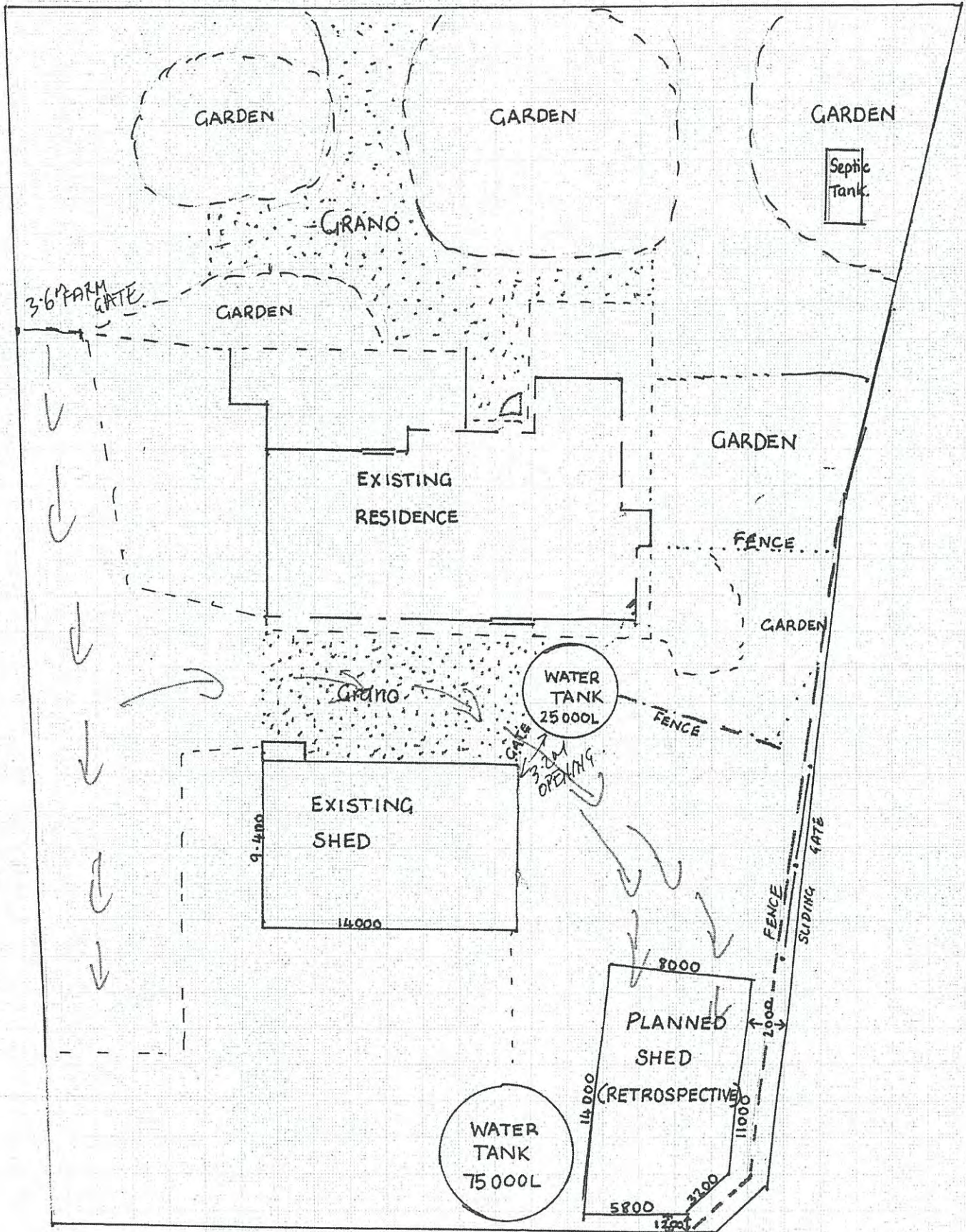


104 Peppermint Way, Peaceful Bay.



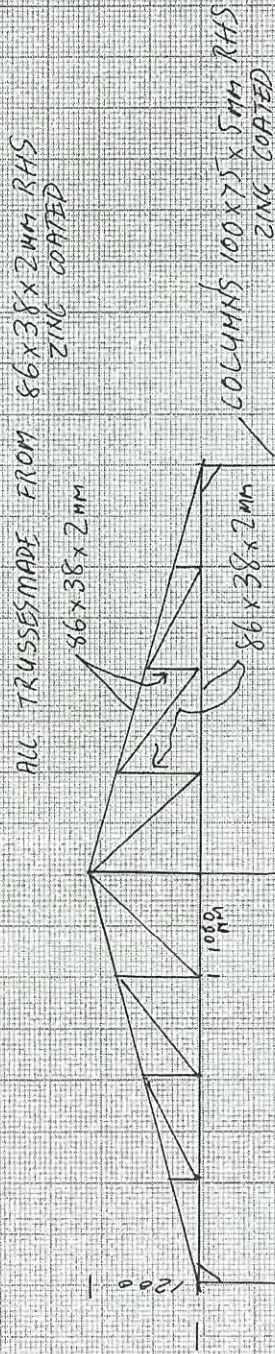
RED PEN INDICATES ACCESS TO REAR SHED



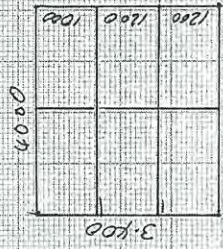




# FRONT ELEVATION.

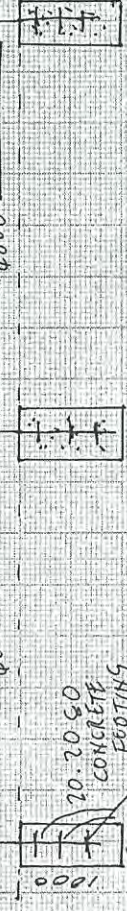


SCALE  
1:200



SLIDING DOOR MADE FROM 86x38x2mm ZINC COATED RHS  
300 KG ROLLERS ON SLIDE CHANNEL

Scale: 1:100



CONCRETE FLOOR  
F 62 MESH, 100MM THICK  
20:20:80 CONCRETE  
WITH 2000MM APRON ON EAST END.

EAST END OF SHED.  
FRONT ELEVATION



Dear Marieke,

Further to Your email dated 18th May 2018

*Request for Further Information- Subsequent Outbuilding- #19 (Lot 104)Peppermint way, Peaceful Bay (2018/75; A3345) Block size 3000m2.*

**1. Justification for the size and Height of the Shed.**

- A. The reason for the shed Dimensions is to accommodate our off road caravan and Vehicle in one side and our deep sea fishing boat on the other side.
- The caravan is 9 metres long, 2.4 m wide and 3.1m high (the air conditioner is on the roof, this is common in most caravans.) Our towing vehicle is just short of 5 m.
  - The boat has an overall length of 9m, a width of 2.5m the boat is also about 3m in height. Leaving 1 m in front of the boat and 1m behind.
- B. To accommodate the height of the caravan and boat and allow for the addition of a 100mm concrete pad and sliding door on the front of the shed, the shed had to be this high.
- C. Also, the existing shed on the property has a skillion roof and would fit neither the caravan nor the Boat as it is too low. Highest point 2.8m and Lowest point 2.1m.
- D. Our neighbour has similar or larger size sheds.

**2. Legal agreement/easement to use the driveway for Lot No 17**

- We have a verbal agreement with Mr and Mrs Johnson to use their driveway at the present time. In return I keep their block mowed and mitigate the fire risk to surrounding properties on a regular basis.
- We have an alternative access to the shed in question though our Property from the North side.
- We do eventually plan to put in access from the front of the property on the south side. This has been held up due to ill health

These are the reasons for the size and height of the subsequent outbuilding. We do take the security of our vehicles seriously and do not like them to be on display when we are not in residence in our property.

