (vi) the enjoyment of any 'al fresco' dining or other outdoor activity in the vicinity.*

6.14.5 The application has been assessed by Council's Development Engineer, who has advised that the second crossover is acceptable on the basis that it facilitates car parking to be provided for each of the dwellings on site, rather than relying upon on street car parking to service the development. The Development Engineer has recommended conditions to ensure the safety of the access for all road users.

6.14.6 The proposal complies with the performance criterion.

6.15 Design of Vehicular Access Part E E6.7.2 P1

6.15.1 The acceptable solution at clause E6.7.2 A1 requires access (driveway to rear parking area) with a 2m by 2.5m sight triangle at the street frontage.

6.15.2 The proposal includes a proposed access (driveway to rear parking area) with a 1m by 1m sight triangle at the street frontage.

6.15.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.15.4 The performance criterion at clause E6.7.2 P1 provides as follows:

Design of vehicle access points must be safe, efficient and convenient, having regard to all of the following:

(a) avoidance of conflicts between users including vehicles, cyclists and pedestrians;

(b) avoidance of unreasonable interference with the flow of traffic on adjoining roads;

(c) suitability for the type and volume of traffic likely to be generated by the use or development;

(d) ease of accessibility and recognition for users.

- 6.15.5 The application has been assessed by Council's Development Engineer, who has advised that, subject to conditions, the proposed new access will be safe and legible for all road users.
- 6.15.6 The proposal complies with the performance criterion.
- 6.16 Layout of Parking Areas Part E E6.7.5 P1
- 6.16.1 The acceptable solution at clause E6.7.5 A1 requires car parking and manoeuvring areas to comply with AS2890.1.
- 6.16.2 The proposal includes aisle widths and parking bays that are smaller than the Standard.
- 6.16.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.
- 6.16.4 The performance criterion at clause E6.7.5 P1 provides as follows:
- The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.*
- 6.16.5 The application has been assessed by Council's Development Engineer, who has provided advised that, subject to recommended conditions, the proposal will provide for safe vehicle access, manoeuvring, and parking on site.
- 6.16.6 The proposal complies with the performance criterion.
- 6.17 Development Standards for Heritage Places - E13.7.1 P1 and E13.7.2 P1, P2, P3, P4 or P5.
- 6.17.1 There is no acceptable solution for E13.7.1 A1 and E13.7.2 A1, A2, A3, A4 or A5.
- 6.17.2 The proposal includes internal works to the heritage building, the construction of two new freestanding dwellings, and the construction of a driveway and car parking area down the side and to the rear of the dwelling, requiring the removal of most of the on-site vegetation.
- 6.17.3 There is no acceptable solution; therefore assessment against the

performance criterion is relied on.

- 6.17.4 The performance criterion at clauses E13.7.1 P1 and E13.7.2 P1, P2, P3, P4, P5 provide as follows:

E13.7.1 - Demolition to Heritage Listed Places

P1 - Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied;

(a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place;

(b) there are no prudent and feasible alternatives;

(c) important structural or façade elements that can feasibly be retained and reused in a new structure, are to be retained;

(d) significant fabric is documented before demolition.

E13.7.2 - Building and Works other than Demolition to Listed Places

P1 - Development must not result in any of the following:

(a) loss of historic cultural heritage significance to the place through incompatible design, including in height, scale, bulk, form, fenestration, siting, materials, colours and finishes;

(b) substantial diminution of the historic cultural heritage significance of the place through loss of significant streetscape elements including plants, trees, fences, walls, paths, outbuildings and other items that contribute to the significance of the place.

P2 - Development must be designed to be subservient and complementary to the place through characteristics including:

(a) scale and bulk, materials, built form and fenestration;

(b) setback from frontage;

(c) siting with respect to buildings, structures and listed elements;

(d) using less dominant materials and colours.

P3 - Materials, built form and fenestration must respond to the dominant heritage characteristics of the place, but any new fabric should be readily identifiable as such.

P4 - Extensions to existing buildings must not detract from the historic cultural heritage significance of the place.

P5 - New front fences and gates must be sympathetic in design, (including height, form, scale and materials), to the style, period and characteristics of the building to which they belong.

- 6.17.5 The application has been assessed by Council's Senior Cultural Heritage Officer, who has provided the following comments:

The proposal will involve the removal of the majority of the current vegetated rear garden, to be replaced by paved access and parking. The major walnut tree will require major work, with large limbs removed. The appearance of the tree will be drastically altered, as will its setting, and the ability to appreciate the garden context of the tree. The arborist's report sets out a number of measures which attempt to ensure the survival of the various trees which will be impacted upon by the proposal. These measures provide no certainty for the survival of the trees. With the best intention and the best circumstances of care and supervision, the aesthetic qualities of the garden and its trees will be radically compromised. A substantial reduction in the number of car spaces may assist in relieving the impact upon the garden. The relocation of the proposed units away from mature vegetation would also assist the long-term survival of the trees, and appreciation of their qualities.

