

Application for Amendment to Planning Permit

Planning Permit No: Planning Permit WYP8628/15
Construction of Buildings and Works for a Greenhouse, Rainwater Tanks, Sheds, Outbuildings and associated works in accordance with endorsed plans.

Amendment Required: Amendment to Planning Permit Conditions and Endorsed Plans

Property Address: 180-198 Rothwell Road Little River

Date: August 2022

1.0 Introduction and Background

This application seeks retrospective planning permission involving an amendment to Planning Permit WYP8628/15, for changes to the location of water tanks used to store and supply water to the subject land, and attendant amendments to landscaping plans endorsed under the permit.

The property is used for horticulture, specifically, the growing of orchids under greenhouse conditions. The property has been taken over by a different operator in recent years. The new operator was unaware of the requirements for water tank siting and landscaping of the perimeter of the site. The permit applicant, the current occupier of the site, seeks to redress these matters.

This application seeks retrospective planning permission for re-positioning of the water tanks at the rear of the greenhouse and a change to the landscaping along the western side of the property and at the rear of the water tanks.

2.0 Subject Site

The subject site, 180-198 Rothwell Road Little River, is a rural property used for horticultural activities confined to two greenhouses on the site as well as assorted support buildings. The site is also developed with a dwelling. The land is unencumbered by easements, covenants and the like. The land title shows that the site has a Water Frontage Licence. As far as can be ascertained, the Water Frontage Licence extends from the rear boundary of the subject land to the waterway and includes crown land along the river edge that extends westward for over a kilometre, essentially from Macleans Road to the western end of Rothwell Road along the river frontage. This allows the landowner (and occupier) of 180-198 access and water rights to this defined Crown Land area.

3.0 Planning Controls

The subject site is within a Green Wedge Zone (Clause 32.08) under Wyndham Planning Scheme as is abutting land to the north, east and west. Abutting land to the south is within a Public Park and Recreation Zone. The land is not covered by any overlay controls, as far as can be ascertained.

Planning Permit WYP8628/15 includes Condition 2 which does not allow for alteration to endorsed plans without the prior written consent of Council. However, a planning permit condition is required to be amended to reflect the changes proposed. Section 72 (1) of the Planning & Environment Act states ***A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*** On that basis, an amendment Planning Permit WYP8628/15 is sought in accordance with Section 72 of the Act.

4.0 Amendments Proposed to Planning Permit WYP8628/15

4.1 What the Permit Allows - Permit Preamble

The permit allows:

Construction of buildings and works comprising a greenhouse, rainwater tanks, sheds, outbuildings and associated works in accordance with the endorsed plans.

No changes to the permit preamble are required for the amendments proposed.

4.2 Permit Conditions

An amendment to one part of a planning permit condition (1(a)) is sought in order to reflect the changes to the development proposed. Condition 1(a) is outlined in the table below, with a suggested re-drafting, subject to Council's consideration.

| | Existing Condition | Amended Condition |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1(a) | A landscape buffer along the western (160 metres), southern (80 metres) and part of the eastern (40.23 metres) site boundaries (excluding the boundary abutting McLeans Road). The landscape buffer must be generally 3 metres wide provided that the landscape buffer may be reduced to a minimum of 1 metre wide to the extent necessary in the location of the water tanks and storage shed. The landscape buffer must be planted with randomly centred, 1 metre spaced trees and a selection of She-oak (<i>Allocasuarina.spp</i>) wattles (<i>Acacia.spp</i>) and yellow gum. | A landscape buffer along the western (160 metres), southern (80 metres) and part of the eastern (40.23 metres) site boundaries (excluding the boundary abutting McLeans Road). The landscape buffer must be generally 3 metres wide provided that the landscape buffer may be reduced to a minimum of 1 metre wide to the extent necessary in the location of the blue barn water tanks and storage shed, may be replaced by 3m high screen planting along the western boundary and may be confined to turf/grass around the five water tanks in the south-west corner. The landscape buffer must be planted with randomly centred, 1 metre spaced trees and a selection of She-oak (<i>Allocasuarina.spp</i>), wattles (<i>Acacia.spp</i>) and yellow gum other than screen planting. |

Condition 1(a)

Originally, the endorsed plans dated 4th June 2018 allowed for five water tanks on the east side of the front greenhouse, three tanks on the east side of the rear greenhouse, two at the rear of the blue barn and one very large tank at the rear of the rear greenhouse. This large water tank was replaced by five water tanks (approved 17 December 2018) but when installed, had a different configuration. The alternate siting was designed to allow easy access to the water tanks as well as access to the Crown Reserve to take advantage of the water right. Clear access to the river and crown reserve is required.

The land is within a Bushfire Prone Area. It was preferred to maintain a clearway along the western side of the greenhouse for protection and maintenance. Management of vegetation around the building is recommended to reduce bushfire risk. Replacement of the approved trees and shrubs with screens and climbers will allow for a minimum 3.5m wide maintenance and management space for fire-fighting and clear access to water in the water tanks, where required. These amendments are shown on the amended landscaping plan submitted.

4.3 Amendments to Endorsed Plans

The amendments proposed are related to the siting of the five water tanks at the rear of the rear greenhouse and a revised approach to landscaping in the context of water rights and bushfire protection.

On the current endorsed plans, five water tanks are shown at the rear of the proposed greenhouse but they are located parallel to the boundary. The water tanks that have been installed are in a similar location to that shown on the endorsed plans dated 17 December 2018 but the tanks are sited closer to the western and southern boundaries. This was done to allow for clear access from the Crown Reserve land and to allow space for fire protection and use of the tanks in the event of a bushfire. The current occupier was unaware of the endorsed plans and was merely seeking a practical outcome.

Similarly, the endorsed landscaping plan dated 15 August 2019 showed the extent of landscaping proposed. Permission is sought to reduce the landscaping around the five water tanks at the rear, replaced with turf to allow for clear access to the Crown Reserve and for fire-fighting purposes. Similarly, a change is sought to the landscaping proposed for the western boundary - from trees and shrubs to a 3 metre high screen planted with climbing native plants.

5.0 Planning Context and Conclusion

Permission is sought retrospectively for the change proposed to Condition 1(a) landscaping and the siting of the five rear water tanks. The occupier of the site was not aware of the planning permit requirements and was merely responding to the practical requirements of the site and bushfire potential.

The alternative screen planting along the western boundary of the site, planted with native climbing plants, will soften the built form on the site but allow for a planting theme with improved access and less fire risk. Similarly, the approach of limiting planting near the water tanks to allow for maximum unimpeded access and maintenance of a clearway through to the Crown Reserve is appropriate in context. This will allow a better bushfire management approach and clear access to utilise the Water Frontage Licence that is granted to this property.

The changes proposed (retrospectively) do not affect the continued use of the land for agriculture, allow the site to be landscaped in a safer and more practical manner and allow for access to rural infrastructure to support the ongoing use of the land.

The amendments seek retrospective planning permission for the changes to Condition 1(a) as outlined above and in accordance with the submitted plans (both site layout plans and landscaping plans). It is therefore requested that Planning Permit WYP8628/15 be amended accordingly.

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