



**HINCHINBROOK
SHIRE COUNCIL**

Our Ref: SR17\0018

03 November 2017

PM & KA Jenner
7 Dawarra Crescent
Lyons NT 0810

Dear Sir/Madam,

DECISION NOTICE
Planning Act 2016

In relation to your recent request for siting dispensation, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on Tuesday 31 October, 2017.

APPLICATION DETAILS

Application Number:	SR17\0018
Property ID Number:	106532
Applicant Details:	Paul M Jenner Kerry A Jenner 7 Dawarra Crescent Lyons NT 0810
Owner Details:	Paul M Jenner Kerry A Jenner 7 Dawarra Crescent Lyons NT 0810
Property Description:	4 Red Gum Court, Allingham Lot 14 on SP181639, Parish of Cordelia
Proposal:	Residential Siting Relaxation
Level of Assessment:	Code Assessment



DEEMED APPROVAL

The application has not deemed to be approved under s.64 of the *Planning Act 2016*.

CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or a referral agency (if any) imposed them.

REFERRAL AGENCIES

Not Applicable

PROPERTY NOTES

Not Applicable

FURTHER DEVELOPMENT PERMITS REQUIRED

This approval does not authorise any filling of land or building work, and a development permit for carrying out any filling of land and/or building work must be obtained.

This approval also does not authorise any works within Council's Road Reserve (e.g. new/additional access, repair/modifications to existing access or works to footpaths), or any filling of land permits.

If this is required the relevant application will need to be lodged with Council or other relevant authority.

RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice. Chapter 6, Part 1 and Part 2 of the *Planning Act 2016* detail appeal rights afforded to the applicant and submitter/s (if any) to the Planning and Environment Court or Building and Development Dispute Resolution Committee. Attached are the relevant provisions of the *Planning Act 2016* relating to the Rights of Appeal.

APPROVAL CURRENCY PERIOD

All building works to be completed within twelve (12) months, commencing the date the decision is made.

APPROVED PLANS & SPECIFICATIONS

In accordance with the *Planning Act 2016*, a copy of the approved plans and specifications (if relevant) are attached.

FURTHER INFORMATION

The development must be carried out in accordance with the approved plans and specifications and the requirements of all relevant laws, and any deviation there from must have the prior approval of the Chief Executive Officer.



Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser
Planning & Development Manager

Enclosed: Approved Plans/Documents
 Appeal Rights



NOTICE ABOUT DECISION – STATEMENT OF REASONS

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

This Notice is prepared in accordance with s.63(5) and s.83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the Planning Act 2016.

REASONS FOR THE DECISION

Council approve the side boundary and rear boundary siting relaxation from the permissible 1.5m to 0.6m respectively for the construction of a proposed garage/shed on Lot 14 on SP181639, Parish of Cordelia, and located at 4 Red Gum Court, Allingham, subject to conditions.

The reasons for approval are:

- The proposed structure (garage/shed), is to be used ancillary to the proposed future residence, will not obstruct daylight and ventilation to habitable rooms on the adjoining properties and will not impede on the privacy of neighbouring residences;
- The proposed structure is not for habitable purposes and will not impede on the privacy of neighbouring residences;
- The proposed structure (garage/shed) is adjacent to a similar construction located on Lot 16 on SP181639; and
- The respective neighbours have consented to the proposed encroachment.



CONDITIONS OF APPROVAL**Conditions of Development**

The conditions of development for this development permit are as follows

Approved Plans

1. Carry out the approved development generally in accordance with the approved drawing(s), and in accordance with:-
 - a) The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b) The following conditions of approval and the requirements of Hinchinbrook Shire Planning Scheme.

Stormwater & Drainage

2. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.
3. Where retaining walls, fences, buildings or other barriers, which would cause a “damming effect” and produce a concentrated flow at an outfall, are constructed a drainage system is installed to discharge the surface water such that it does not adversely affect surrounding properties or properties downstream from the development.

Building

4. The class 10a (garage/shed) structure requires a development permit for building works.
The Applicant is to seek and comply with all relevant building approvals to be issued by a qualified Building Certifier.
5. The class 10a (garage/shed) structure requires compliance to relevant Fire Safety regulations as reflected in s.3.7.1.6 of the Building Code of Australia (Volume Two)
6. Where the structure is less than 0.75m to the boundary, it must be provided or constructed to be maintenance free, such as unpainted or untreated masonry or prefinished steel sheeting.
7. The area (0.6m) between the structure and the side boundary line bordering onto Lot 15 on SP181639 also known as 6 Red Gum Court, Allingham, be provided with a hardened surface and kept clean of any vegetation and may not be used as storage space.





