



# PALMERSTON NORTH CITY COUNCIL

## Building Consent Restriction

Section 35 (1A) Building Act 1991

Building Consent No. 48920

48920

### Owners Details

Name: E. M. Anderson  
 Mailing Address: 23 B. Meadowbrook  
 Contact: Home  
 Phone: 356 8731 Fax: .....

### Project Location

Street Address: Same  
 Legal Description: (as shown on Certificate Title)  
 Valuation Roll Number: .....  
 Lot: 25 DP: 43050 Section: .....

is also required to have the following authorisation under the Resource Management Act 1991.

Resource Consent required & applied for

Until this authorisation has been obtained

- No Building work to which the above Building Consent relates may be undertaken.
- Building work to which the above building consent relates may be undertaken only to the extent specified in the attached ..... pages headed "Building Work to which Building Consent No ..... Relates and which May be Undertaken Before Authorisation under the Resource Management Act 1991 has been Obtained."

Failure to observe the restrictions of the Certificate may result in enforcement proceedings under the Resource Management Act 1991.

Signed for and on behalf of the Council

Name: Matthew Mackey Position: Planning Officer

Signature: [Signature] Date: 10 / 05 / 04

The Development Services Manager  
PALMERSTON NORTH CITY COUNCIL

**NON NOTIFIED LAND USE CONSENT  
FOR A NON - COMPLYING ACTIVITY  
E and M ANDERSON  
23B MEADOWBROOK DRIVE, PALMERSTON NORTH**

The Applicant: E and M Anderson

The Site: 23B Meadowbrook Drive, Palmerston North (Flat 2 DP 64506 on Lot 25 DP 43090).

**1. APPLICATION**

E and M Anderson have submitted an application for land use consent to construct a carport attached to the dwelling at 23B Meadowbrook Drive that will exceed the permitted site coverage, and separation distance provisions for Dwellings in the Palmerston North City District Plan.

The dwelling received a dispensation on 29 February 1988 for a reduction in on site amenity (attached as Appendix 1).

The application was accepted on the 29 April 2004.

**2. THE DISTRICT PLAN**

The subject site is zoned Residential in the District Plan. The proposed addition of a carport attached to the dwelling complies with the relevant District Plan Performance Conditions for dwellings, with the exception of Rules 10.7.1.1(c), and 10.7.1.1(d)(ii).

**Palmerston North City Council District Plan**

*Performance Conditions*

*Rule 10.7.1.1(c) – Separation Distance*

(b) Any part of a dwelling not contained in (a) shall be located at least 1.5 metres from any boundary.

The proposed carport will be located on the boundary common with 21 Meadowbrook Drive.

*Rule 10.7.1.1(d)(ii)(c) – Site Coverage*

The maximum amount of site which may be covered by buildings shall be:  
(a) 40% on sites of less than 500 m<sup>2</sup>.

The addition of the proposed carport will increase the site coverage to 50.06%.

Pursuant to Rule 10.7.5.1 of the Palmerston North City District Plan the application must be assessed as a Non-Complying Activity.

### 3. THE RESOURCE MANAGEMENT ACT

#### Application

Section 88 of the Resource Management Act 1991 enables any person to make an application for resource consent.

#### Notification

With regard to notification, Section 93(1)(b) requires that a consent authority must notify an application for resource consent unless the consent authority is satisfied that the adverse effects of the activity on the environment will be minor.

In this case, it is my opinion that the proposed carport will not create adverse effects that are more than minor for the following reasons:

- The potential effects are limited to effects on the residential amenity of the surrounding properties, and
- The identified potentially affected parties have provided their written approvals to the application.

Section 94(2) states that a consent authority is not required to serve notice of an application if all persons who, in the opinion of the consent authority, may be adversely affected by the activity have given their written approval to the activity.

The following properties have been identified as potentially affected by the proposal, and neighbours consent was sought:

- Peter and Dawna Crawford, at 21 Meadowbrook Drive (Lot 24 DP 43090)
- Gaylene Thompson, at 23A Meadowbrook Drive (Flat 1 DP52370 of Lot 25 DP 43090).

