



## **DEVELOPMENT CONSENT AUTHORITY**

### **PALMERSTON DIVISION**

### **MINUTES**

**MEETING No. 221 – WEDNESDAY 17 JULY 2019**

**BOULEVARD ROOM  
QUEST PALMERSTON  
18 THE BOULEVARD  
PALMERSTON**

**MEMBERS PRESENT:** Suzanne Philip (Chair), Steve Ward, Trevor Dalton, Sarah Henderson and Ben Giesecke

**APOLOGIES:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Sally Graetz and Alexander Deutrom (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Rebecca de Vries and Melissa Moss

**Meeting opened at 10.00 am and closed at 11.20 am**

**THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.**

**ITEM 1**                    **SHED ADDITION TO AN EXISTING SINGLE DWELLING WITH REDUCED**  
**PA2019/0197**           **FRONT AND SIDE SETBACKS**  
**LOT 5669 (2) MONASH COURT, DURACK, TOWN OF PALMERSTON**  
**APPLICANT/S**        Daryl Frahm & Yvette Skinner

Ms Yvette Skinner sent her apologies. Mr Daryl Frahm attended

**RESOLVED**            That, pursuant to section 53(a) of the *Planning Act 1999*, the Development  
**31/19**                    Consent Authority consent to the application to develop Lot 5669 (2) Monash  
Court, Town of Palmerston for the purpose of a shed addition to an existing single  
dwelling with reduced front and side setbacks, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to include a notation that confirms the colour of the shed will be generally consistent with the dwelling and existing garden shed as stated in the application.
2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Palmerston stormwater drainage system shall be submitted to and approved by the City of Palmerston, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.

**GENERAL CONDITIONS**

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Palmerston, to the satisfaction of the consent authority.

**NOTES:**

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

## **REASONS FOR THE DECISION**

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

Lot 5669 (2) Monash Court, Town of Palmerston is located within Zone SD (Single Dwelling) of the Northern Territory Planning Scheme (NTPS).

The land is developed with a single dwelling, established gardens and a small garden shed.

The proposal is for a 6m x 6m shed addition to the existing dwelling. The design includes an overall height of 3.44m and two roller doors - one to provide access and the other stated to be for breeze circulation and natural lighting.

The shed does not comply with the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) including the minimum specified setback distance for ancillary structures from the side/rear boundary and secondary street frontage. The Scheme requires a setback of 1.5m from a secondary street frontage and 1m from the rear/side boundary. The plans instead show a setback of 0.5m from the secondary street and 0.8m from the side/rear boundary.

The application states that the shed will be for domestic storage including secure storage of outdoor furniture and boat and trailer parking. A boat and trailer are currently parked where the shed is to be constructed, which may have established the use of the space for domestic utility/ storage.

The shed is to be accessed from an existing double gate between the dwelling and boundary with Monash Court. No additional crossovers/gates are included. The applicant confirmed at the meeting that the setback distances sought will be sufficient to enable maintenance between the shed and boundaries.

The shed will be finished in a colour consistent with the existing dwelling and garden shed, with the application listing the colour as 'paperbark'. In response to a request by the City of Palmerston, amended plans are sought to confirm the colour choice (refer condition precedent 1).

The application states that due to a swimming pool planned for the opposite rear-corner of the site, together with existing landscaping and an existing garden shed to be retained, other suitable locations for the shed are limited. Additionally, the applicant stated at the meeting that

existing sewerage infrastructure runs between the existing garden shed and the clothes line further limiting other possible locations for the new shed. Finally, the site has dual frontages to Monash Court and Deakin Place which further constrains the site and limits other alternative locations which could provide for a more compliant development.

An assessment of Monash Court undertaken by DAS found that the street has no clear setback pattern. While no other structures are located quite as close to the boundary as the proposed shed, there are other sites with dwellings located noticeably closer to the Monash Court boundary than usually permitted. None of those sites have the additional burden of a dual frontage as is the case with the subject site.

Clause 2.5 (Exercise of Discretion by the Consent Authority) allows the consent authority to consent to certain developments that do not comply with the standards of the NTPS, including Clause 7.3, where it is satisfied that specific circumstances exist to justify consent.

The above listed circumstances are considered to collectively justify the giving of consent in this case and the variation to the requirements of Clause 7.3 has been assessed as appropriate.

2. Pursuant to section 51(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

No land capability concerns were raised as part of the assessment of the application. The land is within Zone SD (Single Dwelling) of the NTPS, is serviced, flat and generally suitable for the style of development intended.

3. Pursuant to section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The development is unlikely to have an impact on the broader residential amenity due to the design and placement. The structure will not result in overlooking and the siting and setbacks will enable breeze movement between the shed and existing dwelling on the site. The margin of non-compliance specifically is unlikely to be significantly noticeable when viewed from the street and adjoining land.

As a result, the proposal is not expected to result in an adverse amenity impact.

**ACTION:** Notice of Consent and Development Permit

**ITEM 2**  
**PA2019/0204**  
**APPLICANT/S**

**SHOP, SHOWROOM SALES AND WAREHOUSE IN SINGLE STOREY BUILDING**  
**LOT 9148 (6) PIERSSENE ROAD, YARRAWONGA, TOWN OF PALMERSTON**  
Fyfe Pty Ltd

DAS tabled a future Stuart Highway intersection upgrade plan and extracts of the endorsed plans associated with DP17/0289 together with a landscaping plan submitted by the applicant.

Mr Michael Osborn (National Planning Manager/Division Manager SA Land - Fyfe Pty Ltd) attended.

