

**DEVELOPMENT CONSENT AUTHORITY  
LITCHFIELD DIVISION**

**NORTHERN TERRITORY PLANNING SCHEME 2020**

**AGENDA ITEM:** **2**      **MEETING DATE:** 19/03/2025      **FILE:** PA2024/0416

**APPLICATION PURPOSE:** Outbuilding (shed) ancillary to a dwelling-single with a reduced side boundary setback.

**SUBJECT SITE:** Lot 9 (14350), Cox Peninsula Road, Berry Springs, Hundred of Cavenagh.

**ZONE:** R (Rural)

**SITE AREA:** 3.11ha

**APPLICANT** Mr Patrick Berts

**PERSONS ON WHOSE BEHALF THE APPLICATION IS MADE** Mr Daniel Maloney

**LANDOWNER** Mr David Maloney

**ANY PERSON WITH AN AGREEMENT TO ACQUIRE AN INTEREST IN THE LAND** None

## 1. PROPOSAL

The application seeks to erect a shed ancillary to an existing dwelling-single on the land. The shed has dimensions of 12x24m (288m<sup>2</sup>) with a height of 5.05m. A setback of 4m is proposed to the common property boundary where 10m is required. The 3.1ha lot is in Zone R (Rural) of the Northern Territory Planning Scheme 2020 (NTPS2020). The subject land is triangular.

The proposed outbuilding is to use an existing access to Cox Peninsula Road (NTG road).

A Locality Plan is at **Bookmark A** and the application details at **Bookmark B**.

## 2. REASON FOR APPLICATION AND LEVEL OF ASSESSMENT

An application is required for planning consent as the proposal is "Merit assessable" under Clause 1.8 (1)(b)(ii)(2) of the Northern Territory Planning Scheme 2020 (NTPS). The development is "Permitted" however consent is required as the development does not comply with Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures). The technical assessment at **Bookmark C** found that the development did not comply with the required 10m setback, as only 4m is proposed.

Zone R (Rural)			
Use	Assessment Category	General Development Requirements	Specific Development Requirements
Outbuilding (shed) ancillary to dwelling-single with a reduced side boundary setback.	Merit Assessable	5.2.1 General height control	5.4.3 Building setbacks for residential buildings and ancillary structures

The exercise of discretion by the consent authority that applies is clause 1.10(3) of the NTPS. In considering an application for consent for a use or development that has become Merit Assessable under Clause 1.8(b)(ii)(2) the consent authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.

### 3. ASSESSMENT SYNOPSIS

This report concludes that the Authority should vary the requirements of clause 5.4.3 (Building setbacks for residential buildings and ancillary structures) of the NT Planning Scheme 2020 and approve the application subject to conditions on the development permit.

### 4. BACKGROUND

There is no relevant planning history.

### 5. PUBLIC EXHIBITION

The application was referred locally to the owners of adjoining Lot 9 (1425 Cox Peninsula Road Berry Spring, Hundred of Cavenagh) for a period of two weeks. No submissions were received under Section 49(1) of the *Planning Act 1999*.

### 6. SECTION 117 - THIRD PARTY RIGHTS OF REVIEW

There is no right of appeal by a third party under section 117 of the *Planning Act 1999* in respect of this determination.

### 7. MATTERS TO BE TAKEN INTO ACCOUNT (SECTION 51 OF THE *PLANNING ACT*)

Pursuant to Section 51(1) of the *Planning Act 1999*, a consent authority must, in considering a development application, take into account any of the following relevant to the development:

**(a) any planning scheme that applies to the land to which the application relates**

Section 51 sub-clause 3 states that when considering a development application under subsection (1), the consent authority must apply the relevant considerations to only those components of the development that triggered the requirement for consent under the planning scheme.

The proposal has been assessed against the NTPS2020 and does not comply with clause 5.4.3 (Building Setbacks for residential buildings and ancillary structures) as the shed does not comply with the 10m setback requirement.

**Clause 5.4.3 (Building setbacks for residential buildings and ancillary structures)**

The purpose of this clause is to ensure that residential buildings and ancillary structures are located in a manner that:

- a) Is compatible with the streetscape and surrounding development including residential buildings on the same site;
- b) Minimises adverse effects of building massing when viewed from adjoining land and the street;
- c) Avoids undue overlooking of adjoining properties; and
- d) Facilities breeze penetration through and between buildings.

In consideration of the purpose of the clause the following is noted:

- The outbuilding is setback approximately 190m from Cox Peninsula Road with extensive screening vegetation between the location of the outbuilding and Cox Peninsula Road. No significant impact on the streetscape is anticipated.
- The siting of the outbuilding facilities the use of an existing driveway to access Cox Peninsula road.
- The height and size of the structure is reasonable to what would be anticipated within the zone and locality and would be permitted if not for the setback.
- The potential for overlooking of adjoining properties to the eastern boundary is minimised by the extensive areas of existing screening vegetation. See Google image dated 2025 below.
- Will not impact on breeze penetration.



Sub-clause 6 and Table D to clause 5.4.3, (Building setbacks of residential buildings and ancillary structures) the outbuilding should be setback 10m from the side/rear boundaries in zone R (Rural). The proposed outbuilding is setback 4m from the boundary and does not comply.

In accordance with sub-clause 3, the consent authority may consent to a development that is not in accordance with sub-clause 6 if it is satisfied that the reduced setback is consistent with the purpose of the clause, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.

The application details note that locating the outbuilding at 10m would require an additional 200 tonnes of fill in consideration of the slope of the land. Stormwater runoff from the outbuilding is to be managed on site.

It is noted that the outbuilding will in effect be utilising the fire break as a means of access to the outbuilding.

The development is appropriate to the site regarding its location, scale and the minimal impact that it will have on adjoining and nearby property.

In consideration of the zone purpose and the location of the development a variation to the setback requirement is supported.

- (b) any proposed amendments to such a planning scheme:**  
**(i) that have been or are on exhibition under Part 2, Division 3;**  
**(ii) in respect of which a decision has not been made under Part 2, Division 5; and**  
**(iii) that are relevant to the development proposed in the development application**

There are no proposed amendments to the Northern Territory Planning Scheme 2020 which affect this proposal.

- (c) an interim development control order, if any, in respect of the land to which the application relates**

There are no interim development control orders relevant to the site.

- (d) an environment protection objective within the meaning of the Waste Management and Pollution Control Act 1998 that is relevant to the land to which the application relates**

There are no environmental protection objectives relevant to the land.

- (e) any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application**

No public submissions were received during the exhibition period under Section 49 of the Planning Act 1999 with respect to the proposal.

