

Technical Report			
Application No:	PA19/737		
Lodgement Date:	22 July 2019	DAU Date:	23 October 2019
Address:	2 Mortar Pass, Byford		
Proposal:	Outbuilding to Single House		
Land Use:	Residential; Single House	Permissibility:	P
Owner:	Taylor James Sperkins		
Applicant:	TaylorJames Sperkins		
Zoning:	Residential	Density Code:	R20
Delegation Type:	12.1.1	Officer:	Helen Maruta
Site Inspection:		No Desktop analysis was undertaken	
Advertising:		Yes	
Outstanding Internal Referrals:		No	
External Referrals:		No	
Within a Bushfire Prone Area:		Yes	

### **Introduction:**

A planning application dated 22 July 2019 and received 22 July 2019 has been received for proposed 'Outbuilding' at Lot 216, 2 Mortar Pass, Byford.

The subject lot is zoned Residential in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). The proposed is outbuilding incidental to the Single house onsite. The 'Residential – Single House' land use is a permitted land use in the subject 'Residential' zone. The proposed land use is therefore capable of approval in accordance with the Shire's TPS 2.

This report recommends that the 'Outbuilding' as proposed be approved subject to appropriate conditions.

### **Background:**

#### Existing Development:

The subject site is located within the Byford by the Scarp residential estate. The site is 688m<sup>2</sup> in area and is bound by Benalla Crescent to the west and Mortar Pass to the north. The site is currently developed with an existing Single House.

### Proposed Development

The proposed outbuilding would have a floor area of 48m<sup>2</sup> featuring a length of 8m and width of 6m. The proposal would have a wall height of 2.7m, a ridge height of 3.2m and be set back 1m from the southern (rear) boundary and between 0.5m and 2m from the south-eastern (side) boundary. The outbuilding is proposed to be constructed entirely out of ironstone colorbond, which is a dark grey colour, matching the existing boundary fence.

**Community / Stakeholder Consultation:**

Nature of Concern	Officer comments
<p><b>Siting of the outbuilding</b> – The submitter is concerned that the location of the outbuilding setback 1m from the</p>	<p>The setback of the outbuilding is consistent with the boundary setbacks stipulated under the ‘deemed-to-comply’ provisions of the R-Codes which permits</p>

<p>common boundary has the potential to detrimentally impact their visual amenity.</p> <p><b>Size of the outbuilding</b> –The submitter is concerned that the scale of the outbuilding will adversely impact on the outlook of their property by potentially blocking views to the natural environment.</p> <p><b>Use of the Outbuilding</b> -The submitter is concerned that due to the size of the outbuilding, there is potential for it to be used for other purposes other than a ‘<i>garden shed</i>’.</p>	<p>an outbuilding with a wall length of less than 9m to be set back a minimum of 1m from the boundary.</p> <p>The proposed outbuilding, with a total floor area of 48m<sup>2</sup>, is consistent with the ‘deemed-to-comply’ requirements of the R-Codes, which allows outbuildings of up to a total floor area of 60m<sup>2</sup> to be constructed on a residential block of that size without the requirement for development approval.</p> <p>Notwithstanding the proposed wall height of 2.7m, which is 0.3m above the acceptable deemed-to-comply wall height of 2.4m, the overall ridge height is compliant with the deemed-to-comply requirements. It is considered that the modest variation would not have an adverse visual impact on the adjoining neighbour. Taking in to account the complaint area, the compliant ridge height, and the minor wall height variation, it is recommended for approval.</p> <p>The applicant has provided information that the outbuilding will be used primarily for parking of his private vehicle. Officers are satisfied that the size of the outbuilding is consistent with the proposed use. Furthermore any approval would be for the land use of ‘Residential’ which would prevent it being used other (non- residential type) purposes.</p>
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### Statutory Environment:

#### Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

- *Metropolitan Region Scheme*

#### State Government Policies

- State Planning Policy 7.3 – Residential Design Codes

#### Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Local Planning Policy 1.5 – Exempted Development
- Local Planning Policy 4.3 - Landscape Protection

#### **Planning Assessment:**

A comprehensive assessment has been undertaken in accordance with Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations*, the assessment can be viewed as part of the attachment.

#### Land Use

The proposed outbuilding is incidental to the existing single house onsite. The 'Residential – Single House' land use is a permitted land use in the subject 'Residential' zone. The proposed land use is therefore capable of approval.

#### State Planning Policy 7.3 Residential Design Codes

Part 5 of the R-Codes sets out 'deemed-to-comply' requirements and 'design principles' for outbuildings. Development meeting the deemed-to-comply provisions generally are exempt from requiring development approval. The table below provides an assessment of the proposed outbuilding against the 'deemed to comply' provisions:

Deemed to Comply Design Element	Deemed-to-comply requirement	Proposed	Comments Complies/variation
<b>Siting</b>	Outbuildings that are not attached to a dwelling.	Complies - Outbuilding is setback a minimum of 2.3m from south-eastern corner of the dwelling and 4.5metres from the south-western corner.	Complies
	Not within the primary or secondary street setback area	Complies – Outbuilding satisfies the primary secondary street setbacks	Complies