- 6.17.6 The officer's full report is provided at Attachment C to this report.

- 6.17.7 The proposal does not meet the performance criterion E13.7.2 P1 (b), as the development will result in substantial diminution of the historic cultural heritage significance of the place through loss of significant streetscape elements including plants and trees that contribute to the significance of the place.

- 6.18 Development Standards for Heritage Precincts - E13.8.1 P1 and E13.8.2 P1, P2 and P3.

- 6.18.1 There is no acceptable solution for E13.8.1 A1 and E13.8.2 A1, A2 and A3.
- 6.18.2 The proposal includes internal works to the heritage building, the construction of two new freestanding dwellings, and the construction of a driveway and car parking area down the side and to the rear of the dwelling, requiring the removal of most of the on-site vegetation.
- 6.18.3 There is no acceptable solution; therefore assessment against the performance criterion is relied on.
- 6.18.4 The performance criterion at clause E13.8.1 P1 and E13.8.2 P1, P2 and P3 provide as follows:

E13.8.1 - Demolition in Heritage Precincts

P1 - Demolition must not result in the loss of any of the following:

(a) buildings or works that contribute to the historic cultural heritage significance of the precinct;

(b) fabric or landscape elements, including plants, trees, fences, paths, outbuildings and other items, that contribute to the historic cultural heritage significance of the precinct;

unless all of the following apply;

(i) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place;

(ii) there are no prudent or feasible alternatives;

(iii) opportunity is created for a replacement building that will be more complementary to the heritage values of the precinct.

E13.8.2 - Building and Works other than Demolition in Heritage Precincts

P1 - Design and siting of buildings and works must not result in detriment to the historic cultural heritage significance of the precinct, as listed in Table E13.2.

P2 - Design and siting of buildings and works must comply with any relevant design criteria / conservation policy listed in Table E13.2, except if a heritage place of an architectural style different from that characterising the precinct.

P3 - Extensions to existing buildings must not detract from the

historic cultural heritage significance of the precinct.

- 6.18.5 The application has been assessed by Council's Senior Cultural Heritage Officer, who has provided the following comments:

The rear yards between the large houses in Swan Street and the boundaries of the adjacent Newdegate Street properties along the alignment of the former Providence Valley Rivulet remain as backyards to the substantial houses, with a mixture of mature trees and large shrubs. The yards of these house are all devoid of any development. These rear gardens have been specifically identified for their aesthetic importance to the Heritage Precinct. The gardens and mature trees are also visible from Newdegate Street to the south-east.

- 6.18.6 The officer's full report is provided at Attachment C to this report.

- 6.18.7 The proposal does not meet the performance criterion E13.8.2 P1, as the design and siting of buildings and works will result in detriment to the historic cultural heritage significance of the precinct, as listed in Table E13.2.

7. Discussion

- 7.1 Planning approval is sought for partial demolition, alterations and multiple dwellings at 26 Swan Street.
- 7.2 The application was advertised and received two representations. The representations raised concerns including amenity, heritage, vehicle safety / access and stormwater disposal.
- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is not considered to perform well in relation to its Historic Heritage provisions.
- 7.4 The proposal has been assessed by other Council officers, including the Council's Development, Environmental Engineering, Roads and Traffic Engineers, and Senior Cultural Heritage Officer. The Senior Cultural Heritage Officer has raised objection to the proposal.
- 7.5 The proposal is recommended for refusal.

8. Conclusion

- 8.1 The proposed partial demolition, alterations and multiple dwellings at 26 Swan Street, North Hobart does not satisfy the relevant provisions of the *Hobart Interim Planning Scheme 2015*, and as such is recommended for refusal.

9. Recommendations

That: Pursuant to the *Hobart Interim Planning Scheme 2015*, the Council refuse the application for partial demolition, alterations and multiple dwellings at 26 Swan Street, North Hobart for the following reasons:

- 1 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E13.7.2 P1 (b) of the *Hobart Interim Planning Scheme 2015* because the development will result in substantial diminution of the historic cultural heritage significance of the place through loss of significant streetscape elements including plants and trees that contribute to the significance of the place.
- 2 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E13.8.1 P1 (b) of the *Hobart Interim Planning Scheme 2015* because the proposal involves the unacceptable loss of landscape elements, including plants and trees that contribute to the historic cultural heritage significance of the precinct, without satisfying the necessary enabling provisions.
- 3 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E13.8.2 P1 of the *Hobart Interim Planning Scheme 2015* because the design and siting of buildings and works will result in detriment to the historic cultural heritage significance of the precinct, as listed in Table E13.2.



(Helen Ayers)

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(Ben Ikin)

Senior Statutory Planner

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Date of Report: 16 July 2018

Attachment(s):

Attachment B - CPC Agenda Documents

Attachment C - Planning Referral Officer Cultural Heritage Report

Attachment D - Planning Referral Officer Development Engineering Report

Attachment E - Sun Shadow Diagrams