The existing shed that was on the shed site was a very long, low shed; we replaced it with one to cater for our storage needs.

Yours sincerely,

John and Margaret Broun

**SCHEDULE OF SUBMISSIONS: OUTBUILDING (SUBSEQUENT) – NO.19 (LOT 104) PEPPERMINT WAY, PEACEFUL BAY (2018/75; A3345)**

Submission Number	Name & Address	Verbatim Submission	Planning Services Comment
S1	<p>Details omitted as per Council Policy.</p> <p>Submitter is a nearby landowner.</p>	<p>Thank you for the opportunity to provide comments on the above matter. I am the Chairperson of the Peaceful Bay Chalets Strata Company and together with the Management Committee, am authorised to collectively represent the 20 listed owners. I have cc'd into this email, the two other members of the Management Committee. I have also cc'd into this email Shire of Denmark Councillors Phillips and Seeney.</p> <p>On behalf of the 20 listed owners of the Peaceful Bay Chalets, we hereby object to and do not support whatsoever this Development Application (Application) for a Subsequent Outbuilding at the above address.</p> <p>It is anticipated that the Shire will consider this Application as if this outbuilding had not yet been constructed. Retrospective approval should not be granted simply because the building has already been constructed. Accordingly, the Shire of Denmark (Shire) is kindly requested to not only refuse this Application, but to direct the owner to remove this outbuilding in its entirety.</p> <p>The construction of this outbuilding is likely to have been done so without Shire approval, simply because this building clearly does not comply with the relevant Shire and State planning policies. The construction of this outbuilding demonstrates a blatant disregard for the Shire's outbuilding policy document (Town Planning Scheme Policy No. 13.4: Outbuildings) and non-compliance with the Residential Design Codes – State Planning Policy 3.1 (R-Codes).</p> <p>Should such an outbuilding be approved, it will set an adverse precedent, effectively demonstrating to all landowners in Peaceful Bay and the broader Shire that they would be free to construct outbuilding in absolute contravention to the Shire's outbuilding policy document, rendering this policy document as obsolete.</p> <p>It is anticipated that the Shire will issue a Planning Infringement Notice to the owner of this property, for constructing an unauthorised development. It is also anticipated that the Shire will pursue and impose penalties for constructing this outbuilding without prior Building Approval. Moreover, the value of this outbuilding is estimated to be greater than \$20,000, thereby requiring prior approval from the Building Services Board (BSB) to carry out this works as an "Owner-Builder". It is assumed</p>	<ul style="list-style-type: none"> <li>• Subsequent development applications are assessed on their merits akin to any application.</li> <li>• The proponent has been penalised with subsequent planning fees (3x the standard fee) which is a deferent (and infringement) to undertaking development without approval, in addition to the possibility that approval may not be granted and removal of development could be enforced. As such it is not considered that approval of the outbuilding would set a precedent or demonstrate to other landowners that that they are free to develop in contravention of legislation and policies.</li> <li>• Similar to Planning legislation, Building Services by way of the Building Act has the ability to consider retrospective development via a Building Approval Certificate which also includes penalty fees.</li> <li>• It is agreed that TPS Policy 13.4 is more generous than the State Planning Policy 3.1 – Residential Design Codes (R-Codes) with regards to the minimum size requirements for outbuildings. There are however always instances that larger sheds are required by owners for various reasons and such applications are considered on their merits.</li> <li>• It is recognised that there is a visual impact to the Peaceful Bay Chalet site. It is considered that in the instance that the outbuilding complied with heights and floor area (disregarding the existing outbuilding)</li> </ul>