Both of the above parties signed plans of the proposed carport and existing dwelling, and completed Affected Parties Consent forms. Section 104(3)(6) of the Resource Management Act 1991 provides that:

*"A consent authority must not, when considering an application, have regard to any effect on a person who has given written approval to the application."*

After completing a site visit with Senior Planner Virginia Watson, the adjacent property of 25 Meadowbrook Drive was not deemed to be potentially affected for the following reasons:

- Their garage is located on the property boundary, and features a large four-metre tall concrete block wall, restricting their view of 23b Meadowbrook Drive, and the proposed extension.
- No change in effect will result, as the extension is on the far side of 23b Meadowbrook Drive.

The adjoining rural property on Rangitikei Line, was also not deemed potentially affected for the following reasons:

- The property is rural farmland used for grazing, and
- The nearest dwelling is located at least 230 metres from the subject site.

Pursuant to Section 94(2) it is not necessary to serve notice on any persons, as all potentially affected parties have consented to the proposed dwelling by signing affected parties consent forms, and copies of the proposed site plan.

With any effects on the environment considered to be no more than minor, and all affected parties providing consent, it is recommended that the application be considered without notification pursuant to Section 93 of the Resource Management Act 1991.

#### **Consideration**

Section 104 of the Resource Management Act sets out the matters to be considered when making a decision including, but not limited to:

- *any actual and potential effects on the environment of allowing the activity;*
- *any relevant provisions of a Regional Policy Statement;*
- *any relevant objectives, policies, rules or other provisions of a plan or proposed plan;*
- *any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

Section 104B of the Resource Management Act sets out the determination of applications for discretionary or non-complying activities, and states that:

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

#### **4. CONSIDERATION OF ENVIRONMENTAL EFFECTS**

The District Plan sets out rules for Residential Properties to control the potential adverse environmental effects of Separation Distance, Site Coverage, and On-Site Amenity, on Residential Amenity.

##### **Separation Distance:**

The potential effects of the separation distance encroachment are minimal. The carport will be constructed of a clear plastic, that is to be attached to the dwelling, and sloping down to the boundary fence, where it will stand 0.475 metres above the existing 1.8 metre high fence. The neighbours at 21 Meadowbrook Drive (the Crawfords) have provided written consent to the separation distance encroachment, and any potential effects must not be considered pursuant to Section 104(3)(6).

##### **Site Size And Coverage:**

The District Plan Section 10.7.1.1(d)(ii) states in the explanation that:

*"The site coverage control is intended to deal with both the "bulk" effect and the physical coverage of the site while still allowing for adequate development potential..."*

In this case the subject site is undersized at 331.59 m<sup>2</sup> (nett), and the site coverage requirement of 40% has already been exceeded. Nevertheless, the potential impacts on residential amenity, possible loss of sunlight and daylight, and loss of privacy, are reduced as:

- The site size is small.
- The dwelling and proposed addition are a single storey in height.
- The property is located on the city boundary, and the surrounding farmland is the dominant contributing factor to amenity, with most of the dwellings orientated to this direction.
- The applicants have advised that the addition is to be used to house a caravan currently located on site, and in essence there will be no change in effects.
- The applicants have advised that their on-site amenity will be unchanged as a result of the addition.
- Between the subject site and the neighbouring property at 21 Meadowbrook Drive is a solid 1.8 metre fence that will screen the carport from view, and potentially mitigate the effects of the building bulk.
- The potentially affected parties have signed neighbours consent, and as such any potential effects on them cannot be considered under Section 104(3)(6) of the RMA.

#### **On-site Amenity**

The property received a dispensation on 29 February 1988 for a reduction in on-site amenity. The addition of the proposed carport will not affect the provision of outdoor living space. The applicants have indicated that this space has always been used for storage, and is not the focal point for out-door living as it is shaded by the sun.

An area 3 metres by 12 metres is located on the North East boundary that is used as outdoor living, as it receives greater sunlight, and this is unaffected by the proposal.

#### **Environmental Effects Conclusion**

The proposed addition will have minimal environmental effects in relation to the concerns of the bulk rules in the District Plan. Any potential adverse effects are restricted to the surrounding area, and those parties identified as potentially affected have given their consent.

