



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 250 – WEDNESDAY 18 MAY 2022

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

MEMBERS PRESENT: Suzanne Philip (Chair), Trevor Dalton, Athina Pascoe-Bell and Sarah Henderson

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary) Adelle Godfrey and Emily Hardy (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 9.45 am and closed at 10.30 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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 **ALTERATIONS AND ADDITIONS TO AN EXISTING CLUB AND LEISURE AND RECREATION FACILITY, INCLUDING THE ADDITION OF AN ANCILLARY SHOP AND FOOD PREMISES-CAFE/TAKEAWAY (PALMERSTON GOLF AND COUNTRY CLUB) IN FOUR STAGES**
PA2022/0016 **LOT 2884 (103) DWYER CIRCUIT, DRIVER, TOWN OF PALMERSTON**
APPLICANT **BSPN Architecture Pty Ltd**

Athina-Pascoe Bell and Sarah Henderson are community members of the Development Consent Authority and the Mayor and councillor respectively, for the City of Palmerston. The City of Palmerston is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999*- Independence of Community Members – contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. No parties present raised any concerns with Ms Pascoe Bell or Ms Henderson considering the application. Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Ms Pascoe Bell and Ms Henderson's interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Trevor Dalton Specialist Member of the Palmerston Division of the Development Consent Authority advised the meeting that he is acquainted with one of the applicants representatives. However that relationship did not fall under section 97(1)(b) of the *Planning Act 1999*.

Luke Ponti (BSPN Architecture Pty Ltd) attended via phone.

Ross Coburn (Chairman) and Matthew Hewer (General Manager) Palmerston Golf and Country Club attended.

RESOLVED That, the Development Consent Authority reduce the parking required by Clause
12/22 5.2.4.1 Parking Requirements under Clause 5.2.4.2 Reduction in Parking Requirements outside of Zone CB in Darwin, vary the requirements of Clauses 5.2.4.4 Parking Layout, 5.5.11 Food Premises and 5.8.3 Club of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2884 (103) Dwyer Circuit, Driver, Town of Palmerston, for the purpose of alterations and additions to an existing club and leisure and recreation facility, including the addition of an ancillary shop and food premises-café / take away (Palmerston Golf and Country Club) in four stages, 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 drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

- (a) any changes to the proposed works within the sewer easement, to the requirements of the Water Services division; and
 - (b) a detailed lighting plan for the car park and mini golf confirming the luminaire and lux levels. The luminaire and lux levels must either match the existing levels, or demonstrate no greater impact to the nearby residential land than the lighting already existing on site.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment is to be prepared by a suitably qualified traffic engineer, and identifying any necessary upgrades to the surrounding street network to the requirements of the City of Palmerston, to the satisfaction of the consent authority.
 3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossovers and driveways to the site from the City of Palmerston, to the satisfaction of the consent authority.
 4. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the stormwater drainage system shall be submitted to and approved by the City of Palmerston, Land Development Unit, Department of Infrastructure, Planning and Logistics, and Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The plan shall include details of site levels and 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.
 5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the landscape concept plan, but must be updated to reflect the approved layout. The landscaping plan must include a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the consent authority.

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
8. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Palmerston, Land Development Unit, Department of Infrastructure Planning and Logistics, and Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
10. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Palmerston, to the satisfaction of the consent authority.
11. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Palmerston, to the satisfaction of the consent authority.
12. The owner shall:
 - a. remove disused vehicle and/ or pedestrian crossovers;
 - b. provide footpaths/ cycleways;
 - c. collect stormwater and discharge it to the drainage network; and
 - d. undertake reinstatement works;all to the technical requirements of and at no cost to the City of Palmerston and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
13. Where unfenced, the University Avenue road frontage is to be appropriately fenced in accordance with Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics standards and requirements to the satisfaction of the consent authority.
14. The loads of any trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets, to the requirements of Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
15. Storage for waste disposal bins is to be provided to the requirements of City of Palmerston to the satisfaction of the consent authority.
16. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.

17. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.

Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

18. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
19. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
20. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
21. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
22. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@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. A "Permit to Work Within a Road Reserve" may be required from City of Palmerston and/or Transport Civil Services Division, Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.
3. Notwithstanding the approved plans, all signage is subject to City of Palmerston approval.
4. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the *Northern Territory Building Act 1993* before commencing any demolition or construction works.
5. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.
6. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(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 NT Planning Scheme 2020 applies to the land, and the development of leisure and recreation and a club requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable in Zone OR (Organised Recreation) under Clause 1.10(3), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan), zone purpose and outcomes of Clause 4.18 Zone OR – Organised Recreation, and Clauses 5.2.1 General Height Control, 5.2.4 Vehicle Parking, 5.2.6 Landscaping, 5.5.3 Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T, 5.8.3 Club, 5.8.5 Leisure and Recreation, and 5.5.11 Shops in Zones CV, CL, LI, GI, DV, OR and CN, need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clauses 5.2.4 Vehicle Parking, 5.8.3 Club, and 5.5.11 Shops in Zones CV, CL, LI, GI, DV, OR and CN.

The proposal is for alterations and additions to a golf club associated with an existing golf course, including the expansion of club including larger indoor and outdoor dining areas, lounge bar and facilities, the addition of a function room, the addition of an ancillary golf shop (pro shop), kiosk, an expansion of the existing car park, improved arrival and building entrance including a porte-cochere and mini-bus parking, and a new mini golf course to replace existing lawn bowling greens.

The proposal complies with the purpose of Zone OR (Organised Recreation) being to provide for the development of community and commercial facilities for organised recreation activities. The proposal retains the broader use of the land for leisure and recreation, and is generally consistent with the zone purpose and outcomes. The additions allow for the redevelopment of an existing complementary club use and ancillary uses of shop and food premises café / take away which are not expected to compromise or conflict with the primary use.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).
- The development has been found not to be in accordance with Clause 5.2.4.1 Parking Requirements because the proposal requires 270 car parking spaces, when 214 spaces are provided. The purpose of this clause is *to ensure that sufficient off-street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site.*

It is considered that a reduction to the parking required under Clause 5.2.4.2 Reduction in Parking Requirements outside of Zone CB in Darwin is appropriate in this instance because the clause provides that the consent authority may consent to a use or development with fewer car parking spaces than that required if satisfied that a reduction is appropriate for the use or development, having considered the following matters:

- (a) *the zoning of the land, the use or development or proposed use or development of the land and the possible future use or development of the land;*
- (b) *the provision of car parking spaces in the vicinity of the land; and*
- (c) *the availability of public transport in the vicinity of the land; or*
- (d) *the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.*

The applicant provided an alternate assessment to the rates required by the Planning Scheme, which reflects the proposed use and development at different times of the day, including that golfers typically finish before sunset, peak dining is during the weekend evenings between 6pm – 9pm, and functions will also be predominately at night. Each use may demand only 30% of the required number of spaces, outside of its peak demand period. A lower parking rate of 2 spaces is also used for the mini golf when 4 is otherwise required. Overall, a daytime expected parking demand of 156 spaces, and an evening expected parking demand of 184 spaces is accepted, which can be accommodated within the car park of 214 spaces.

- The development has been found not to be in accordance with Clause 5.2.4.4 Parking Layout because one section of the frontage to Dwyer Circuit achieves landscaping of 2.5m depth when 3m is required. The clause administration provides the consent authority may consent to a car parking area that is not in accordance with this part of the clause, if it is satisfied that the non-compliance will not:
 - (a) *result in adverse impacts on the local road network or internal functionality of the car parking area; and*
 - (b) *unreasonably impact on the amenity of the surrounding locality.*

The landscaping has no impact on the local road network or functionality of the car park. It is expected that a similar level of visual softening can be achieved through landscaping provided at a depth of 2.5m, to that of a compliant depth. Together with the retention of street trees, the proposal will allow for a suitable level of amenity along Dwyer Circuit.