<b>Use</b> - Non – habitable	Proposal is for parking a private vehicle and general storage of household equipment only.	Complies – Outbuilding is for storage purposes only.	Complies
<b>Floor Area</b>	Collectively do not exceed 60m <sup>2</sup> in area or 10 percent of the lot whichever is the lesser	48m <sup>2</sup>	Complies
<b>Wall height</b>	Max 2.4m	2.7m	Variation - supported
<b>Ridge height</b>	Max 4.2m	3.2m	Complies
<b>Open space</b>	50%	67%	Complies
<b>Setbacks</b> <b>Rear</b> <b>Side</b>	1m 1m	1m 2m and 0.5m at corner.	Complies Variation

The proposed development generally satisfies the 'deemed-to-comply' criteria as set out in the R-Codes with the exception of the wall height and setback for which a variation is being sought. Officers consider that the wall height variation of 0.3m is minor and can be supported taking into account the overall height and scale of the proposal.

The proposed outbuilding, with a total floor area of 48m<sup>2</sup>, is consistent with the deemed-to-comply requirements of the R-Codes, which allows outbuildings of up to a total floor area of 60m<sup>2</sup> to be constructed on a residential block of that size, without the requirement for development approval.

Notwithstanding the proposed wall height of 2.7m, which is 0.3m above the acceptable wall height of 2.4m, the overall ridge height is compliant with the deemed-to-comply requirements. It is considered that the modest variation to the wall height, combined with the design of a compliant ridge height, will not have an adverse visual impact on the adjoining neighbour. The scale of the building below the maximum size possible, coupled with the effort to reduce overall peak height, means in this instance a minor wall height variation is considered supportable.

The proposal is considered modest in scale and would not result in an adverse impact on the streetscape or the visual amenity of the adjoining neighbour. Officers consider that the fence between the common rear boundary screens a large part of the outbuilding from view. In addition, the proposed colour of the outbuilding is similar to the boundary fence which is considered to reduce the visual impact of the outbuilding. Officers are satisfied that the 'Design Principles' of the R-Codes have been met and the outbuilding should be approved.

Local Planning Policy No Policy 4.3 - Landscape Protection Area

The subject site is located within the Landscape Protection Area. The objectives of the policy are to protect and enhance the landscape characteristics of the of the Darling Scarp and preserve its visual amenity from the coastal plain . The proposed outbuilding by way of its scale and proposed colours is not contrary to the provisions of the policy.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, DAU has the following options:

Option 1: DAU may resolve to APPROVE the application subject to conditions.

Option 2: DAU may resolve to REFUSE the application subject to reasons.

Option 1 is recommended

**Conclusion:**

The application seeks approval for the construction of an outbuilding with a wall height varying the deemed-to-comply requirements of the R-Codes. A minor setback variation is also proposed. The application has received an objection from an adjoining neighbour and the item is therefore presented to Council for determination.

Notwithstanding the objection received, the proposal is considered to meet the 'Design Principles' of the R-Codes. Officers are satisfied that the proposal would not adversely impact on the amenity of the area or that of neighbouring residents. As such, for the reasons outlined in the report it is recommended that Council approve the application subject to conditions.

**Deemed Provisions – CI 67 Matters to be considered by local Government**

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Consistent with TPS 2 provisions for the Residential zone.</b>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment: The proposal is considered to be consistent with orderly and proper planning. There are no proposed Local Planning Schemes or amendments that affect this application.</b>			
c) any approved State planning policy	<b>YES</b>	<b>NO</b>	<b>N/A</b>



	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Comment:</b> SPP 7.3 Residential Design Codes			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <b>None</b> <b>Applicable to this area from what I can determine</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
e) any policy of the Commission	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
f) any policy of the State	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
g) any local planning policy for the Scheme area	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			
h) any structure plan, activity centre plan or local development plan that relates to the development	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b> No reports or reviews of TPS2 have been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b> The site is not reserved under TPS2.			
k) the built heritage conservation of any place that is of cultural significance	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b> The site nor any development on the site is identified as heritage.			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> There is no identified cultural heritage significant to the site or surrounding area.			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> The proposal is considered to be consistent with surrounding development in terms of its size, scale and design.			
n) the amenity of the locality including the following – I. Environmental impacts of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>

II. The character of the locality			
III. Social impacts of the development			
<b>Comment: The proposal is not considered to have any environmental or social impacts.</b>			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Stormwater to be contained on site.</b>			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: No vegetation on site</b>			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: The proposal is considered to be suitable and unlikely to cause or be effected by risk to flood, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk.</b>			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: The proposed land use is consistent with the TPS2 and is considered to be unlikely to pose a risk to human health or safety.</b>			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Access arrangements are satisfactory.</b>			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:.</b>			
u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: The proposed use is not in any direct competition with any community service and is unlikely to result in the loss of any community service as a result of approval.</b>			



w) the history of the site where the development is to be located	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:.</b>			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: The impacts of the development have been discussed throughout the report.</b>			
y) any submissions received on the application	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> Discussed in the report.			
Za) the comments or submissions received from any authority consulted under clause 66	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> Discussed in the report			
Zb) any other planning consideration the local government considers appropriate	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			