- (f) a matter that the Minister has, under section 85, directed it to consider in relation to development applications generally**

The Minister has made no direction in relation to the application.

- (h) the merits of the proposed development as demonstrated in the application**

The application identifies the following merits.

- A single access driveway crossover is provided to the property. The proposed shed location is intended to be positioned to allow for year-round access due to site contours and water runoff/inundation.
- The shed is proposed to be positioned to align with the existing bitumen driveway. This will limit the driveway re-routing and significantly reduces vegetation removal.
- The proposed shed position is to the high point of the allotment which has hard surfaces that will permit the manoeuvring of vehicles and caravan(s) with the reduced likelihood of becoming bogged or promoting soil erosion/degradation.
- The required 4m fire break under separate legislation to the property boundary will still be achieved.
- The anticipated amount of introduced site fill required for a building pad is 200 tonnes where positioned 10m away from the boundary. Any other location will result in introducing more fill. The proposed position would cause for minimum introduced fill against this allotment with minimal vegetation removal.
- Due to allotment waterlogging, the trucks and machinery required to install a building pad, will not be possible during the wet season with works not likely occurring until mid-year (dependent on rainfall).
- The development will provide the following:
  - a. Support rural lifestyle living storage possibilities while providing protection of storage items against the tropical weather conditions.
  - b. Increase the value to the allotment while providing the owners with storage space of personal equipment and materials.

**(j) 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 land has inherent constraints such as steep slopes and land inundation where a compliant development would likely require significant amount of engineering as part of its establishment. The land is currently developed with a dwelling-single and the development is an expected form of development in the locality and ancillary to the site's residential use. Consideration of the site's constraints demonstrates the proposed structure is in the most suitable location on this parcel.

**(k) the public facilities or public open space available in the area in which the land is situated and the requirement, if any, for the facilities, or land suitable for public recreation, to be provided by the developer**

It is not a requirement that this development provides additional facilities or open space for public use.

**(m) the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose**

The proposal was circulated to the following authorities for comment:

**Local Authority:**

Litchfield Council – **Bookmark D1**

Council raised the following comments for consideration.

- Council does not support the development as it may impact on the visual amenity of the adjoining property owner (1425 Cox Peninsula Road) if developed.
- It will impact on the potential to establish fire breaks to common property boundaries.
- Requested standard conditions of approval be included on any permits should consent be granted.

In relation to Council comments regarding the impact on the visual amenity to the adjoining property owner (Lot 6, (1425) Cox Peninsula Road) it is noted that this lot is undeveloped and extensively covered by vegetation. It is considered that there would not be any significant impact on the visual amenity enjoyed by Lot 6 if the proposed outbuilding was only setback 4m.

DAS have been advised that a fire break of only 4m is required and this is proposed to be retained.

The Council requested additional conditions be placed on the permit, if granted, that the owner collect stormwater and discharge it to its technical requirements, at no cost to the Council. It is noted that the land has frontage and access to Cox Peninsula Road which is not under Council's care and control. Accordingly, no condition for stormwater management is recommended to be imposed on any permits granted. In addition to this, the Council requested a note be placed on the permit advising that Council fees and charges may apply for any works in accordance with their recommended conditions. As no conditions, requested by Council, are recommended, a note referencing Council fees and charges is not required.

### **Service Authority:**

#### **Power Water Corporation – Power Bookmark D2.**

Raised no objection but requested that should power be provided to the outbuilding a licensed electrician should be engaged. If not then the land owner shall provide a statement that no installation is to occur.

#### **Aboriginal Areas Protection Authority – Bookmark D3.**

- Did not identify any known sacred sites.
- Recommends that the land owner apply for an Authority Certificate.
- Advised of the land owners responsibility pursuant to the *Northern Territory Sacred Sites Act 1989*.

It is recommended that a note be placed on the permit advising the landowner of their possibilities under the Act.

No response was received from PWC – Water service, NT Fire and Rescue, Bushfires NT or Building Advisory Services.

#### **(n) *the potential impact on the existing and future amenity of the area in which the land is situated***

No significant impact is anticipated to the existing or future amenity of the locality.

#### **(p) *the public interest, including (if relevant) how the following matters are provided for in the application:***

- (i) community safety through crime prevention principles in design;*
- (ii) water safety;*
- (iii) access for persons with disabilities*

The development will have no significant impact on the public interest.

- (pa) for a proposed subdivision or consolidation of land in a Restricted Water Extraction Area – whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the Water Act 1992 and the requirements of section 14C(1) of that Act;*

Not applicable to this application.

- (q) for a proposed subdivision of land on which a building is, or will be, situated – whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building)*

Not applicable to this application.

- (r) any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the Heritage Act 2011*

There are no known natural, social, cultural or heritage values on the site or in the immediate surrounding area.

- (s) any beneficial uses, quality standards, criteria, or objectives, that are declared under section 73 of the Water Act 1992*

The following declared beneficial uses apply to the subject land for Darwin Harbour:

- Aquaculture, environment, cultural, rural stock and domestic

It is the responsibility of the developer and landowner to ensure that land use does not result in a contravention of the Water Act 1992.

- (t) other matters it thinks fit*

No other matters are raised for consideration by the consent authority.

### **Section 51(2) of the Planning Act 1999**

***If a development proposal is required to be referred to the NT EPA under Part 4, Division 3 of the Environment Protection Act 2019, the consent authority must not make a decision under this Division in relation to a development application for the proposal unless:***

- (a) the NT EPA has determined that an environmental impact assessment is not required under that Act for that proposal; or***
- (b) if the NT EPA has determined that an environmental impact assessment is required – an environmental approval has been granted under that Act for the proposal and the decision is consistent with that approval; or***
- (c) the Environment Protection Act 2019 otherwise permits the making of the decision.***

The *Environment Protection Act 2019* otherwise permits the making of the decision by virtue that referral is not required.

### 8. RECOMMENDATION

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 9 (1435) Cox Peninsula Road, Berry Springs, Hundred of Cavenagh for the purpose of an Outbuilding (shed) ancillary to dwelling-single with a reduced side boundary setback, subject to the following conditions:

#### GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2024/0416/01 to 2024/0416/03, endorsed as forming part of this permit.
2. 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.
3. Stormwater shall be managed on site so that it does not impact on adjoining properties 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.
5. Before the occupation of the development, firebreaks along boundaries or at appropriate locations shall be provided to the satisfaction of the consent authority on advice from the Bushfires NT Division of the Northern Territory Fire and Emergency Services.

#### Notes

1. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.