**RESOLVED**  
**32/19**

That, pursuant to section 53(c) of the *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Lot 9148 (6) Pierssene Road, Town of Palmerston for the purpose of shop, showroom sales and warehouse in a single storey building for the following reasons:

### **REASONS FOR THE DECISION**

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The application is for development of shop, showroom sales and warehouse in a single storey building at Lot 9148 (6) Pierssene Road, Town of Palmerston. Development is proposed to occur within the south-western corner of the lot. The lot is within Zone LI (Light Industry) of the NT Planning Scheme (NTPS).

The Authority noted that the existing Development Permit DP17/0289 also applies to the lot. DP17/0289 was issued on 26/07/2017 for development of a warehouse, showroom sales, plant nursery and ancillary restaurant exceeding 8.5m in height in two stages. The endorsed plans indicate that it will be used for a Bunnings Warehouse development. It was also noted that this development was approved with a 184 bay car parking reduction.

The application was considered against the relevant clauses of the NT Planning Scheme (NTPS), which were listed in the technical assessment provided as part of the Development Assessment Services report (DAS report).

The Authority accepted that the proposal did not comply with clause 6.5.1 (Parking Requirements), determined that the requested reduction in car parking was not appropriate under clause 6.5.2 (Reduction in Parking Requirements) and, despite the findings within the DAS Report, it was not satisfied that the design met the objective of Clause 6.5.3 (Parking Layout) of the NTPS.

Clause 6.5.1 outlines the parking requirements for the development. In accordance with the Table to Clause 6.5.1 the proposal is required to provide a minimum of 64 parking bays. The proposal, however, provides only 54 parking bays, with a car-parking shortfall of 10 bays. The application therefore requested a reduction to the parking requirements under clause 6.5.2 (Reduction in Parking Requirements).

Clause 6.5.2 outlines considerations the consent authority must make in determining whether to reduce the parking requirements under Clause 6.5.1.

In support of the application, the applicant provided a traffic impact report from MFY. The report considered the parking generation outlined in the 'Guide to Traffic Generating Developments' (2002) prepared by the Roads and Maritime Services agency of the New South Wales Government (the RMS Guide). Based on these calculations, the report concluded that only 37 car parking spaces were required. The report also acknowledged the potential for cross-utilisation of parking within the proposed development and Bunnings Warehouse development (DP17/0289).

The Authority had a number of concerns with the applicant's approach to car parking, specifically the amount provided, the design, proposed cross-utilisation with the adjacent development and the future subdivision potential.

At the meeting, the applicant advised that the future intent of the landowner was to subdivide the pad site from the approved Bunnings Warehouse development. The Authority considered that approving this development would create significant issues at the subdivision stage. Of particular concern was that only 37 of the 54 parking bays provided are within the pad site, with the remaining 17 bays to be provided within the adjacent Bunnings Warehouse development. The Authority noted that while an off-site parking arrangement could be managed via easements and/or conditions of development approval, the long term practicality of this arrangement was viewed as problematic. The adjacent Bunnings Warehouse development was approved with a parking shortfall of 184 bays and this application proposed a further reduction of 10 bays. The combination of the already reduced car parking numbers, the proposal to locate some of the required bays for this development on the adjacent site and the nature of the proposed retail space (i.e. bulky goods) was viewed as having the potential to contribute to future traffic congestion and a car parking problems within the site. On this basis, the Authority did not consider that the reduction was appropriate having taken into account the considerations it must make under clause 6.5.2. Further to this, the Authority had reservations regarding the proposed car parking layout and whether the design achieved the purpose of clause 6.5.3, which in its view, would further exacerbate the parking shortfall on site.

Clause 6.5.3 outlines the parking layout requirements for the development. The DAS report found the development to comply with the provision of the clause set out in subclause 2 and the Table to the clause. However, the Authority determined that the proposal did not achieve the purpose of the clause, which is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. Sharing its concerns, the City of Palmerston also raised a number of issues with the proposed design including possible traffic conflict and the potential for traffic to bank and queue beyond the property entrance.

The Authority had particular issue with the car parking bay located along the internal road to the north-east of the pad site. The Authority determined that fourteen of these parking bays, four of which are over

100m meters from the entrance to the tenancies, are not appropriately designed in a way that provided safe pedestrian links and were therefore not considered to be designed appropriately as required by clause 6.5.3. They require pedestrians, once parked, to navigate past a loading ramp and across the internal road. These safety concerns are amplified by the fact the internal road provides access to the 'bulk trade' component of Bunnings Warehouse in the far north-east corner of Lot 9148 and is expected to be used by large vehicles. The applicant was questioned about this at the meeting and confirmed that pedestrians parking in these bays would need to traverse the internal road to access the pad site. The Authority did not accept this as a safe and appropriate outcome.

The Authority is of the opinion that the above-mentioned issues relating the parking and pedestrian safety may be the result of a proposal for the pad site that is over-developed. It suggested that a smaller building would enable provision of more appropriate car parking, with all required car parks on the pad site and without reliance on the adjacent development. The Authority considers that in order to address the above matters, the proposal would require changes so significant that a new development application would be necessary.

Additionally, given the identified intention to subdivide, the integration between the Bunnings Warehouse development and the pad site, and identified disconnect between details on the submitted plans in respect to car parking locations and the currently approved Bunnings Warehouse development plans, the Authority encourages the applicant to submit revised development and subdivision applications at the same time to enable them to be considered concurrently.

**ACTION:** Notice of Refusal

## **RATIFIED AS A RECORD OF ATTENDANCE AND DETERMINATIONS MADE AT THE MEETING**

**SUZANNE PHILIP**

**Chair**

19 July 2019