

### 10.1.1 – Proposed Outbuilding – Lot 7, 246 Soldiers Road, Cardup – (PA19/1212)

<b>Responsible Officer:</b>	Manager Statutory Planning and Compliance
<b>Senior Officer:</b>	Director Development Services
<b>Disclosure of Officers Interest:</b>	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

#### Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Ellenbrook Sheds Pty Ltd T/A Shed Rite
Owner:	Ron and Michael Read
Date of Receipt:	28 November 2019
Lot Area:	2053.99m <sup>2</sup>
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

#### Report Purpose

The purpose of this report is for Council to consider a development application for an outbuilding at Lot 7, 246 Soldiers Road, Cardup, against the Design Principles of State Planning Policy 7.3: Residential Design Codes Volume 1.

The application is presented to Council as an objection was received during the advertising process. Officers do not have delegated authority to determine development applications where objections cannot be satisfied by way of amendments to the proposal or through planning conditions.

This report recommends that Council approve the development application subject to conditions.

#### Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

## Background

### Existing Development

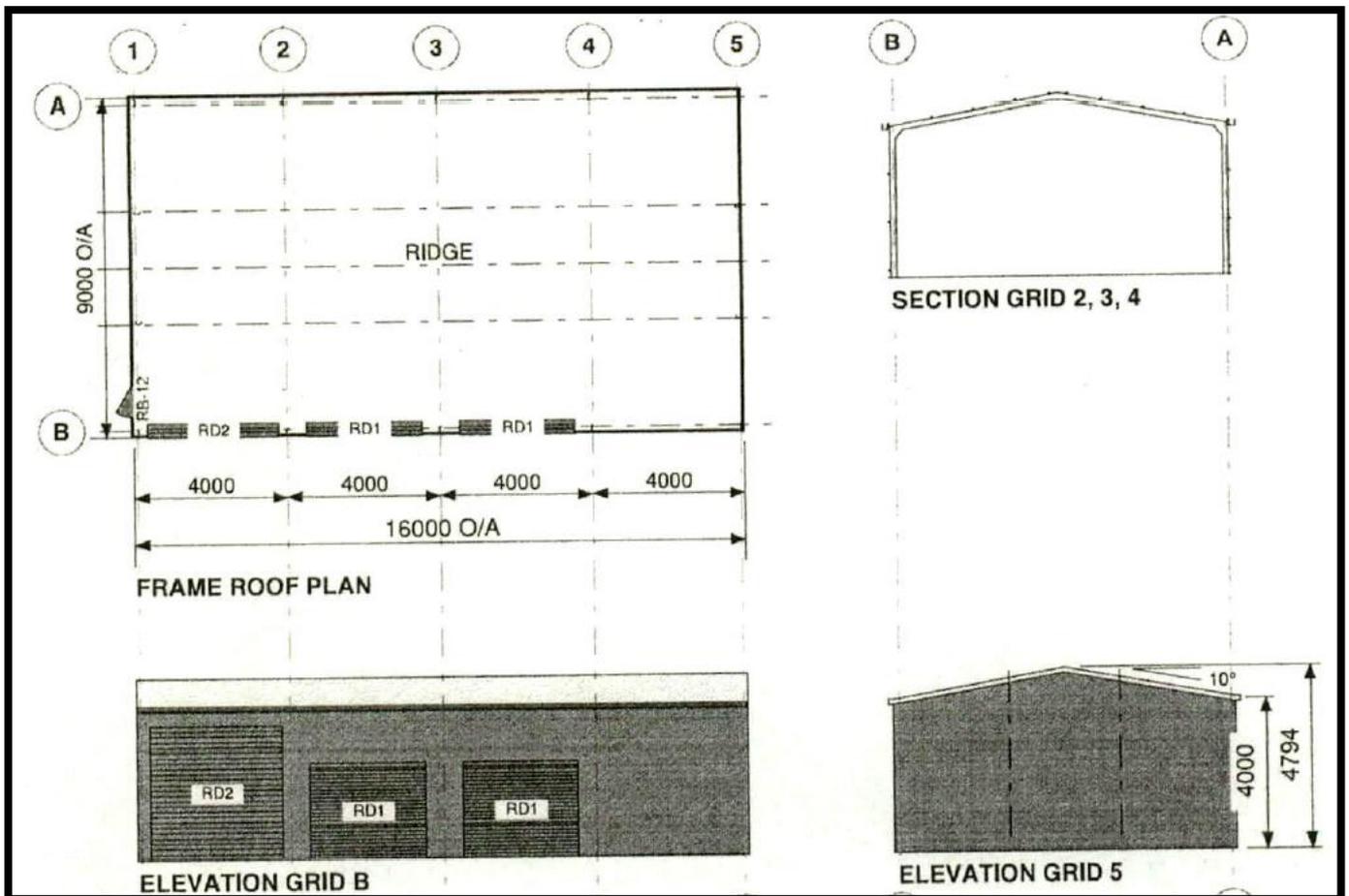
The subject site is located within a rural residential area of Cardup. The site currently contains a single house and two outbuildings. One outbuilding would be removed to accommodate the proposed outbuilding, as stipulated on the site plan (**attachment 1**) and in figure 1 below.