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. All land in the Northern Territory is subject to the Weeds Management Act 2001 (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection.

Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to [weedinfo@nt.gov.au](mailto:weedinfo@nt.gov.au)

4. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Lands, Planning and Environment.
5. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
6. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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.

## 9. REASONS FOR THE RECOMMENDATION

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 (shed) ancillary to a single dwelling with a reduced setback requires consent under Clause 1.8 (When development consent is required). It is identified as *Mert Assessable* under Clause 1.8(b)(ii)(2) therefore the purpose and outcomes for Zone R (Rural), Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures), 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 Clause 5.4.3 (Building setbacks

of residential buildings and ancillary structures) subclause 6 as the proposed setback of 4m does not comply with the required 10m setback.

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 not to be in accordance with Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures) subclause 6 as the proposed setback of 4m does not comply with the required setback of 10m.

It is considered that a variation to this clause is appropriate in this instance because:

- (a) The proposal is consistent with the purpose of Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures). The purpose of the Clause is to ensure that residential buildings and ancillary structures are located in manner that is compatible with the streetscape and surrounding development including residential buildings on the same site, minimises adverse impacts of building massing when viewed from adjoining land and the street, avoids undue overlooking of adjoining properties and facilitates breeze penetration between buildings.

In consideration of purpose of the Clause the consent authority noted the following:

- The outbuilding is setback approximately 190m from Cox Peninsula Road and is extensive screened from the road by existing vegetation.
- The outbuilding utilises an existing driveway and access to Cox Peninsula Road.
- The height and size of the proposed outbuilding is reasonable to what would be anticipated within the zone and locality and would be permitted if not for the setback.
- The potential for overlooking of adjoining properties to the eastern boundary is minimised by the extensive areas of existing screening vegetation on the adjoining land.
- The location of the outbuilding on the land will not impact on breeze penetration.

Administratively the consent authority may vary the requirements of Clause 5.4.3 (Building setbacks of residential buildings and ancillary structures) subclause 6, if it is satisfied that the reduced setback is consistent with the purposes of the Clause and is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property. The consent authority took into consideration the location of the development and the extensive screening of the outbuilding on the subject land and on adjoining land and determined that the development is appropriate to the site.

The consent authority has considered the purpose and requirements of 5.4.3 (Building setbacks of residential buildings and ancillary structures) and specifically Subclause 6 and determined to consent to the development with a setback of 4m.

- (b) The considerations listed under Clause 1.10(3) or 1.10(4) do not apply to this application because the application became *Merit Assessable* under Clause 1.8(1)(b)(ii)(2), and under Clause 1.10(2), the consent authority only must consider the requirements in Part 5 that are not complied with for such applications.

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 land has inherent constraints such as steep slopes and land inundation where a compliant development would likely require significant amount of engineering as part of its establishment. Consideration of the site's constraints demonstrates the proposed structure is in the most suitable location on this parcel.

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 location of the outbuilding to the rear of the land with a setback of approximately 190m to Cox Peninsula Road and extensively screened by the existing mature vegetation on the subject land and on adjoining land to the eastern boundary. This proposed location will minimise any impact on the amenity of neighbouring properties.



**AUTHORISED:**

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Steven Kubasiewicz  
Senior Planner Litchfield  
**DEVELOPMENT ASSESSMENT SERVICES**





Subject land

LOT : 9, Location: 160

Cox Peninsula Road



# Statement of effect

Complete this form if permissible development has become merit assessable.

Matters to be addressed in accordance with section 46 of the *Planning Act 1999*<sup>1</sup>

**Section 46(3)(a) –an assessment demonstrating how the proposed development will comply with any planning scheme that applies to the land**

**Address how your proposal meets or does not meet the purpose and each relevant requirement for the clause(s). Relevant clauses can be found in part 5 of the NT Planning Scheme 2020<sup>2</sup>**

Zone: Rural (R)

Date: 29/11/2024

Use: Dwelling-single and/or Dwelling-Independent

NT Planning Scheme Definition: 'dwelling-single means a building containing one dwelling only'

*dwelling-independent* means an *ancillary dwelling* that is constructed on the same *site* as a *dwelling-single*:

NTPS Clause	Requirement	Complies	Notes
5.4.1 Residential Density	x1 dwelling per allotment	<input checked="" type="checkbox"/> Yes - <input type="checkbox"/> No	
5.4.3 Building Setbacks for Residential Buildings and Ancillary Structures	All setbacks: <b>10m</b>	<input type="checkbox"/> Yes - <input checked="" type="checkbox"/> No	Side/rear setback is 4m (Merit assessable)
5.4.3.2 Distance Between Residential Buildings on one Site	Applicable with 2x separate buildings such as independent unit	<input checked="" type="checkbox"/> N/A - <input type="checkbox"/> No	Refer to requirements on pages over if applicable
5.4.6 Private Open Space		<input checked="" type="checkbox"/> Yes - <input type="checkbox"/> No	
5.4.13 Dwelling Independent	Refer to requirements on pages over Additionally: Clauses 5.4.3 & 5.4.6 apply	<input type="checkbox"/> Yes- <input checked="" type="checkbox"/> N/A	
General development requirements	Requirement	Complies	Notes
5.2.1 General Height Control	Does not exceed 2 storeys or max. 8.5m above ground level	<input checked="" type="checkbox"/> Yes - <input type="checkbox"/> No	Different heights apply to Alice Springs
5.2.4 Car Parking	Dwelling-Single: x2 off street carparks Dwelling-Independent: 1 per bedroom (max. 2)	<input checked="" type="checkbox"/> Yes- <input type="checkbox"/> N/A	
5.2.5 Loading Bays	Not applicable for residential buildings	N/A	
5.2.6 Landscaping	Assumed N/A for Dwelling-single/Independent use	N/A	
5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR	Not applicable for residential buildings	N/A	
Overlays	Identified on NT Atlas mapping		Notes
3.2 CNV – Clearing of Native Vegetation	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	Applicable where clearing >1ha (not applicable)
3.3 RCNV - Restricted Clearing of Native Vegetation	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Applicable where clearing more than pad
3.4 CR – Coastal Reclamation	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	
3.5 LPA – Land in Proximity to Airports	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	
3.6 LSF – Land Subject to Flooding <small>Review compliance with Section 39 of the NT Building Regulations 1993</small>	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Does not apply to outbuildings and extensions
3.7 LSSS – Land Subject to Storm Surge	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Does not apply to outbuildings and extensions
3.8 LADR – Land Adjacent to a Designated Road	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	

<sup>1</sup> <https://legislation.nt.gov.au/en/Legislation/PLANNING-ACT-1999>

<sup>2</sup> <https://nt.gov.au/property/land-planning-and-development/our-planning-system/nt-planning-scheme>

**Section 46(3)(b) – an assessment demonstrating how the proposed development will comply with an interim development control order, if any, applying to the land**

Is this section applicable?