		<p>that such approval from the BSB was not obtained.</p> <p>Therefore, the Shire is kindly requested to confirm in writing as a response to these comments, that these penalties will be pursued and imposed, so as to again, not set an adverse precedent across the Shire and to discourage similar future such instances occurring.</p> <p>In consideration of the above, the following concerns and comments are submitted:</p> <ul style="list-style-type: none"> <li>• The Shire's outbuilding policy document is already very generous. <ul style="list-style-type: none"> <li>- Section 5.4.3 of the R-Codes allows up to 60m<sup>2</sup> for outbuildings, whilst the Shire's policy document allows for 100m<sup>2</sup>. The addition of this outbuilding on this lot brings the total cumulative area of outbuildings to 243.8m<sup>2</sup>, 2.4 times greater than what is permitted. The R-Codes allows for a wall height of up to 2.4m, the Shire's policy document allows 3m. This outbuilding has a wall height of 3.5m. This outbuilding grossly exceeds the already generous provisions allowed in the Shire's outbuilding policy document.</li> </ul> </li> <li>• This outbuilding does not align with Section 3 – Objectives of the Shire's outbuilding policy document. <ul style="list-style-type: none"> <li>- The objectives include 'minimising any adverse impacts that such outbuildings may have on neighbours, a street, a neighbourhood, locality or Shire as a whole. There is a direct, negative visual impact from this outbuilding to the Peaceful Bay Chalets (Chalets), due to its size, scale and 'industrial', visually obtrusive image that has resulted. Two chalets have a direct view of this outbuilding, as well as guests who often use the 'oval' area directly adjacent to this outbuilding for recreation purposes. Attached to this submission are two photos taken from Chalet 8 and the 'oval' area.</li> </ul> </li> <li>• This outbuilding does not comply with the Design Principles as per Section 5.1.3 (Lot Boundary Setback) of the R-Codes. <ul style="list-style-type: none"> <li>- P3.1 – This outbuilding has an inadequate setback from the side and rear lot boundaries and no attempt has been made to reduce the impact of this outbuilding on the Chalets.</li> <li>- P3.2 – This outbuilding does not incorporate any of the design principles contained in clause 5.1.3 P3.1.</li> <li>- P3.2 – This outbuilding does not positively contribute to the prevailing or future development context and streetscape as outlined in the local planning framework. This item relates directly to the Shire's outbuilding policy document and the objectives stated with this document.</li> </ul> </li> </ul>	<p>that there would be similar visual impact particularly with regards to the floor area, although it is acknowledged that the additional height creates does create a greater visual impact than if the outbuilding complied with the height limits. Noting that the height is required to accommodate the proponent's boat and caravan consideration has also been given to the visual impacts of open air storage.</p> <p>Whilst the shed has the appearance of being built close to the boundary of the chalet site due to the proponent's boundary fence giving the appearance of a boundary line between the subject property and the chalet site it is noted that the two properties are separated by a 4m wide battle-axe associated with the rear property which brings the setback of the shed to 6m from the chalet site. Vegetation screening along the southern boundary of the outbuilding is recommended to break up the bulk and soften the appearance of the outbuilding elevation fronting the chalet site.</p> <ul style="list-style-type: none"> <li>• With regards to Part 5.1.3, P3.1 and P3.2 of the R-Codes (being a State wide policy) it is noted that these are 'Design principles' which the Policy considers to have been met where development satisfies the associated 'Deemed-to-comply' requirements, of which this development is compliant. Officers do not have the ability to require additional setbacks beyond the 'Deemed-to-comply' requirements noting that development that meets the requirements does not require Development Approval (approval is required in this instance with regards to variations to TPS Policy 13.4 –</li> </ul>
