



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 253 – WEDNESDAY 19 OCTOBER 2022

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

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

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Adelle Godfrey and Sally Graetz (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.15 am and closed at 11.35 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 **SUBDIVISION TO CREATE FOUR LOTS**
PA2022/0277

APPLICANT **LOT 8310 (1) KIRKIMBIE COURT, FARRAR, TOWN OF PALMERSTON**
Tatam Planning Co

Catriona Tatam (Tatam Planning Co- Applicant) attended.

Submitters in attendance:- Brett Everett, Briony Crummy, Melissa Brunet and David Taylor.

RESOLVED
24/22

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 8310 (1) Kirkimbie Court, Farrar, Town of Palmerston for the purpose of subdivision to create four lots to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- The submission of amended earthworks plans to include a retaining wall/s along the northern boundary of lots B – D. This is to present an alternate design to the batter currently included in the application to account for the slope of the land.
- Amended plans showing the inclusion of good neighbour fencing along the northern boundary of the site.

REASON FOR THE DECISION

1. Pursuant to section 46(4)(b) of the *Planning Act 1999*, if the consent authority considers additional information is necessary to enable it to consider the application properly – require the applicant to provide the information.

Under 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 land and on other land, the physical characteristics of which may be affected by the development.

The consent authority requires further information to properly consider the capability of the land to support the proposal, and the effect of the development on the adjacent land. The additional information is sought noting the variation being requested under Clause 6.2.3 Site Characteristics for Subdivision in Zones LR, LMR, MR and HR on the slope of the land and lots of less than 600m² being proposed. The consent authority has concerns of the batter in reducing the extent of useable private open space for future owners, the additional costs of

modifying the batter to be borne by future owners, and that future modification of the batter may affect its integrity.

Under section 51(1)(e), 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. Four public submissions were received on the proposal including from the neighbouring property to the north. The neighbours to the north raised concerns of the proposed treatment along the shared boundary amongst other issues, in their submission and at the public hearing of the application.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Deferral

**ITEM 2
PA2022/0327**

OUTBUILDING ALTERATIONS (SHED ADDITIONS) TO EXISTING DWELLING-SINGLE WITH A REDUCED SIDE BUILDING SETBACK LOT 6953 (9) SURCINGLE DRIVE, MARLOW LAGOON, TOWN OF PALMERSTON

APPLICANT

Dallas Wynne

Dallas Wynne (applicant) attended.

**RESOLVED
25/22**

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 6953 (9) Surcingle Drive, Marlow Lagoon, Town of Palmerston for the purpose of outbuilding alterations (shed additions) to an existing dwelling-single with a reduced side building setback, subject to the following conditions:

CONDITION PRECEDENT

1. 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

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;

- (b) collect stormwater and discharge it to the drainage network; and
 - (c) undertake reinstatement works;
- all to the technical requirements of and at no cost to the City of Palmerston, to the satisfaction of the consent authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notation 1 for further information.
 5. 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.

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. 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.
3. This permit will expire if one of the following circumstances applies:
 - (a) the development and use is/are not started within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.The consent authority may extend the periods referred to if a request is made in writing before the permit expires

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 proposed outbuilding alterations (shed addition) to an existing dwelling-single with a reduced side building setback requires consent under Clause 1.8 (When development consent is required). The proposal is Merit Assessable under Clause 1.8(1)(b)(ii)(2) as a Permitted use that has become Merit Assessable due to non-compliance with a clause

requirement. The following clauses are applicable to the development: 4.6 (Zone RR – Rural Residential), 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.6 (Landscaping), 5.4.1 (Residential Density Limitations), 5.4.2 (Residential Height Limitations), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and 5.4.6 (Private Open Space). The land is also subject to Clause 3.7 (LSSS – Land Subject to Storm Surge).

The above clauses have been considered and the proposal is found to comply with the relevant requirements of the Planning Scheme with the exception of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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 proposal has been found to be non-compliant with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) as the proposed outbuilding additions are setback 4m from the side boundary instead of the required 10m setback.