Figure 1: Aerial photo

### Proposed Development

The proposal is for an outbuilding, which the applicant has stated will be used for the keeping of vehicles and general domestic storage. The proposed outbuilding would have a floor area of 144m<sup>2</sup>, be located 1.5m from the side (south) lot boundary and 1.5m from the rear (west) lot boundary. It would have a wall height of 4m, a ridge height of 4.79m and be of a trimdeck construction. The walls would be coloured 'pale eucalypt' (green), the roof 'surf mist' (off-white) and the gutters and down pipes would be 'heritage green'.



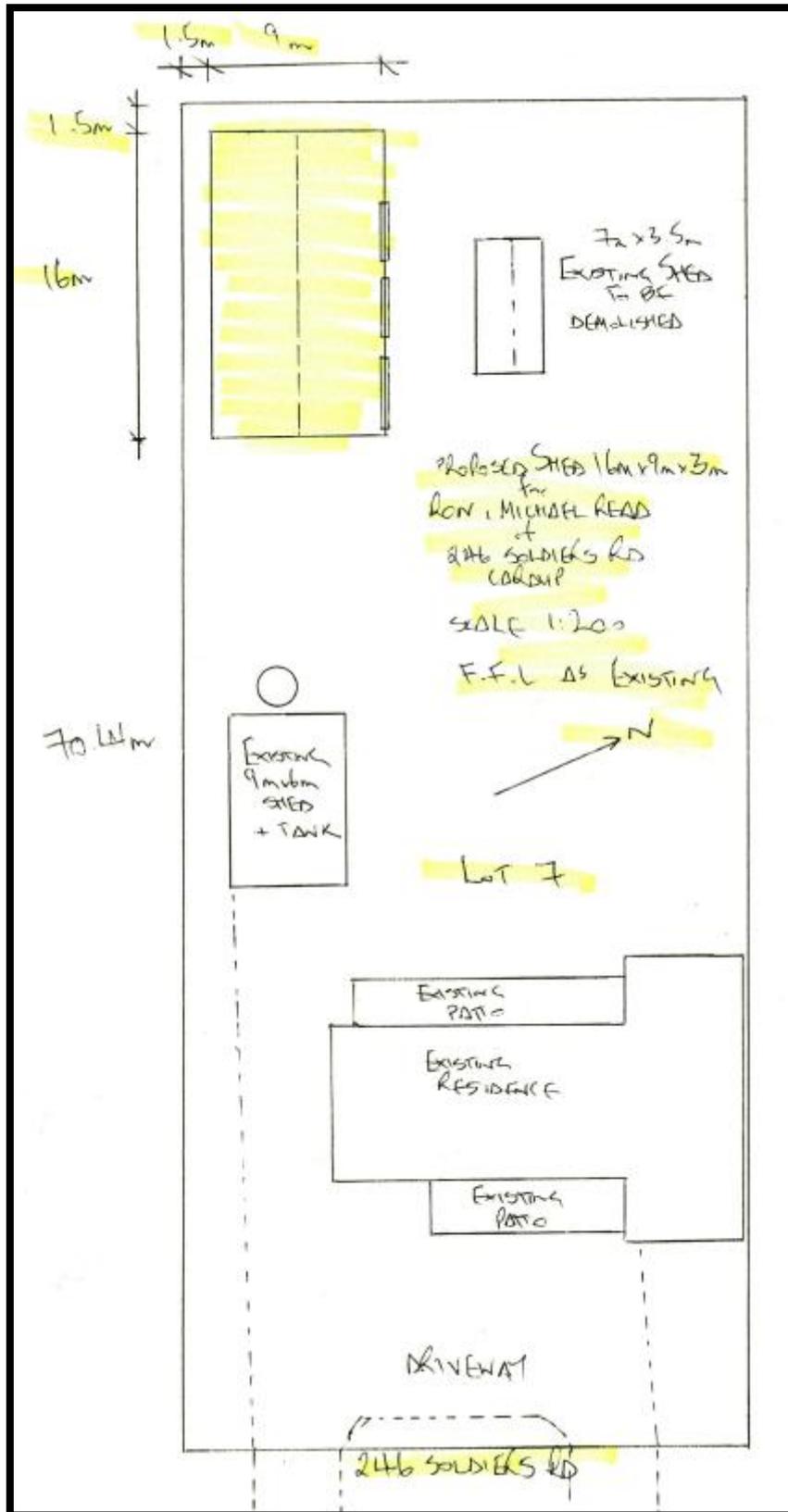


Figure 3: Site Plan

Full details of the proposal are contained within **attachment 1** to this report.

The proposal seeks approval against the Design Principles of the R-Codes to address the floor area, wall height, ridge height and setback variations proposed to the deemed-to-comply requirements of the R-Codes for an outbuilding.

### **Community / Stakeholder Consultation**

The application was advertised for a period of 21 days to three adjoining landowners, to the west, south-west and south of the property. The consultation was conducted from 2 January 2020 – 23 January 2020 in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4). During this period, one submission was received objecting to the proposed development. The submission can be viewed in **attachment 2**. The objection raises the following matters as issues:

- General adverse amenity impacts;
- Open space reduction;
- Concern about the land use of the outbuilding; and
- That the outbuilding will overshadow their shed, reducing the effectiveness of future solar panel installation.

These matters of concern will be discussed as part of the 'Form of Development and Amenity' section later in this report.

