



# **DEVELOPMENT CONSENT AUTHORITY**

## **PALMERSTON DIVISION**

### **MINUTES**

**MEETING No. 233 – WEDNESDAY 15 JULY 2020**

**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), Ann-Marie Reynolds and Elissa Gee (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Nadine Nilon

**Meeting opened at 9.45 am and closed at 10.15 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**

**PA2020/0181 SHED ADDITION TO EXISTING SINGLE DWELLING WITH REDUCED SIDE AND REAR SETBACKS  
LOT 10874 (19) HENSCHKE STREET, BELLAMACK, TOWN OF PALMERSTON**

**APPLICANT/S** AB Consulting (NT) Pty Ltd

Ms Annette Joseland (AB Consulting (NT) Pty Ltd) attended.

Submitter in attendance:- City of Palmerston represented by Nadine Nilon (Director City Growth and Operations).

**RESOLVED  
50/20**

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 10874 (19) Henschke Street, Town of Palmerston for the purpose of a shed addition to existing single dwelling with reduced side and rear setbacks, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. 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 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. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system

**GENERAL CONDITIONS**

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
4. Any reinstatement works required as a result of any damage caused to infrastructure or landscaping must be undertaken by the developer, to the technical standards of and at no cost to the City of Palmerston, to the satisfaction of the consent authority. This includes grassing the verge between the property boundary and the kerb.

## NOTE:

1. 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.
2. This development permit does not grant "covenant approval" for the proposed structure. Please contact the Bellamack Architectural Review Team to ensure that you have attained all necessary approvals before commencing construction works.

## 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 10874 (19) Henschke Street, 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, carport, swimming pool, established garden and a shed.

The application proposes a 5m x 3m (15m<sup>2</sup>) shed addition to the existing dwelling. The design includes an overall height of 2.462m and includes a west facing doorway and window that can be accessed from the rear yard. The shed will be finished in a colour consistent with the existing dwelling, with the application describing the colour as 'classic cream'.

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. The plans instead show a setback of 0.2m from the eastern and southern boundaries.

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 special circumstances exist to justify consent.

The application states that due to the location of the carport, existing shed and swimming pool, there are limited locations to site the proposed shed. The application states that this location has been chosen to utilise all of the space available in the rear corner of the yard and to maximise storage space for the occupants while maintaining the minimum 0.9m fire separation requirements from the existing dwelling.

The applicant justifies the reduced side setbacks to make efficient use of the space in the backyard and to maximise the useable space. In addition, no submissions have been received from either of the neighbouring properties and the proposed location of the shed will not be widely visible from the public realm.

In considering this request for a variation to the side setbacks, the Authority considers the purpose of Zone SD (Single Dwelling Residential) and Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

The Authority considers that the proposed shed does not preclude the intent of the zone or the intent of Clause 7.3; and considers the shed to be compatible with the streetscape and surrounding development given it will not be widely visible from the street. At its highest point, the shed is 2.462m and no submissions were received by the affected neighbouring properties, suggesting any adverse effects of building massing when viewed from adjoining land is marginal. The Authority also notes that the structure will not result in any overlooking and will enable breeze penetration through and between the shed and the existing dwelling.

The Authority notes that the site is burdened by a Covenant that requires further approval to be sought for the proposed shed, including written consent from both adjoining properties. While this is not a relevant planning consideration, it provides a further assurance that any amenity concerns from adjoining properties will be addressed.

The Authority considers the above listed circumstances to collectively justify the giving of consent in this case and the variation to the requirements of Clause 7.3 is assessed as appropriate.

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

One submission was received from the City of Palmerston under section 49 of the Act with respect to the proposal. In its written submission, Council raised concerns that the application does not demonstrate special circumstances to justify the proposed setback variations. Further, Council suggested that the close proximity of the shed to apparent private open space areas of the neighbouring properties has the potential to adversely affect the amenity of Lot 10875.

In addition to the written submission, Council also addressed the Authority at the hearing. Council reiterated concerns raised in its written submission, objecting largely on the basis that special circumstances have not been demonstrated. Council also identified that the 0.2m setbacks from the side and rear boundaries could cause potential stormwater issues.

The applicant explained that while the allotment is relatively large, the corner location, the truncation and the existing locations of the swimming pool, carport and existing shed limit suitable locations where this shed can be built. The proposed location was chosen to maximise the rear yard area and minimise direct views from the master bedroom patio. The applicant also suggested that a stormwater management plan is currently being prepared for the proposal.

The Authority notes both Council's concerns and the applicant's further comments regarding the truncated nature of the site and the locations of existing development. The Authority assesses that the shed meets the purpose of Zone SD (Single Dwelling Residential) and the intent of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

The Authority determines to apply a condition precedent to the development permit that requires a stormwater management plan is prepared to Councils satisfaction prior to the endorsement of plans to ensure that stormwater can be adequately managed.

Further, the Authority notes that the site is largely developed and the truncated nature of the site limits where the shed can be built. The Authority considers the proposed shed location at the rear corner of the site to be the most appropriate location to minimise views from the public realm, and is of the opinion that the shed situated elsewhere is more likely to have a detrimental impact on the streetscape.

Neighbouring properties immediately adjoining the site were notified and no submissions were received objecting to the proposal. The site is also burdened by a Covenant that requires further approval to be sought, including written consent from both adjoining properties. While the Authority notes this is not a relevant planning consideration, it provides a further assurance that any amenity concerns from adjoining properties will be considered and addressed as part of this process. The Authority determines to apply a note to the development permit to this effect.

4. 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 identified as part of this assessment, it is developed as a single residence similar to other properties in the area which suggests that the land is capable of supporting the proposed shed.

5. 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 of the area, due to the design and colour chosen to be consistent with the existing dwelling. 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.

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

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

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

**SUZANNE PHILIP**

**Chair**

16 July 2020