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		<ul style="list-style-type: none"> <li>- C3.1 – i) this outbuilding has not been set back in accordance with Table 1. (has been discussed further in the item below).</li> <li>• This outbuilding does not comply with the Minimum Setback requirements as per Table 1 (P.59) of the R-Codes. <ul style="list-style-type: none"> <li>- Tables 1 of the R-Codes (page 59) requires a minimum six (6) metre setback from the rear lot boundary. The documents submitted for this outbuilding shows a 1.2 metre setback from the rear lot boundary.</li> </ul> </li> <li>• This outbuilding does not comply with the Design Principles as per Section 5.4.3 (Outbuildings) of the R-Codes. <ul style="list-style-type: none"> <li>- This outbuilding does not have any regard for and detracts from the ‘visual amenity or character of the locality’. It is a starkly obtrusive building and is not at all sympathetic to the landscape. It has had a direct, negative impact on the visual amenity of the Chalet and due to its size and scale, is visually obtrusive.</li> <li>- It should also be noted that there is another existing outbuilding contained within no. 19 Peppermint Way. It is not clear if this existing outbuilding has Shire approval, to which the Shire is requested to examine. This existing outbuilding is still larger (131.6m<sup>2</sup>) than the permitted total 100m<sup>2</sup> cumulative allowance within the Shire’s policy document, however it is located towards the centre of the property and is barely visible from any other surrounding properties of the Chalet complex. This existing outbuilding would be considered more ‘in-line’ with the objectives of the Shire’s outbuilding policy, albeit it is 30% larger than what is permitted.</li> <li>- The property on which this outbuilding is constructed incorporates a registered Holiday Home (with the Shire) on land zoned ‘Residential’. The Chalets are located on land zoned ‘tourist’ and provide short term, tourist holiday accommodation. The Chalets are located amongst fabulous, mature Peppermint Trees, are regularly visited by local Kangaroos, birds and other local fauna and are located nearby the Walpole-Nornalup National Park. The presence of such an outbuilding is not sympathetic to Peaceful Bay’s location, either of these residential or tourism land uses and is inconsistent with the broader ‘holiday hamlet’ theme present within both the freehold and leasehold areas of Peaceful Bay.</li> </ul> </li> <li>• This outbuilding is likely to have a negative, financial impact on the property values of the Chalets and other adjoining and surrounding properties. This outbuilding is also likely to have a negative, financial impact on the future</li> </ul>	<p>Outbuildings).</p> <ul style="list-style-type: none"> <li>• The 6m rear setback requirement in the R-Codes does not relate to outbuildings, noting that Part 5.4.3, C3 viii of the Codes stipulates that Outbuildings be setback in accordance with Tables 2a and 2b, noting that a 1.1m setback is required in this instance.</li> <li>• With regards to not being sympathetic to the character of area, whilst it is agreed that the outbuilding is clearly visible from the chalet site it is also noted that Peaceful Bay has an eclectic built form which includes outbuildings of varying sizes. The subject property is larger than the average lot size in the area and it is not considered that the outbuilding size (when considered independently to the other outbuilding on the lot) is substantially out of keeping with the locality and the size of the property. Vegetation screening along the southern boundary of the outbuilding is recommended to break up the bulk of the outbuilding elevation fronting the chalet site.</li> <li>• There is no record of approval for the existing outbuilding however due to its age this is not unusual noting that the Shire does not have record of Building Permits prior to 1964 as a result of a fire, and Rural Outbuildings did not require approval prior to mid 1980s.</li> <li>• The contention that approval of the outbuilding will have a negative financial impact on property values and the business of Peaceful Bay Chalets is a matter of speculation and cannot be substantiated.</li> </ul>