### **Statutory Environment**

#### Legislation

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

#### State Government Policies

- State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes)

#### Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)
- Rural Strategy Review 2013
- Local Planning Policy 1.5: Exempted Development
- Draft Local Planning Policy 4.19: Outbuildings, Sheds, Garden Sheds and Sea Containers

## Planning Assessment

A full technical assessment was carried out against the current planning framework in accordance with Clause 67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the objection resulting in the item being presented to Council and where Council is required to exercise discretion under the Design Principle of the R-Codes. The Design Principles offers an alternative pathway to assessment of development, where the deemed to comply criteria of the R Codes are not met. This requires a performance based assessment to occur.

### Land Use

The applicant has advised that the outbuilding would be used to store old cars and tractors that are located on the property currently (some of these vehicles are viewed in figure 4 below). This is considered to fall within the 'Residential – Single House' land use as it is an incidental use.



**Figure 4: Vehicles to be stored**

This will enable weather protection of the equipment, and also assist in improving both current private and public levels of amenity. The subject property is zoned 'Rural' in accordance with the Shire's Town Planning Scheme No. 2 (TPS2), in which the 'Residential – Single House' land use is a permitted use.

As part of considering the proposal, an outbuilding of this type would have an appropriate condition to ensure that the outbuilding is used for private domestic use only, and not for commercial purposes or human habitation.