No

If this sub section is applicable, address below.

**Section 46(3)(c) – a public environmental report or an environmental impact statement has been prepared or is required under the Environmental Assessment Act in relation to the proposed development, a copy of the report or statement and the results of any assessment of the report or statement under the Act by the minister administering that Act**

Is this section applicable?

No

If this sub section is applicable, address below.

**Section 46(3)(d) – an assessment demonstrating the merits of the proposed development**

State the merits of your proposal below.

1. A single access driveway crossover is provided to the property. The proposed shed location is intended to be positioned to allow for year-round access due to site contours and water runoff/inundation.
2. The shed is proposed to be positioned to align with the existing bitumen driveway. This will limit the driveway re-routing and significantly reduces vegetation removal.
3. The proposed shed position is to the high point of the allotment which has hard surfaces that will permit the manoeuvring of vehicles and caravan(s) with the reduced likelihood of becoming bogged or promoting soil erosion/degradation.
4. The required 4m fire break under separate legislation to the property boundary will still be achieved.
5. The anticipated amount of introduced site fill required for a building pad is 200 tonnes where positioned 10m away from the boundary. Any other location will result in introducing more fill. The proposed position would cause for minimum introduced fill against this allotment with minimal vegetation removal.
6. Due to allotment waterlogging, the trucks and machinery required to install a building pad, will not be possible during the wet season with works not likely occurring until mid-year (dependent on rainfall).
7. The development will provide the following:
  - a. Support rural lifestyle living storage possibilities while providing protection of storage items against the tropical weather conditions.
  - b. Increase the value to the allotment while providing the owners with storage space of personal equipment and materials.

**Section 46(3)(e) – a description of the physical characteristics of the land and a detailed assessment demonstrating the lands suitability for the purpose of the proposed development and the effect of development on that land and other land**

State below any notable physical characteristics of the land on which your proposal is to be located.

1. The shed is ancillary with the Dwelling-Single planning use and will be positioned in a close vicinity to the existing dwelling.
2. The shed will not be viewable from the street frontage or public areas.
3. The proposal including operations will also not interfere or disrupt neighbouring allotments.
4. Storm water run-off from the roof will be collected via guttering to direct water into storage tank(s) for allotment watering.
5. Nearby property is positioned higher than this allotment meaning the stormwater run-off is diverted to this allotment from the neighbours and not visa versa.

If there is nothing notable, mark this box with an 'X'.

**Section 46(3)(f) – a statement specifying the public facilities or public open space available in the area in which the land is situated, whether land for public facilities or public open space is to be provided by the developer and whether it is proposed that facilities or open space be developed by the developer**

Is this section applicable?

No

If this sub section is applicable, address below.

**Section 46(3)(g) – a statement specifying the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and whether public utilities or infrastructure are to be provided by the developer or land is to be provided by the developer for the provision of public utilities or infrastructure**

State below whether you intend to connect all necessary services to your proposal as required.

1. The provided utilities to allotment are reticulated water and mains power. No additional demand is expected to the existing services that would require an upgrade. The allotment will remain for use of domestic/residential character (NTPS Dwelling-Single use).
2. No on-site stormwater drainage network is provided or required to this allotment.
3. No public utilities or facilities are proposed or required.

### Section 46(3)(h) – an assessment of the potential impact on the existing and future amenity of the area in which land is situated

Provide a short statement below, addressing any potential impact on the existing or future amenity of the area.

1. The shed is ancillary to the NTPS Dwelling-Single use and is permitted in this Rural (R) zone. It is only due to the proposed setback dispensation that the proposal becomes 'merit assessable'.
2. The shed will not be viewable from the street or public areas.
3. The noise generated from the shed activities will not create noise pollution or burden the neighbouring allotments.
4. There will be little to no impact on the amenity of the allotment and neighbouring allotments due to domestic use proposed. The shed proposal is consistent with the developments in Rural zoning and the surrounding area.
5. Notable comparisons in relation to neighbouring amenity:
  - a. If the allotment was less than 1ha, the shed would be permitted to utilise a 5m setback without consent.
  - b. If the shed was constructed in a large block to zones Low Density Residential (LR) or Low-Medium Density Residential (LMR), the permitted setback would be 1.5m to side and rear boundaries without consent.

### Section 46(3)(j) – an assessment of the benefit or detriment to the public interest of the development

State below any benefit or detriment to the public interest resulting from your proposal.

If there is nothing notable, mark this box with an 'X'.

X

### Section 46(3)(k) – in the case of a proposed subdivision of land on which a building is situated – a report from a building certifier within the meaning of the *Building Act 1993*<sup>3</sup> as to whether the building will cease to comply with the *Building Act 1993* if the proposed development were to proceed

Not applicable to this application as it is not for a subdivision.