- The development has been found to be generally in accordance with Clause 5.8.3 Club, of which the purpose is *to ensure the development and operation of a club is in a manner which is appropriate to the character of the area and considers the amenity of any surrounding or adjoining residential premises*. The changes are assessed as unlikely to cause any greater noise or privacy impacts to the neighbouring properties, given that the club will continue to cater for members and their visitors, maintain the current hours of 10am – midnight 7 days per week, and have similarly located bar, alfresco dining, outdoor entertainment and service areas as currently existing.

The development has been found not in accordance with the setback and landscaping requirements of Clause 5.8.3 however. Clause 5.8.3 requires:

The design and operation of a club adjoining land in a residential zone should provide:

- (a) *a 1.8m high solid screen fence for the full length of any property boundary; and*
- (b) *a landscaped area at least 2m wide within the site along all street boundaries.*

Clause 5.8.3 administration allows the consent authority to consent to a club that is not in accordance with the above requirement *only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, nature, scale and impact on surrounding amenity.*

The nearest dwellings to the club are at Lot 2193 (93) Dwyer Circuit to the east, with this property separated from the development site by a 3m Council owned walkway. The development proposes 1.2m open fencing along part of the site boundary only, plus 1.8m solid screen fence around the perimeter of the service yard within the site.

The interface to the nearest residential use on Lot 2193 is accepted as an adequate design solution in this instance, since:

- The service yard is retained in largely the same location as currently existing, and is unlikely to result in any additional amenity impacts to the nearest residential property than what currently occurs.
 - By situating an open fence along the site boundary, and a solid 1.8m fence within the site around the perimeter of the service yard, the development will achieve sightlines from the public walkway into the golf course site for improved visibility, whilst still adequately screening the service areas of the development. The development will meet the purpose of the clause as the residential amenity of the nearest dwellings will remain largely unchanged from the existing situation.
- As the land does not share an *abutting* boundary with Lot 2193 given the separation by the walkway, Clause 5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR is not technically applicable, however the interface treatment to this nearest dwelling has been considered. The purpose of this clause is to *protect the visual and acoustic amenity of residential buildings where they are adjacent to non-residential development. This clause has fencing, setback and landscaping requirements for sites where they adjoin residential lots.* This clause requires:
 2. *A use or development or a proposed use or development that is:*
 - (a) *not a residential building;*
 - (b) *on land that is in a zone other than Zones LR, LMR, MR or HR; and*
 - (c) *abuts land in any of those zones;**must provide a setback to the boundary that abuts any of those zones of not less than 5m.*
 3. *The setback described in sub-clause 2 is to be landscaped to provide a visual screen to the adjacent land Zoned LR, LMR, MR or HR for a minimum depth of 3m.*
 4. *The development should provide a solid screen fence of a minimum height of 1.8m at the boundary with land in Zones LR, LMR, MR or HR.*

A reduced landscaping width from 3m to 1m, is accepted as 1m of landscaping will still allow for some visual relief, whilst maximising views in this area for safety purposes. The fencing has been previously considered under Clause 5.8.3 above.

- The development has been found not to be in accordance with Clause 5.5.11 Food Premises because this clause requires a maximum net floor area of a food premises-café / take away of 80m², however the kiosk proposes a floor area of 91m². The purpose of this clause is to ensure that the operation of a food premises:
 - (a) provides an active interface to the public domain and contributes to the interest and diversity of the locality;
 - (b) minimises adverse impacts on the amenity of the locality; and
 - (c) is designed for the safety of patrons.

The clause administration provides that the consent authority may consent to a food premises that is not in accordance with the requirements, only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity. The kiosk is located away from the external site boundaries, is ancillary to the mini golf/existing golf uses, and an additional 11m² is unlikely to impact on the amenity of the locality or detract from the purpose of Zone OR in providing for organised recreation activities.

- Clause 5.8.5 Leisure and Recreation has been assessed and the development is assessed as complying with the overall requirements of this clause, and by condition. The purpose of this clause is to ensure leisure and recreation use and development:
 - (a) is established in appropriate locations to the meet needs of users;
 - (b) provides convenient vehicle access and does not interfere with the safe or efficient operation of the local road and footpath network;
 - (c) incorporates appropriate building and landscape design to ensure that there is no unreasonable loss of amenity for adjoining and nearby property; and
 - (d) is operated to be considerate of the amenity of adjoining and nearby property.