### Form of Development and Amenity

The subject property is designated an R-Code of R5 under TPS2. In addition, Clause 2.1.4 of the R-Codes states, “*all residential development is to comply with the R-Codes.*” Therefore, Table 1 below summarises the areas in which Council must determine whether the relevant Design Principle has been met:

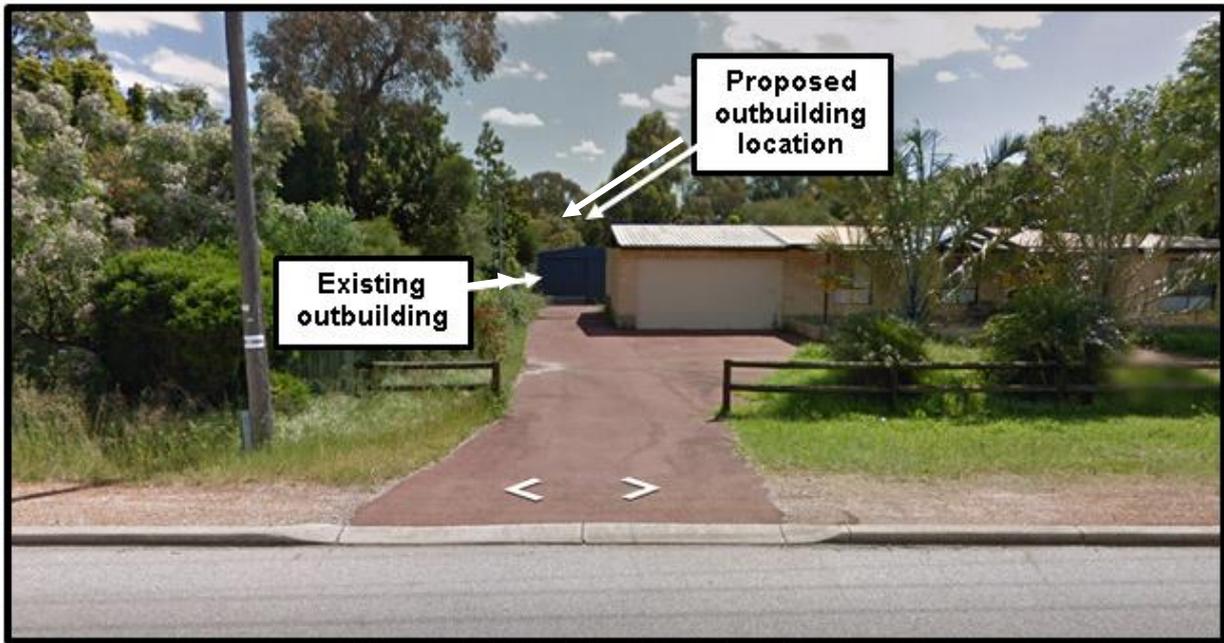
<b>State Planning Policy 3.1 Residential Design Codes – Design Principle Assessment - Outbuilding</b>		
Deemed-to-Comply Provision	Proposed Development	Design Principle
C3 Outbuildings that: iii. Collectively do not exceed 60m <sup>2</sup> or 10 per cent in aggregate of the site area, whichever is the lesser.	iii. 144 m <sup>2</sup> in floor area (198m <sup>2</sup> in floor area when adding the existing outbuilding).	P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or the neighbouring properties.  Essentially, the report discusses the outcome of the officer assessment that determines that the proposed outbuilding meets design principle P3.
iv. do not exceed a wall height of 2.4m.	iv. 4m wall height.	
v. do not exceed a ridge height of 4.2 metres.	v. 4.794 metres ridge height.	
viii. are set back in accordance with Tables 2a and 2b.  The required setbacks are as follows: <ul style="list-style-type: none"> <li>• Side (north) boundary: 1.6m</li> <li>• Side (south) boundary: 1.6m</li> <li>• Rear (west) boundary: 1.1m</li> </ul>	viii. A setback of 1.5m to the side (south) boundary is proposed in lieu of 1.6m deemed-to-comply requirement.	