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		<p>accommodation business aspect of the Chalets.</p> <ul style="list-style-type: none"> <li>- Whilst the exact financial ramifications are not immediately known, should the Shire approve the Development Application for the Subsequent outbuilding, further advice would likely be sought by the Management Committee of the Chalets to quantify this information.</li> </ul> <p>Your consideration of this items raised above are appreciated.</p>	
S2	<p>Details omitted as per Council Policy.</p> <p>Submitter is an adjoining landowner.</p>	<p>Thank you for your letter regarding the above application out for comment. Our understanding is that this shed was built without Shire approval and the owners are seeking “subsequent” approval.</p> <p>Your letter states that there is now more than twice the allowable area of outbuildings on the site, as well as the shed having 500mm additional height.</p> <p>The policy’s objective is to “achieve a balance between providing for the carious legitimate needs of residents for outbuildings and minimising any adverse impacts that such outbuildings may have on neighbours”. While it is acknowledged that in locations such as Peaceful Bay, that people are likely to have equipment to store (such as boats), the size of the lots and the provisions of the policy enables this to be done with minimal impact to neighbours, and ensuring that the lots are not over developed. Considering the site already had outbuildings, the total floor area of the sheds on site seems excessive for the purely residential purpose.</p> <p>The shed is right on our boundary and we consider it an eyesore that detracts from our property and feel it may have an impact on the value. Even though the property at the rear is currently vacant, it is capable of development, and the shed in its current form is large and imposing.</p> <p>We were contacted by the owner of the shed on Sunday 20 May 2018 regarding allowing occasional access to the shed from our property, the battleaxe driveway. We gave verbal approval for occasional access (i.e. for maintenance) and advised the owner that we were intending selling the property. At that time, we were unaware the shed had been constructed without shire approval. We were not contacted prior to the construction with any such request by the owner of the shed.</p> <p>On the diagram provided it appears that our property is the main access to the shed, this is unacceptable and we believe future owners of the property may not want to allow access as would be there right. There is no formal arrangement through an easement proposed, nor would this be agreed to.</p>	<ul style="list-style-type: none"> <li>• Whilst it is agreed that the combined floor area of the outbuildings is excessive for residential purposes, when considered on its own the size only marginally exceeds (by 12sqm) the maximum floor area under TPS Policy 13.4. Regard has been given to the applicant’s justification that the older outbuilding on the lot does not have the heights necessary to accommodate their boat and caravan – removal of the older outbuilding is however not considered beneficial in terms of minimising the visual impact on neighbouring properties.</li> <li>• With regards to access to the property, it is noted that vehicular access to the outbuilding can be obtained through the subject property as shown on the site plan (refer attachment 8.1.2a), although it is understood that the outbuilding has been accessed in the past via the adjoining battle-axe driveway. This access cannot be endorsed by the Shire unless there was a reciprocal rights of agreement over the battle-axe driveway providing legal access rights. Should the battle-axe driveway be used without the agreement of the property owner, then this would constitute trespass - noting that this is a matter for the police and not governed by the Shire.</li> </ul>