The existing golf course operates from 7am daily. The mini golf course is proposed to open at 10am daily, and close 8pm Sunday – Thursday and 10pm Friday & Saturday. The clause requires:

4. Any structure associated with the use does not result in a significant loss of amenity for surrounding development, having regard to:
- (a) the extent and duration of lighting and overshadowing;
 - (b) privacy and overlooking impacts; and
 - (c) the scale of the structure relative to its surroundings.

Lighting of the mini golf course and car park comprises use of 11 existing light poles, either in existing locations or relocated within the site, plus adding 3 new light poles. The intent for the new light poles is to replicate the existing light pole height and luminaries from the lawn bowls green and the car park. The existing light poles are in similar locations to those proposed, and not any closer to residential properties than as currently occurs. No greater impact is expected to the nearest residents to the west of the mini golf provided the lux levels remain the same. A condition requires a detailed lighting plan to be submitted confirming the luminaire and lux levels will match or cause no greater impact than that existing on site.

The considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for those Clauses 5.2.4, 5.8.3 & 5.5.11 identified above.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The City of Palmerston made a written submission indicating it did not support the application in its form as advertised during public exhibition of the proposal. The following concerns were raised:

- The car park extension being significant, and the proposal failing to include the required 3m of landscaping between the car park and the street frontages. Council also requested that the landscape plan be updated to include verge landscaping and irrigation.
- The traffic impact assessment not addressing the intersection with Lowe Court, and any conflict and or mitigation measures required, as a result of changes to driveway crossovers.
- Further information required for hours of operation, lighting for mini golf, and clarification of car park numbers if amendments are required.

Further information and amended plans were provided by the applicant to resolve the above matters. This included, increasing the width of landscaping along the street frontages from 1m originally proposed to 2.5m and 3m, updating the traffic impact assessment with Council now confirming the assessment is adequate, and providing further details on the hours of operation and lighting.

3. Pursuant to section 51(1)(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.

The site is currently developed as a golf course and associated club and is broadly capable of accommodating the proposed development. The site has access to the required services. The land is constrained by a sewer easement in favour of the Power and Water Corporation, with a condition requiring prior approval for any structures within the easement before any works can occur on site. The land is also constrained by drainage and electricity supply easements with no concerns identified.

4. Pursuant to section 51(1)(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 potential for land use conflict and amenity impacts is not significant since the club is existing. The consent authority noted that the proposal will require separate approval under the *Liquor Act 2019*, which is anticipated to also have regard to amenity considerations including, hours of operation and noise. At the hearing, Mr Coburn & Mr Hewer noted that the lawn bowling green was previously included as part of the licenced area of the club.

In terms of the planning assessment undertaken, despite the additions proposed, the location of the club including outdoor bar and dining areas remain the same. The inclusion of mini golf, and ancillary uses of shop and food premises café / take away are not expected to create additional amenity impacts.

The development has considered the interface treatment to the nearest residential property to the use, and screens the service areas of the development with 1.8m solid fencing nearby to this boundary, maintains existing mature vegetation adjacent to the car park, adding 1m of landscaping adjacent to the service yard, and maintaining sightlines and visibility from the public walkway adjacent.

An assessment of the mini golf and car park lighting has found the existing light poles are in similar locations to those proposed, and not any closer to residential properties than as currently occurs. The nearest residential properties to the west of the mini golf are approximately 30m away. No greater impact is expected to the nearest residents provided the lux levels remain the same, and a condition requires a detailed lighting plan to be submitted for this to be confirmed.

At the hearing, Mr Hewer confirmed that the lighting will not be any brighter than the previous lawn bowling greens, and that mini golf is not required to be brightly lit. Mr Hewer was comfortable with condition precedent 2(b) requiring a detailed lighting plan to be provided prior to the commencement of any works.

Although the development has less parking than otherwise required, an assessment has found the various uses have differing peak times, and that overall the car park of 214 spaces is expected to accommodate the anticipated peak parking demands.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Determination

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

SUZANNE PHILIP
Chair

20 May2022