In order to determine whether the proposal meets the Design Principle P3 it can be considered within two key components:

- Outbuildings should not detract from the visual amenity of the streetscape; and
- Outbuildings should not detract from the visual amenity of the residents and neighbouring properties.

*Impact on Streetscape:*

The outbuilding is set back 52.9m from the primary street boundary. It would be screened from the streetscape by existing vegetation, an existing outbuilding and the dwelling (seen in figure 5). Officers therefore consider that the proposed outbuilding would not appear visually prominent and would not adversely detract from the streetscape, consistent with the first component of the Design Principle.



**Figure 5: View from the streetscape**

*Visual Amenity:*

According to deemed-to-comply requirements in Table 2A of the R-Codes, for the 'R5' density code, an outbuilding wall with a height of 4m and a length of 16m should be set back 1.6m from side lot boundaries. In this instance, the applicant has proposed a 1.5m setback. Officers consider that the 0.1m setback is a modest variation and setting the outbuilding back a further 0.1m from the boundary would not significantly reduce the amenity impact on the neighbouring property. Notwithstanding that the overall scale of the outbuilding is greater than what is prescribed under the deemed-to-comply requirements, the setback is considered consistent with the design principle.

It is acknowledged that due to the height of the proposed outbuilding, a small portion of it may be visible from the neighbouring property. The proposed outbuilding would have a wall height of 4m in lieu of 2.4m and a ridge height of 4.97m in lieu of 4.2m. Officers consider that as the outbuilding is located at the rear of the site and is abutting neighbouring outbuildings (as shown in figure 6) its visibility would be significantly reduced. As shown in the following image, the outbuilding will be positioned in a logical and collective way given the location of the southern and southwestern adjoining outbuildings. It is difficult to conclude that there would be an adverse amenity impact on the area, especially given the southwestern adjoining outbuilding already has a wall height of 4m, and ridge height of 4.97m. The marked indicator on the image below demonstrates a consistent height between the proposed outbuilding, and the existing outbuilding to the southwest.



**Figure 6: Looking at the location of the proposed outbuilding, which will be abutting the two other outbuildings**

It is therefore considered it would not adversely impact on the amenity of adjoining landowners by way of building bulk. Furthermore there is significant mature vegetative screening located adjacent to the southern boundary which will further assist in reducing potential visual amenity impacts of the proposal (seen in figure 7).



**Figure 7: Looking from the southern boundary, back toward the street. Showing the mature vegetative screening that will reduce visual amenity impacts on the property to the south.**

An additional consideration is the exemptions prescribed for outbuildings in Local Planning Policy 1.5: Exempted Development (LPP1.5). Regarding heights, an outbuilding is exempt in a 'Rural' zone, on a site less than 4ha in area, where it has a wall height of no more than 4.5m and a ridge height of no more than 5m. Officers note that the proposal is compliant with the height aspect of LPP1.5, taking account of the Rural character that often defines the locality of Cardup. Overall, despite the variations, the proposal is considered to result in an outbuilding that is consistent with expected development in the area.

The applicant has advised that the outbuilding would be coloured 'pale eucalypt' for its walls, 'surf mist' for the roof and trimmed with 'heritage green'. Officers consider that to further reduce the amenity impact on surrounding properties that the roof should also be coloured 'pale eucalypt' so that it complements the existing dividing fence and blends into the surrounding tree line. A condition has been recommended for Council's consideration to this effect.

The proposal also varies the deemed-to-comply requirements of the R-Codes by way of floor area. The proposed outbuilding has a floor area of 144m<sup>2</sup>. When adding the existing outbuilding of 54m<sup>2</sup> then accumulatively there is a floor area of 198m<sup>2</sup> in lieu of the 60m<sup>2</sup> requirement. Given however the nature of surrounding development, and for example the comparative size of this outbuilding to those surrounding, it is not considered to be excesses. Under LPP1.5 an outbuilding with a floor area of 200m<sup>2</sup> would be exempt from requiring development approval, subject to setbacks and height. Officers consider therefore that the floor area of the outbuilding is consistent with what would be expected in the locality.