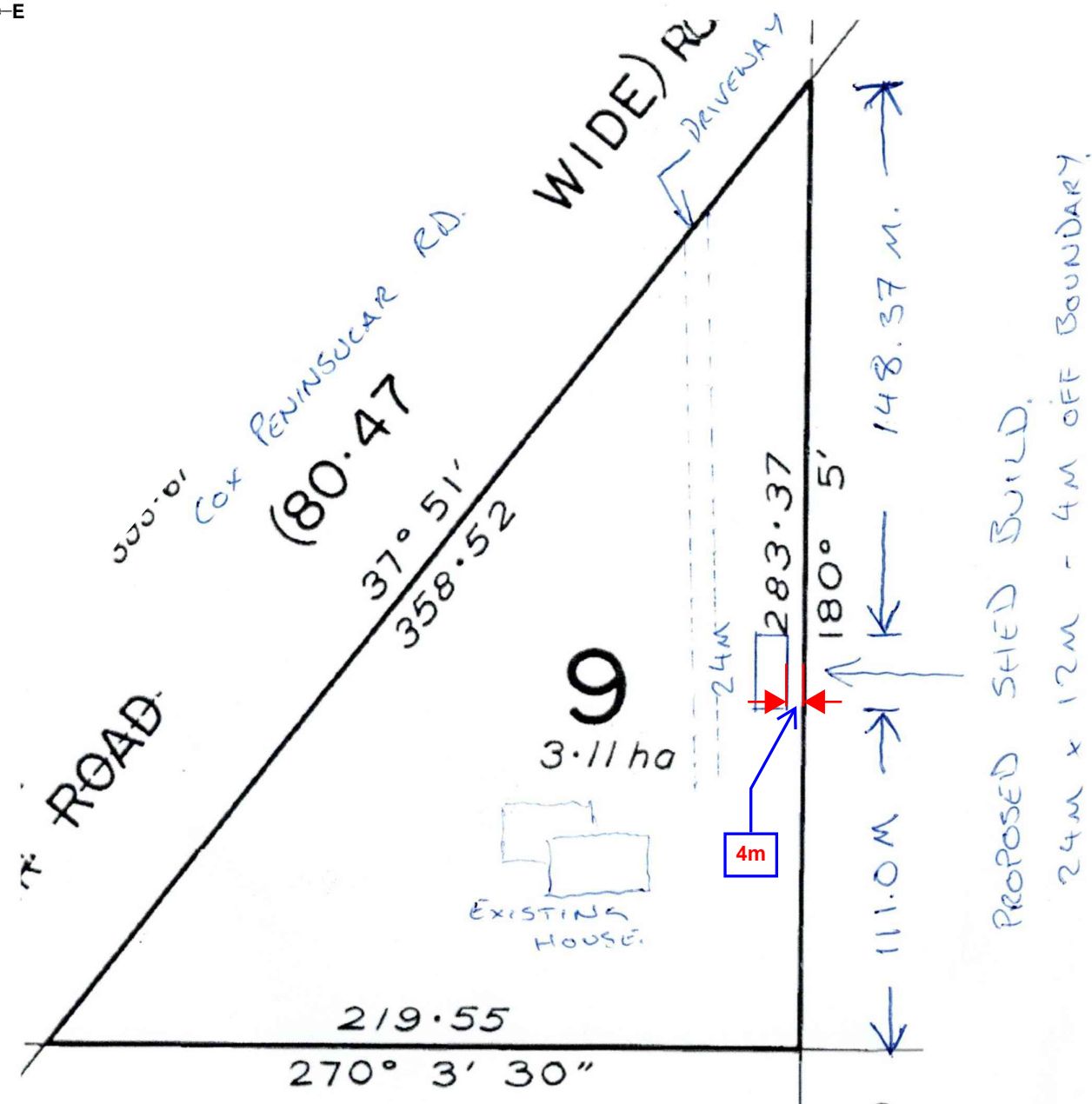
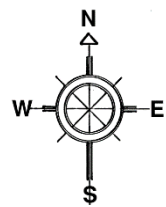
<sup>3</sup> <https://legislation.nt.gov.au/Legislation/BUILDING-ACT-1993>



Section 46(3)(l) for the development of land proposed to be the scheme land of a proposed or existing scheme, or the development of existing scheme land – a plan in the approved form specifying:

- Any information about any building that is, or will be situated on the scheme land (including for example, information about the structural integrity and fire safety of the building)
- If any part of the development is subject to changes that are allowed by regulation – details about that part as required by regulation
- Any other information prescribed by regulation about the development.

Not applicable to this application as it is not for a subdivision.



SURVEY/TITLE PLAN EXTRACT



**LOCALITY / SITE PLAN / AERIAL PLAN**

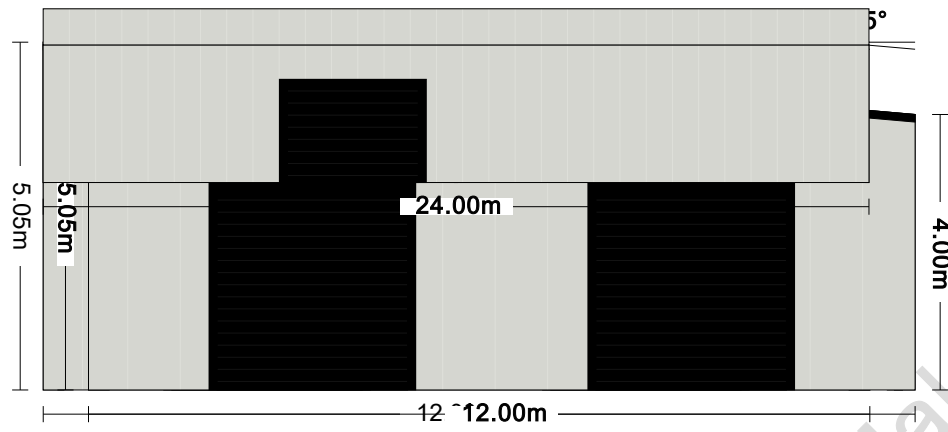
Scale 1:2,257 (A3) as extracted from NT Natural Resources Maps  
online <https://nrmaps.nt.gov.au/nrmaps.html>

**SITE PLAN**

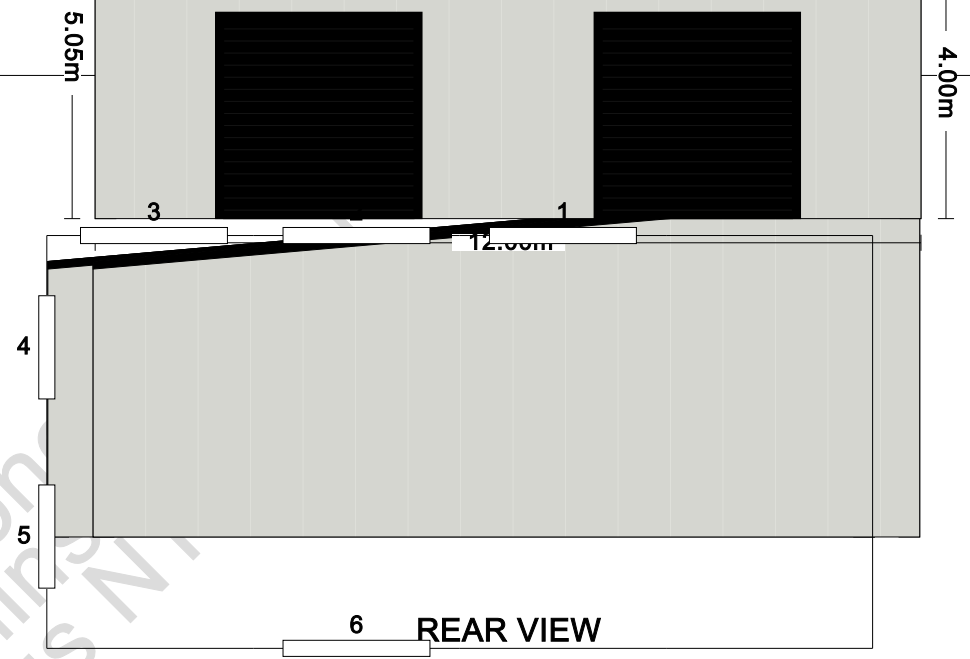
Address: Lot 9, Lto: 79017 (1435) Cox Peninsula  
Road, Berry Springs