- Legend
- Road Names
 - Cadastre

-  Proposed Garage/Shed
-  Site Location



Data Sources & Acknowledgements
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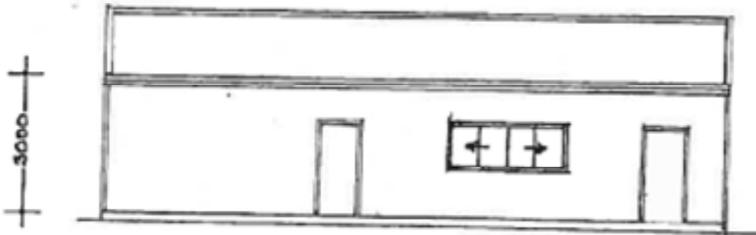
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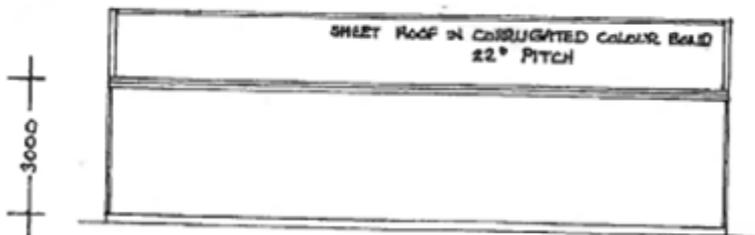
ELEVATION 1 FRONT