Figure 8 below demonstrates that large outbuildings are a characteristic of the area. Therefore, taking this and the exemptions in LPP1.5 into account, Officers consider that the variation to the floor area would not adversely impact the visual amenity of adjoining properties or the character of the area.

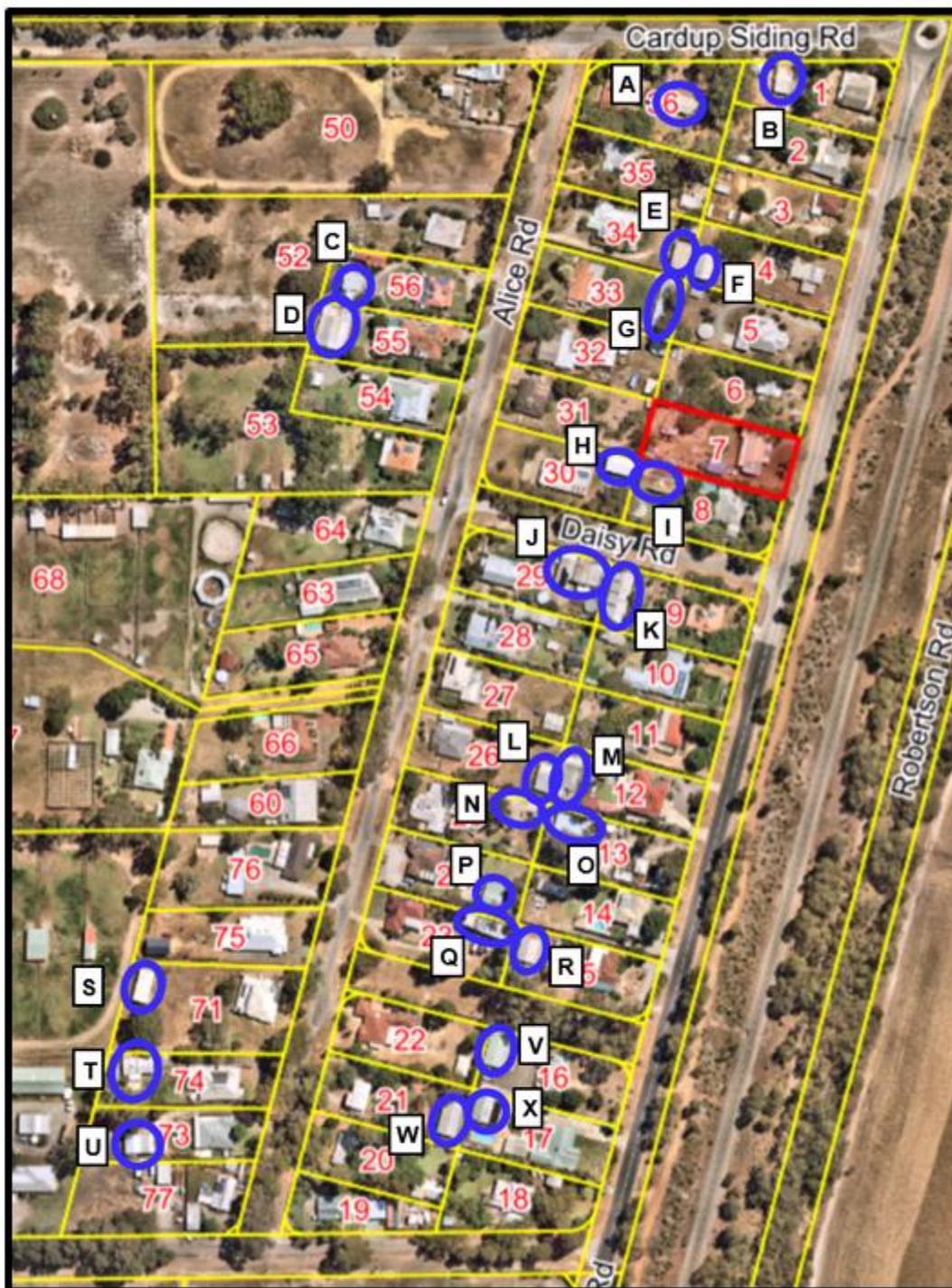


Figure 8: Location of oversized outbuildings in the locality

<b>Assessment of Oversize Outbuildings in the Locality: Aerial Floor Area Approximation</b>			
<b>Figure 8 Reference</b>	<b>Floor Area</b>	<b>Figure 8 Reference</b>	<b>Floor Area</b>
A	140m <sup>2</sup>	M	215m <sup>2</sup>
B	91m <sup>2</sup>	N	185m <sup>2</sup>
C	100m <sup>2</sup>	O	120m <sup>2</sup>
D	150m <sup>2</sup>	P	95m <sup>2</sup>
E	120m <sup>2</sup>	Q	200m <sup>2</sup>
F	110m <sup>2</sup>	R	155m <sup>2</sup>
G	210m <sup>2</sup>	S	100m <sup>2</sup>
H	125m <sup>2</sup>	T	140m <sup>2</sup>
I	185m <sup>2</sup>	U	120m <sup>2</sup>
J	280m <sup>2</sup>	V	100m <sup>2</sup>
K	250m <sup>2</sup>	W	140m <sup>2</sup>
L	95m <sup>2</sup>	X	160m <sup>2</sup>

*Solar Access and Overshadowing:*

Officers note that the objection raised concerns in relation to maintaining solar access for the roof of the outbuilding to the south. The adjoining landowner has advised they intend to install solar panels on the roof of the adjacent outbuilding and the proposal may impact the effectiveness of these solar panels by way of overshadowing.

Officers have assessed overshadowing in accordance with the deemed-co-comply requirements of the R-Codes which allows for 25% of an adjoining site to be overshadowed. The proposal results in overshadowing of 4.65% of the adjacent site as shown in the figure below. As such, the proposal is compliant with the deemed-to-comply requirements of the R-Codes in this regard.