John and Margaret Broun

19 Peppermint Way

Peaceful Bay

#### SUBMISSION TO COUNCIL

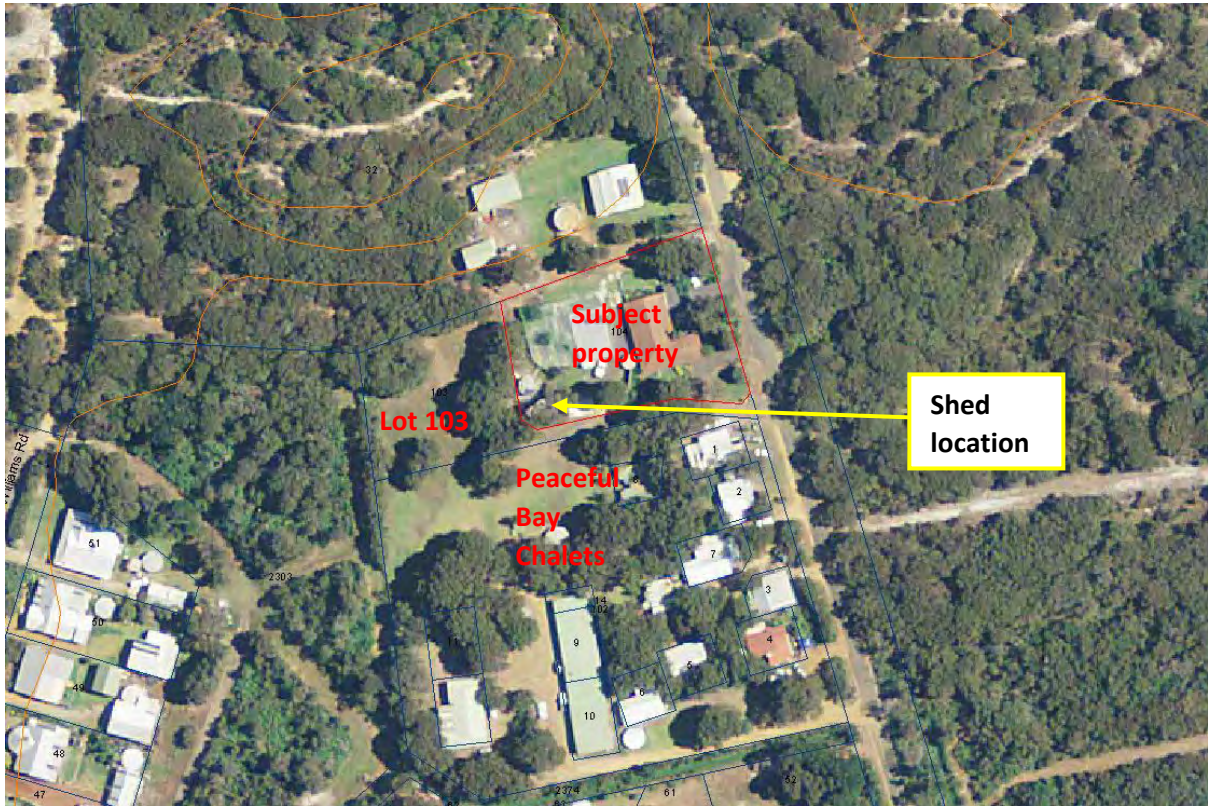
#### RE: SUBSEQUENT OUT BUILDING

1. The old sheds have been on this property for years since the house was originally built and were shown on the original Holiday Home Application.
2. The old shed on our southern boundary was dilapidated so we replaced it with a safer, brand new shed, unfortunately without approval. We are regretful and apologetic of our oversight in applying for an application to build a subsequent outbuilding.
3. This new shed has been in situ for approximately 5 years – so why now has the owner of the Skippy Chalet begun complaining about the shed?
4. The shed was necessary to protect our boat and caravan from the harsh exposure to the environmental factors of salt and wind and to keep them secure from theft and damage.
5. Access to the shed from within our property has always been available. We have intended to put in access along the South side of our boundary when we become permanent residents. This will be in the very near future when we will no longer have the house as a short term Holiday Home.
6. The shed is within the boundary of our property. And is set back over 1 metre from the back boundary. The side of the shed is approximately 2 metres from the edge of our boundary.
7. As this is the case we would be more than happy to plant more screening trees along this fence so the shed is not as visible to the Skippy Chalet and the owner of Number 17.
8. The neighbour from Lot 17 is an absentee owner so does not have to look at the shed, he states in his submission to council that he only had an issue with it after he found that it was not Shire approved.
9. The owner of Skippy Chalet is rarely in residence also as he prefers to rent his Chalet, which is his choice and we have absolutely no problem with that.
10. The Neighbour from lot 23 does not have an issue with the shed.
11. We erected the fence because of anti-social behaviour from residents at the chalets closest to us. Also to mitigate the noise and dust from the constant stream of cars and boats that use this driveway to access chalets at the back of the strata lot during peak periods.
12. We erected the fence 1 metre in from our side boundary to allow ease of access for the owners of the back block and the residents of Skippy Chalet
13. The owner of the Skippy Chalet has been an opponent of our application for Holiday Home status since our original application in 2012.
14. There are many sheds the same size and height as ours in the Freehold area including next door.
15. We are on a much larger block than the majority in the freehold area.



**Attachment 8.1.2d – Site Photos**

**No. 19 (Lot 104) Peppermint Way, Peaceful Bay**



2014 site aerial.



View from Peppermint Way, shed circled.





View from Peppermint Way of crossover to battle-axe driveway to Lot 103 to the rear of the subject property. Building to the left forming part of Peaceful Bay Chalets.



View of side elevation of outbuilding, viewed from Peaceful Bay Chalet site.





View of truncated south/west corner of outbuilding from edge of Lot 103 and Peaceful Bay Chalet site.



View of truncated corner of outbuilding and Lot 103 to the rear.





View of the rear of the outbuilding from Lot 103.