ELEVATION 2 NORTH SIDE

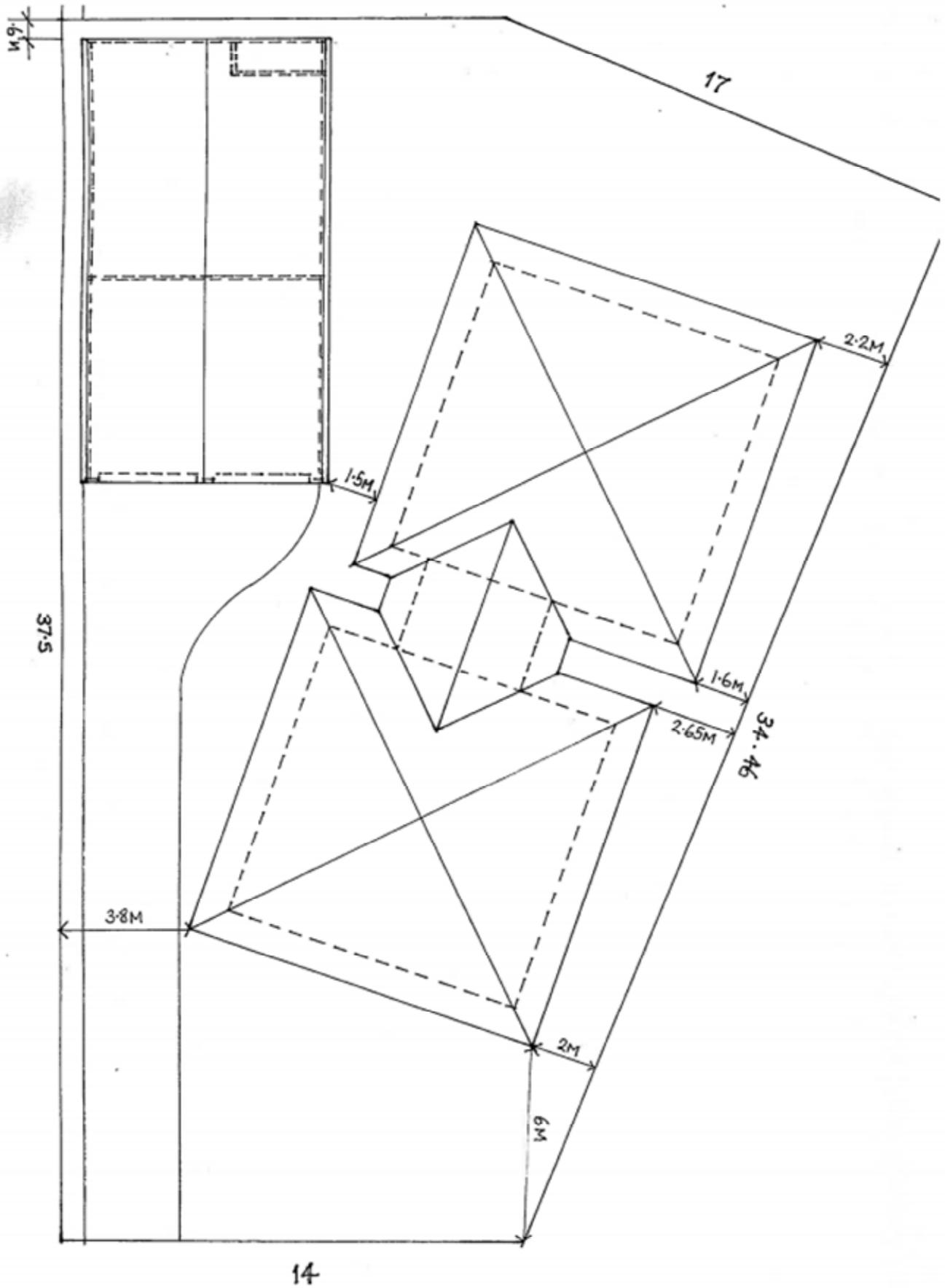


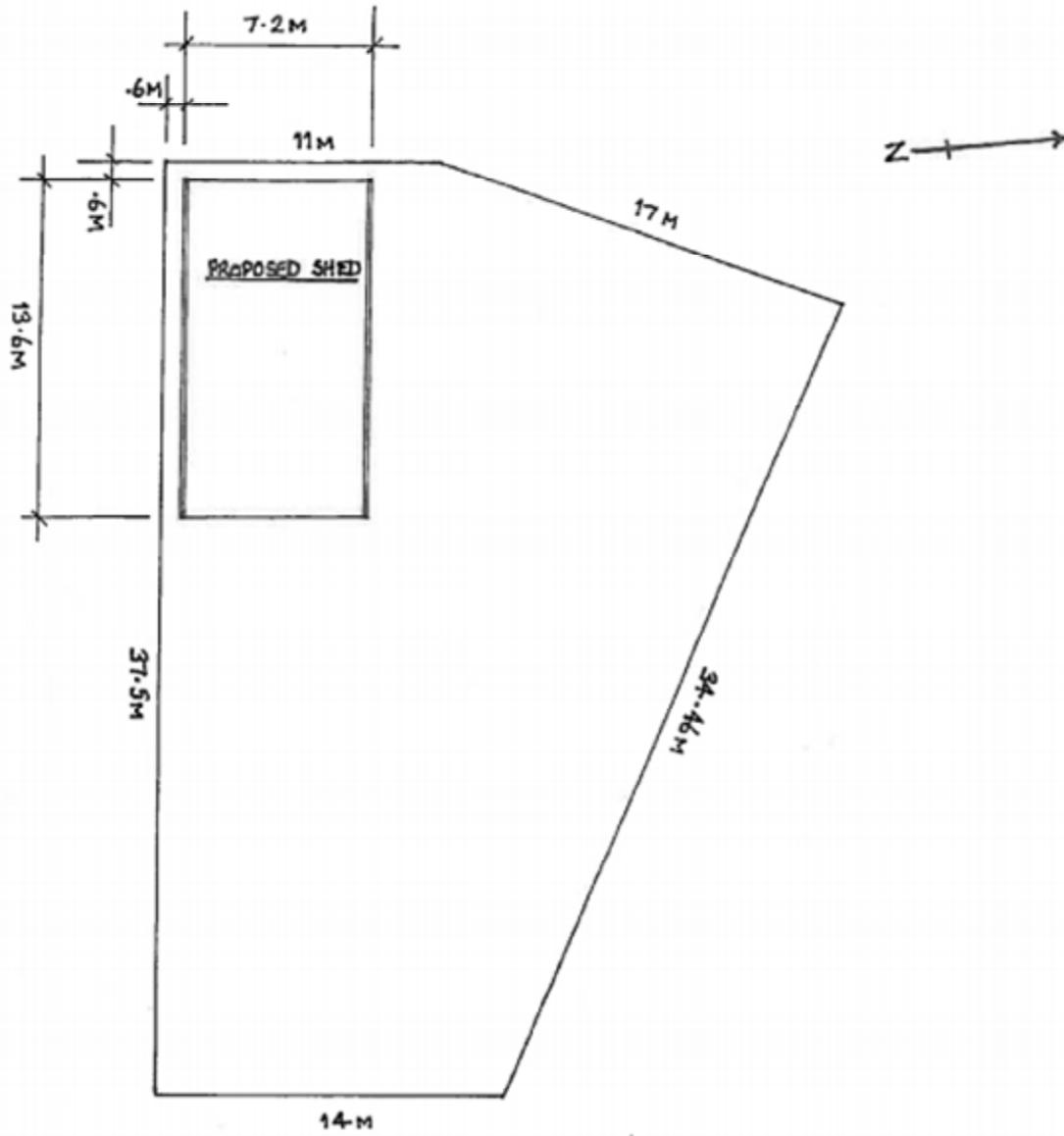
ELEVATION 3 REAR



ELEVATION 4 SOUTH SIDE

CLIENT: P K JENNER	
ADDRESS: 4 RED GUM COURT ALLINGHAM	SHEET No. 1 OF 3
	SCALE 1:100





CLIENT:	
PK JENNER	
ADDRESS:	SHEET No.
4 RED GUM COURT	3 OF 3
ALLINGHAM	SCALE 1:200

APPEAL RIGHTS**PLANNING ACT 2016 & THE PLANNING REGULATION 2017****Chapter 6 Dispute resolution****Part 1 Appeal rights****229 Appeals to tribunal or P&E Court**

- (1) Schedule 1 of the *Planning Act 2016* states –
- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
 - (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The **service period** is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.



231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
decision includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter-
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