**Figure 9: Overshadowing plan**

Also in terms of the R-Codes, Design Principle 5.4.2 P2.2 discusses development being designed to protect solar access for neighbouring properties taking account of the potential to overshadow existing roof mounted solar collectors. Officers note that the solar panel system of the neighbour is not currently existing. Regardless of this, Officers consider that the shadow of the proposed outbuilding would not extend over the roof of the neighbour's outbuilding, thereby having no impact on the effectiveness of a future solar panel system.

### *Open Space*

Part of the concern in the objection was in relation to whether there is adequate open space on the subject property. The deemed-to-comply requirements of the R-Codes requires 70% open space to be maintained for properties with an R-Code of R5. The proposal result 76.55% open space being achieved with the addition of the proposed outbuilding and is therefore compliant.

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## Options and Implications

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

Option 1: Council approves the application subject to appropriate conditions.

Option 2: Council refuses the application giving reasons for its decision.

Option 1 is recommended.

## Conclusion

The application seeks approval for an outbuilding which varies the deemed-to-comply requirements of the R-Codes by way of floor area, height and setbacks. Officers consider that the proposed outbuilding is consistent with the design principles of the R-Codes and would not adversely impact on the streetscape or the amenity of the area or surrounding landowners. The proposal is therefore recommended for approval subject to conditions.

## Attachments (available under separate cover)

- **10.1.1 - attachment 1** – Development Plans (E20/3721)
- **10.1.1 - attachment 2** – Submission (E20/3788)
- **10.1.1 - attachment 3** – Technical Assessment (E20/3789)

## Alignment with our Strategic Community Plan

<b>Outcome 3.1</b>	A commercially diverse and prosperous economy
<b>Strategy 3.1.1</b>	Actively support new and existing local business within the district.
<b>Outcome 4.2</b>	A strategically focused Council
<b>Strategy 4.2.1</b>	Build and promote strategic relationships in the Shire's interest.