Drawing No. SP01

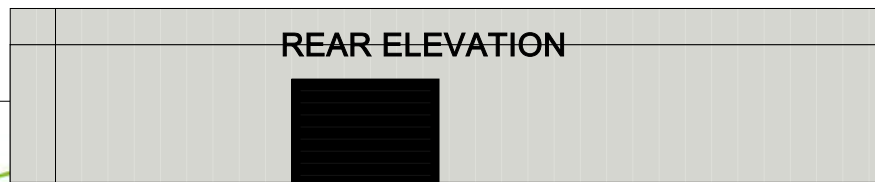
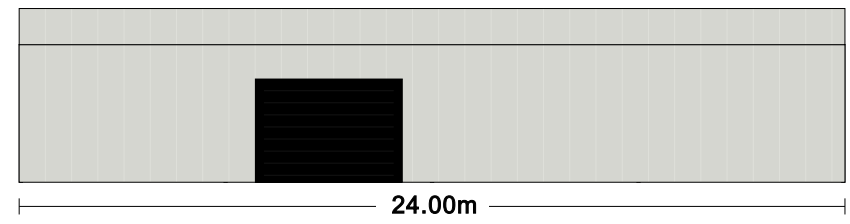
S200 - BUILDING ELEVATIONS



FRONT VIEW



REAR VIEW



REAR ELEVATION



FRONT ELEVATION



1435 Cox Peninsula Road  
Berry Springs NT 0838  
M: 0420 499 382

Shed Sold By

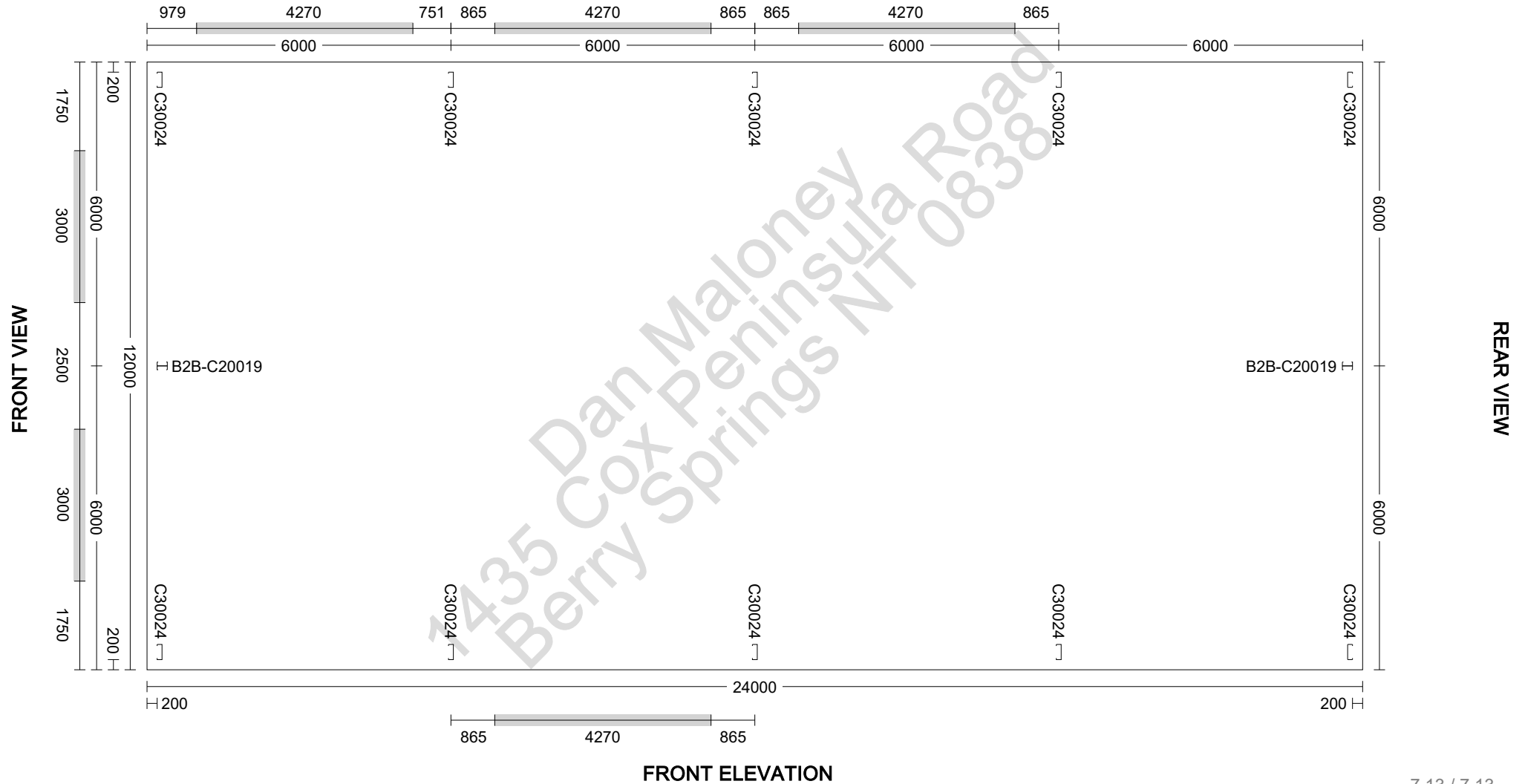
Steel line GRP  
ABN: 82 00 61 059  
84 Pruen Rd  
Berrimah NT 0838  
P: 08 8935 3900  
F: 08 8947 4211  
W: [www.steel line.com.au](http://www.steel line.com.au)  
E: [manolis.tsirogianis@steel linegrp.com.au](mailto:manolis.tsirogianis@steel linegrp.com.au)

Specifics

Shed Order Number: 412345

## 1. Column & Mullion Locations

### REAR ELEVATION

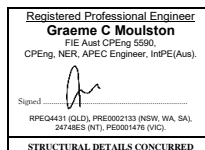


7.13 / 7.13



#### Site Details

Dan Maloney  
1435 Cox Peninsula Road  
Berry Springs  
NT 0838  
M: 0420 499 382



#### Shed Sold By

Steeline GRP  
ABN: 82 009 616 059  
84 Pruen Rd  
Berrimah NT 0828  
P: 08 8935 3900  
F: 08 8947 4211  
W: [www.steeline.com.au](http://www.steeline.com.au)  
E: [manolis.tsirojanis@steelinegrp.com.au](mailto:manolis.tsirojanis@steelinegrp.com.au)

#### Specifics

Shed Order Number: 412345

Shed Type: Skillion Shed

1. This drawing is not to scale (NTS) and all dimensions are in millimetres unless noted.
2. This drawing should be used in conjunction with the relevant engineering diagrams and hold down brackets specified in the order.