Despite the non-compliant building setback, the variation to the clause is considered appropriate in this instance as the proposal is consistent with the purpose of the clause in that it is compatible with the streetscape and surrounding development, minimises building massing, avoids overlooking and facilitates breeze penetration, with particular attention drawn to the following design, site and locality features:

- i. The additions are primarily open and will enable breeze penetration through and between structures on the site;
- ii. The structure does not contribute additional storeys, height or spaces that will result in undue overlooking of adjoining properties;
- iii. The design is consistent with and will complement the existing outbuilding. Extension of an existing structure and grouping similar activities instead of constructing another car parking structure will further minimise the perceived building massing as viewed from outside the site and the street;
- iv. The area of variation is to a 15m section of the 176m long side boundary toward the rear of the site. All other structures are located with setbacks exceeding the minimum required;
- v. Surcingle Drive is characterised by properties developed predominantly with dwellings in the front centre portions of lots and sheds and other

APPLICANT

LOT 5260 (14) ELCHO COURT, TOWN OF PALMERSTON

Cross Solutions P/L

The applicant sent their apology.

**RESOLVED
26/22**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 5260 (14) Elcho Court, Town of Palmerston, for the purpose of a unit title schemes subdivision to create two units and common property, subject to the following conditions:

CONDITION 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) Screening of private open space areas of unit 1 achieved by solid screen fencing to a height of 1.8m to approximately 11.5m of the boundary with Elcho Court.

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. Prior to new titles being issued for the units shown on the endorsed drawings, a Scheme Statement meeting the requirements of the Unit Title Schemes Act 2009 (as confirmed by the Land Titles Office) shall be submitted for endorsement by the consent authority.
4. 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.
5. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
6. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) demonstrating that the Power and Water Corporation has been provided with a copy of the survey plan with the new lot numbers. This is for the purpose of ensuring the relevant Power and Water Information and Billing System is updated. Please provide a copy of an email addressed to both landdevelopmentnorth@powerwater.com.au and powerconnections@powerwater.com.au

7. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentnorth@powerwater.com.au and powerconnections@powerwater.com.au
8. Prior to new titles being issued, it shall be confirmed by the consent authority that all areas shown on the plans endorsed by the consent authority through Development Permit DP10/0114 as service authority easements, communal open space, shared driveways, or areas set aside for the communal storage and collection of garbage or other solid waste, or other shared amenities are shown of the survey plan as Common Property.
9. Prior to new titles being issued, it shall be confirmed by the consent authority that the required fencing upgrades to the boundary with Elcho Court shown on the endorsed plans have been undertaken as required, to the satisfaction of the consent authority.

NOTES

1. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
2. 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.
3. 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.
4. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>

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 a unit title schemes subdivision to create two units and common property requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(iii) with Clause 6.6.1 (Subdivision for the Purpose of a Unit Title Scheme Subdivision) therefore needing to be considered.

The proposal has been considered against the requirements of Clause 6.6.1 and found to be generally compliant. Subclause (1) allows a lawfully established development to be subdivided only if the development has been upgraded to meet the development requirements within Parts 3 and 5 of the planning scheme that apply to the development of the land. In the case of this application, the current development does not comply with the requirements of Clause 5.4.6 (Private Open Space).

Potential upgrades to unit 2 are significantly restricted by the existing built form, including the design of the rear yard which is largely covered by an existing verandah. To comply, the verandah would likely need to be removed which is considered both impractical and likely to be of little benefit to achieving the actual open space demands of the occupants and purpose of the requirements.

Upgrades to unit 1 are far less onerous with compliance and privacy able to be improved through improvements to fencing and/or landscaping. Upgrade works are considered reasonable and practical and have therefore been required by condition precedent.

Having considered the proposal and existing development, the consent authority was satisfied that the required upgrades to screening of private open space areas of unit 1 was a practical design solution and that further upgrades to the site would be impractical.

Following the required upgrades, the proposal will comply in full with the requirements of Clause 6.6.1 (Subdivision for the Purpose of a Unit Title Scheme Subdivision).

There are no Overlays that apply to the land.

Unit titling of an existing dwelling-group development comprising of 1 x 2 bedroom and 1 4 bedroom dwellings is consistent with the purpose of Zone LMR (Low-Medium Density Residential), which is to provide 'a range of low rise housing options that contribute to the streetscape and

residential amenity in locations supported by community services and facilities, and where full reticulated services are available.

As part of its deliberation of the application, the consent authority noted that some of the landscaping shown on plans approved via Development Permit DP11/0114 had been removed/not maintained and wished to remind the land owner of their responsibility to ensure ongoing compliance with the Development Permit.

- i. 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.

No land capability concerns were identified through assessment and the land is considered capable of supporting the subdivision as proposed.

- ii. 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 proposed unit title schemes subdivision is unlikely to have any impact on the existing and future amenity of the area. The upgrades required under Clause 6.6.1 (Subdivision for the Purpose of a Unit Title Scheme Subdivision) will ensure more appropriate screen treatment is provided for residents where private open space adjoins public areas.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

21 October 2022