## **5. CONSIDERATION OF RELEVANT OBJECTIVES AND POLICIES**

The following Objectives and Policies are also relevant in determining this application:

### **10.3 Objectives and Policies**

**Objective 1. To promote the efficient use of the urban infrastructure and other physical resources.**

#### **Policies**

Policy 1.3 To provide the opportunity to create a variety of building sizes and designs which can assist in creating a sustainable urban area.

**Objective 3. To secure and maintain a high standard of amenity within the Residential Zone.**

**Policies**

Policy 3.2 To ensure adequate sunlight and daylight access to sites.

Policy 3.3 To ensure effective open space is provided for on every site developed.

Policy 3.4 To control any adverse effects of development on privacy.

**Comment**

Residential amenity will not be adversely affected by the proposal, as the dwelling and carport are single storey in height, and will not restrict sunlight or daylight to neighbouring properties. The applicants have advised that sufficient open space is provided on site to meet their needs, and the proposal will not affect their open space. Furthermore the proposal will not affect the privacy of the neighbouring properties, as the proposal is for the construction of a carport.

The applicants have advised, and a site visit has confirmed that the site will retain its existing on-site amenity, which is enhanced by its proximity to the open farmland to the northwest.

**Conclusion**

Based on the comments in section 4 of this report, I am of the opinion that this proposal is consistent with the relevant objectives and policies of the Palmerston North District Plan.

**6. RECOMMENDATION**

That pursuant to Sections 104, 104B, and 108 of the Resource Management Act 1991 the application of E & M Anderson to construct a carport attached to the dwelling that can not comply with the separation distance, site coverage, and on-site amenity requirements of the District Plan at 23B Meadowbrook Drive (Flat 2 DP 64506 on Lot 25 DP 43090) be **granted** for the following reasons:

**Reasons:**

1. All identified potentially affected neighbours have given their consent to the proposed dwelling.
2. The rule relating to site coverage is designed to minimise the impact of bulk effects on residential amenity. The dwelling and proposed extension are single level in height, and thus the potential effects on residential amenity are reduced.
3. The proposal is consistent with the relevant Objectives and Policies of the Residential Zone.

**6 CONDITIONS**

Consent is granted subject to the following Conditions:

1. That the carport be constructed in general accordance with the plans submitted as part of building consent.



Matthew Mackay  
**PLANNING OFFICER**

**DECISION:**

Pursuant to powers delegated to the Development Services Manager by the Palmerston North City Council at its meeting on the 29th day of September 2003, Consent is granted for the construction of a carport attached to the dwelling as detailed in the application at 23B Meadowbrook Drive, Palmerston North as a Non-Complying Activity.

This application was not publicly notified and notice was not served pursuant to section 93 and 94 of the Resource Management Act, as Council is satisfied that the effects of the proposed activity on the environment will be no more than minor, and all identified potentially affected parties have provided their written approval.

Dated this 3<sup>RD</sup> day of June 2004



Shayne Harris  
**DEVELOPMENT SERVICES MANAGER**

**Notes to applicant:**

1. This document is a planning consent and not a consent to build. Any change of use or building alterations can not commence without a Building Consent.
2. The temporary structure located between the garage and the house is not included in this Resource Consent as it does not have building consent.
3. The Cross-lease Flats Plan will be required to be upgraded to include the carport prior to the sale of the property.



29th February 1988

REPORT TO:

The Chairman  
District Scheme Administration Committee  
PALMERSTON NORTH CITY COUNCIL

APPLICATION FOR A WAIVER UNDER ORDINANCE 10.3.1  
OF THE PROPOSED THIRD REVIEW

Applicant: MR. E. ANDERSON

Site: 23 MEADOWBROOK DRIVE

THE APPLICATION:

Mr Anderson through his lawyer Mr Sunderland of Kohn McBride, has submitted a plan to build a second unit at 23 Meadowbrook Drive (Lot 25, D.P. 43080 ; Flats Plan D.P. 52370). The unit is some 112.5m<sup>2</sup> in area with a single garage of some 18.02m<sup>2</sup> associated with the house. The unit proposed cannot meet the requirement of Ordinance 2.11.1 of the Review which requires a living court capable of containing a circle of 5 metres in diameter and the requirement of Ordinance 2.10.4 which requires a 3 metre separation distance between the main glazing of a habitable room and a boundary. In the case of the lounge the glazing is 1.5m from the boundary and in the case of bedroom it is only 2.5 metres from the boundary.