SURVEY/TITLE PLAN EXTRACT



ARROWS IN BLUE INDICATE THE DIRECTION OF SITE FALLS

WATER FLOW

LOCALITY / SITE PLAN / AERIAL PLAN  
Scale 1:2,257 (A3) as extracted from NT Natural Resources Maps  
online (<http://resources.nt.gov.au/nt-maps.html>)

minimal land clearing with  
the proposed location  
overlay not triggered

**SITE PLAN**

Address: Lot 9, Ltr: 76017 (1435) Cox Peninsula  
Road, Berry Springs

Drawing No. SP01





Approximate shed location





Approximate shed location

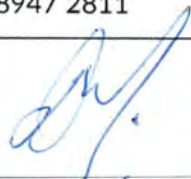


# Land owner/s authorisation to lodge a development application

Under the *Planning Act 1999*

## Before you fill in the form

Signatures from ALL landowners registered on the land title must be provided.

Fields marked with an asterisk (*) are required. Fields marked with a caret (^) are for office use only.			
The owners and/or persons duly authorised as signatory on behalf of the landowner hereby authorise			
Name of consultant or acting agent on behalf of landowner			
Patrick Berts			
Phone	8932 6070	Mobile	0405 101 464
to lodge a development application under the <i>Planning Act 1999</i> over the property described as			
Lot/NT portion	Lot 79017 - Lot 9		
Location/town	Hundred of Cavenagh		
Street address	1435 Cox Peninsula Road, Berry Springs		
Proposed development	Shed within side/rear boundary setback		
Owner signature 1			
Full name	Daniel Maloney		
Title (e.g. company director)	-		
Company name	-		
Phone	8947 2811	Mobile	0420 499 382
Signature			
Date	28/11/2024.		



# Technical Assessment PA2024/0416

## TECHNICAL ASSESSMENT OF PROPOSED DEVELOPMENT AGAINST RELEVANT PROVISIONS OF THE NORTHERN TERRITORY PLANNING SCHEME 2020

Application No: PA2024/0416

Lot number: Lot 9 (1434) Cox Peninsula Road, Berry Springs

Town/Hundred: Hundred of Cavenaugh

Zone: Zone R (Rural)

Site Area: 3.1ha

Proposal: Outbuilding (shed) ancillary to dwelling single with reduced setback to the side boundary

Plans used for assessment: Plans provided in support of the application.

Date assessment finalised: 12 February 2025

The proposed development requires consent under the Northern Territory Planning Scheme 2020, as it is in Zone R (Rural) and has become *Merit Assessable* under Clause 1.8(1)(b)(ii)(2) of the Planning Scheme.

The relevant clauses are assessed in the summary below with any identified non-compliances addressed overleaf.

Clause (General Requirements)	Compliance	
	Yes	No
5.2.1 (General Height Control)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2.4 (Car Parking)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2.6.1 (Landscaping in Zones other than Zone CB)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Clause (Specific Development Requirements)	Compliance	
	Yes	No
5.4.1 (Residential Density)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.4.6 (Private Open Space)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Clause (Overlays)	Applies	
	Yes	No
3.6 (LSF – Land Subject to Flooding)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.7 (LSSS – Land Subject to Storm Surge)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.8 (LAAR – Land Adjacent to an Designated Road)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

*This is a technical assessment of the proposal against the requirements of the Northern Territory Planning Scheme 2020 and is no indication of whether or not approval will be given by the consent authority. It is noted that clause 1.10(2) provides for the consent authority to exercise discretion in making a decision on a development in particular circumstances.*

### Clause 5.4.3 – Building setbacks of residential buildings and ancillary structures.

#### Purpose

Ensure that residential buildings and ancillary structures are located in a manner that:

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;
- (c) avoids undue overlooking of adjoining properties; and
- (d) facilitates breeze penetration through and between buildings.

#### Administration

1. This clause does not apply in Zones CB, LI, GI and DV.
2. In this clause:
  - (a) an ancillary structure includes an outbuilding (excluding shade sails), balcony, portico and the like, which may or may not include external walls; and
  - (b) for all developments except dwellings-multiple in Zone MR or HR, where a lot has a boundary with a public street from which vehicular access to the lot is restricted by the controlling Agency or local government council, this boundary shall be considered a side or rear lot boundary for the purpose of calculation of the building setback.
3. The consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.
4. If a building setback plan in Schedule 9 does not establish a specific setback to a nominated boundary, residential buildings and ancillary structures are to be set back from that boundary in accordance with sub-clause 6(a) or clause 5.4.3.3 as appropriate.
5. Despite sub-clause 6 sheds in Zones other than H, A, RR, RL and R may have a nil setback to the side and rear boundaries provided it is
  - (a) 6m or more from the primary street and 2.5m or more from a secondary street when measured to the wall of the shed or where there is no wall, the outer face of any column;
  - (b) has a cumulative floor area of 15m<sup>2</sup> or less;
  - (c) is 2.5m or less in height;
  - (d) has no openings in walls that are less than 1.5m from a lot or unit title; and
  - (e) does not discharge rainwater on an adjacent lot or unit title.

#### Requirements

6. Subject to clause 5.2.7, building setbacks of residential buildings and ancillary structures are to be set back from lot boundaries in accordance with:
  - (a) the relevant table to this clause; or
  - (b) any setbacks established in a building setback plan that is included in Schedule 9.
7. Where a zero or 300mm setback is identified on a building setback plan in Schedule 9, a zero or 300mm setback can only be established to the boundary nominated on the setback plan.
8. Unless detailed in a table to this clause or within a building setback plan in Schedule 9, no part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks (subject to the Building Code of Australia) from the lot boundaries.

The subject land is zoned R (Rural) with a site area of 3.1ha. The table to this clause requires a setback of 10m to side or rear boundaries. The proposed setback is 4m.