## Financial Implications

Nil.

## Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council refuse the development and the application is appealed to the State Administrative Tribunal	Possible (3)	Minor (2)	Moderate (5-9)	Financial Impact - 1 Insignificant - Less than \$50,000	Accept Officer Recommendation

## Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **6** has been determined for this item.

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**Voting Requirements:** Simple Majority

Officer Recommendation

1. That Council APPROVES the development application for the outbuilding at Lot 7, 246 Soldiers Road, Cardup as contained within attachment 1 subject to the following conditions:
- a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent:

Plans and Specifications	Plans P1-P2 received at the Shire's Offices on 28 November 2019.
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- c. The outbuilding hereby approved shall not be used for commercial purposes or human habitation.
- d. The outbuilding shall be coloured 'pale eucalypt' unless otherwise approved by the Shire of Serpentine Jarrahdale.

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## MOTION

### Moved Cr Strange, seconded Cr Strautins

1. That Council **APPROVES** the development application for the outbuilding at Lot 7, 246 Soldiers Road, Cardup as contained within attachment 1 subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent:

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- c. The outbuilding hereby approved shall not be used for commercial purposes or human habitation.
- d. The outbuilding shall be coloured 'pale eucalypt' unless otherwise approved by the Shire of Serpentine Jarrahdale.
- e. The setback of the outbuilding from the southern side boundary being increased to 1.6m. Details to be submitted with the Building Permit application.

At 7:51pm, when voting had commenced but had not concluded, Councillor Coales re-joined the meeting.

At 7.56pm, in accordance with Clause 15.9 of the *Shire of Serpentine Jarrahdale Standing Orders Local Law 2002*, the Presiding Member, Councillor Rich advised that the meeting was adjourned and would reconvene at 8.05pm, to enable technical difficulties associated with the meeting to be addressed.

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**At 8.05pm, the Presiding Member reconvened the meeting and undertook a roll call of Councillors and Officers. The following Councillors and Officers were in attendance when the meeting reconvened:**

**Councillors:** M Rich .....Presiding Member  
D Atwell  
M Byas  
M Dagostino  
B Denholm  
K McConkey  
L Strange  
D Strautins

**Officers:** Mr P Martin.....Chief Executive Officer  
Ms H Sarcich.....Deputy CEO / Director Community Services  
Mr F Sullivan.....Director Corporate Services  
Mr A Trosic.....Director Development Services  
Mr S Harding .....Director Infrastructure Services  
Dr K Parker.....Manager Governance  
Ms A Liersch.....Agendas and Minutes Officer (Minute Taker)

**At 8.08pm, Councillor Coales entered the meeting.**

**At 8.09pm, the Presiding Member declared the meeting re-opened, and voting on the motion for item 10.1.1 recommenced.**

**At an unknown time between 8.05pm and 8.14pm, Councillor Dagostino left the meeting due to technical difficulties.**

**At 8.14pm, while voting was underway, Councillor Dagostino re-entered the meeting.**

**OCM089/04/20**

**COUNCIL RESOLUTION**

**Moved Cr Strange, seconded Cr Strautins**

1. That Council **APPROVES** the development application for the outbuilding at Lot 7, 246 Soldiers Road, Cardup as contained within attachment 1 subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent:

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b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

c. The outbuilding hereby approved shall not be used for commercial purposes or human habitation.

d. The outbuilding shall be coloured 'pale eucalypt' unless otherwise approved by the Shire of Serpentine Jarrahdale.

e. The setback of the outbuilding from the southern side boundary being increased to 1.6m. Details to be submitted with the Building Permit application.

**CARRIED 8/1**

*Councillors Rich, Atwell, Byas, Dagostino, Denholm, McConkey, Strange and Strautins voted FOR the motion.*

*Councillors Coales voted AGAINST the motion.*

*Reason for difference to Officer's Recommendation*

*Condition e. will assist in reducing the overall impact of the size, height and bulk of the outbuilding. It reflects what would be the normal expected side boundary setback under the R Codes.*