Letters from Mr Sunderland and Dr Dijkstra are attached explaining some of the circumstances which have led the Andersons to make this application. Mr Sunderland's letter also indicates that the property is over site coverage. On checking the plans submitted this appears to be erroneous, arising it would appear out of a miscalculation of the boundary of the notional site and subsequently its area.

NEIGHBOURS CONSENT:

No neighbours consent was sought as no neighbours would appear to be affected. The neighbouring property at the rear is in fact in Kairanga County and has no visible buildings on it. Further under the Rural B zoning in the Kairanga County District Scheme only an accessory building could be built on the land. Further the dispensations sought relate primarily to the amenity of the proposed unit rather than that of the adjoining sites.

CONSIDERATION:

Ordinance 10.3.1 sets out the circumstances in which Council must consider granting a dispensation in concert with those contained in Section 76 of the Act.

The part of Meadowbrook Drive on which the site is located, coincides with the city boundary. Consequently the site adjoins a large area of open farmland which is located in Kairanga County. Under the Kairanga County's District Scheme the land is zoned Rural B, a zoning which recognises the flood potential of land so zoned. Within that zone the only uses permitted are farming, accessory buildings and



ponds and reserves. To avoid property damage should the land flood. Enquiries with Mr. B. Sifton of the City Engineers Department indicates that part of the land can be expected to take some overflow from the Flyers Line Spillway. Consequently the land has always been excluded from consideration for future urban development and is likely to be so excluded in the foreseeable future.

Further the intention of providing a living court is to ensure that an area of open space is available to residents and to provide visual amenity and privacy (Policy 2.11). Similarly the separation distance requirement is required to ensure adequate ventilation and daylight penetration and again to provide visual privacy. In this case the remainder of the site offers open space provision, with three quarters of the living court being able to be provided. Thus the occupants of the unit are assured of a pleasant outlook over farmland and visual privacy. Again the same can be said for the separation distance requirement which is intended to retain a sufficient distance between the boundaries of adjoining properties and buildings to ensure visual privacy and air and light penetration. In this case there are no buildings on the adjoining property or any prospect of the same. Consequently the unit can be assured of excellent air and light penetration and privacy. In the latter respect it is interesting to note that many of the adjacent properties have not fenced their rear boundary with the farmland, with any type of solid fence.

Thus the circumstances pertaining to the site appear to fall within the circumstances detailed in OD.3.1(a)(iii) in terms of the physical conditions applying to the site.

Turning to the provisions of Section 74 (2) of the Town and Country Planning Act 1977. Given that the intentions and objectives of the living court and separation distance requirements are met by the special locational circumstances of the site it would be unreasonable to enforce these requirements. Equally both controls are within site controls and as such will not detract from the amenities of the neighbourhood or have town and country planning significance beyond the immediate vicinity of the site.

#### RECOMMENDATION:

That a waiver from the provisions of Ordinance 2.11.1 and Ordinance 2.10.4 of the proposed Third Review be granted to Mr. E. Anderson of 23 Meadowbrook Drive (Lot 25, D.P. 43099 ; Plans plan D.P. 52370) be granted on the grounds that:

- (a) It is not, due to the location of the property adjacent to ruraly zoned land or which it is not possible to construct dwellings, reasonable to enforce the full living court and separation distance requirements.
- (b) The waiver will not detract from the amenities of the neighbourhood and is unlikely to have town and country planning significance beyond the immediate vicinity of the site.
- (c) The application falls within the circumstances detailed in Ordinance 10.3.1 of the proposed Review.

That the valuer be subject to the following conditions which must be met prior to the commencement of the use:

1. The proposed dwelling to be located in conformity with the plans submitted.

*G.L. Miller*

G.L. MILLER  
PLANNING OFFICER

Decision: *afforded*

Dated this *29th* day of February, 1968

*A. J. Foster*  
\_\_\_\_\_  
Chairman

*J. M. ...*  
\_\_\_\_\_  
Member