**DOES NOT COMPLY**



14 February 2025

Development Assessment Services  
Department of Lands, Planning and Environment  
GPO Box 1680  
Darwin NT 0801

**RE: Letter of Comment Development Application**

**PA2024/0416**

**Hun: 160 LTO: 79017 P: 00009 1435 Cox Peninsula Road BERRY SPRINGS,  
Hundred of Cavenagh**

**Outbuilding (shed) ancillary to dwelling single with a reduced setback to the side boundary**

---

Thank you for the Development Application referred to this office on 31/01/2025, concerning the above. This letter may be tabled at Litchfield Council's next Council Meeting. Should this letter be varied or not endorsed by Council, you will be advised accordingly.

The following issues are raised for consideration by the Authority:

**Council does not support the granting of a Development Permit for the following reasons:**

- a) The statement of effect outlines the reasoning for the reduction to the setback pertaining to the level of the land and the required fill, it also points out that this setback would be permissible in more urban settings.  
However, the zoning of this property is R- Rural and as such has a certain level of expectation in relation to amenity. Whilst the property owner does not see an impact on amenity, we note that the neighbouring property (1425 Cox Peninsula Rd) has not yet been developed. Should this property be developed, and due to land suitability be restricted to building on a limited area, they may find they are within site visibility of this proposed shed. Therefore, Council considers this proposal a potential impact on amenity.
- b) Additionally, Council supports very seriously the requirement under the *Bushfires Act NT* to install and maintain a minimum 4 metre firebreak. This is stated as a minimum distance only. Preference, to ensure the safety of properties, homes and businesses and also safety of our volunteer fire fighters is that these firebreaks be larger and that property owners maintain them appropriately. A shed of this size along the very edge of the firebreak could pose a heightened risk.

**Council can provide the following comments in relation to the application:**

- a) Should this application be approved, Council notes that Cox Peninsula Road is owned and operated by Northern Territory Government and as such they are the agency responsible for all access and crossovers pertaining to this property.

**Should the application be approved, the following condition(s) pursuant to the *Planning Act* and Council's responsibility under the *Local Government Act* are also recommended for inclusion in any Development Permit issued by the consent authority:**

- a) The owner shall collect stormwater and discharge it to the drainage network, to the technical requirements and satisfaction of Litchfield Council, at no cost to Litchfield Council.
- b) Any developments on or adjacent to any easements on site in favour of Council shall be carried out to the requirements and satisfaction of Litchfield Council.

**Should the application be approved, the following notes are recommended for inclusion in any Development Permit issued by the consent authority:**

- a) Litchfield Council's current Fees and Charges may apply to the above conditions. Additional information can be found at [www.litchfield.nt.gov.au](http://www.litchfield.nt.gov.au).

If you require any further discussion in relation to this application, please contact Litchfield Council on 08 8983 0600.

Kind Regards,



Jaimie O'Connor  
Planning & Development Program Leader

Phone 1800 245 092

Web [powerwater.com.au](http://powerwater.com.au)

Record No: D2025/48981

Container No: NE160/0009/79017

Your Ref: PA2024/0416

Steven Kubasiewicz  
Development Assessment Services  
GPO Box 1680  
Darwin NT 0801

Dear Steven

**Re: Lot 9 (1435) Cox Peninsula Road Berry Springs Hundred of Cavenagh**

In response to your letter of the above proposal for the purpose of outbuilding (shed – 24m x 12m) addition to an existing dwelling-single with a reduced building setback to the side boundary, Power and Water Corporation (PWC) advises the following with reference to electricity enquiries:

1. If there is any applicable electrical installation to be carried out for the proposed shed, the landowner shall engage a licensed electrician to install it in accordance with the current PWC's NP018 Service and Installation Rules 2024.
2. If it does not, the landowner shall provide a signed statement confirming "There wasn't any electrical installation carried out for the installed shed addition on Lot 9 (1435) Cox Peninsula Road Berry Springs Hundred of Cavenagh" for NT WorkSafe record keeping compliance.

If you have any further queries, please contact Andrew Venhuizen, Senior Customer Connections Officer on 8924 5700.

Yours sincerely



Thanh Tang  
Manager Distribution Development

03 February 2025





**Aboriginal Areas  
Protection Authority**

protecting sacred sites across the territory

Development Assessment Services  
[DAS.NTG@nt.gov.au](mailto:DAS.NTG@nt.gov.au)

Dear Development Assessment Services,

**PA2024/0416 – Lot 00009 Hundred of Cavenagh, 1435 Cox Peninsula Rd, Berry Springs NT**

We refer to the above application for a development permit.  
Recommendation

The Aboriginal Areas Protection Authority (AAPA) **recommends that Mr Patrick Berts apply for an Authority Certificate** in accordance with section 19B of the *Northern Territory Aboriginal Sacred Sites Act 1989* (the Sacred Sites Act) prior to undertaking any development activity or other work in Lot 03981 as there may be sites that are currently not known to the Authority. There is information on the AAPA homepage on how to apply for an [Authority Certificate](#).

In the absence of an Authority Certificate, a body corporate or an individual who undertakes work on a sacred site will be committing an offence against the Sacred Sites Act and may be subject to penalties of up to 400 penalty units or imprisonment for 2 years (or 2000 penalty units in the case of a body corporate). Additional offences under the Sacred Sites Act may also apply.

The applicant may want to apply for an Abstract of Records in the first instance. An Abstract of Records provides information on where sacred sites are known to exist so that they are not inadvertently damaged. However, an Abstract of Records is for general information purposes only and should not be relied upon by persons undertaking development activity as it is not a conclusive statement about the extent of sacred sites in the subject land. There is information on the AAPA homepage on how to apply for an [Abstract of Records](#).

#### Background Information

AAPA is a statutory authority responsible for overseeing the protection of Aboriginal sacred sites on land and sea across the Northern Territory.

The protection of sacred sites is recognised by the Northern Territory Government and the broader Territory community as an important element in the preservation of the Territory's cultural heritage, for the benefit of all Territorians. AAPA seeks to strike a balance between the protection of sacred sites and development in the Northern Territory.

Yours sincerely,

Jayde Manning  
Ministerial/Policy Officer  
3 February 2025

cc: Mr Patrick Berts – [P\\_berts@hotmail.com](mailto:P_berts@hotmail.com)

Darwin  
P: +61 (08) 8999 4365  
F: +61 (08) 8999 4334  
[www.aapant.org.au](http://www.aapant.org.au)  
[enquiries.aapa@aapant.org.au](mailto:enquiries.aapa@aapant.org.au)  
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[enquiries.aapa@aapant.org.au](mailto:enquiries.aapa@aapant.org.au)  
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44 Bath Street ALICE SPRINGS NT  
All mail to Darwin GPO