

OBJECTION TO:

DA 216005

**Proposed by Graeme and Delwyn Cure for
LAUNDRY AND 110,000 LITRE TANK AT 468 WEST PINE ROAD**

***PROPOSAL: RESIDENTIAL outbuildings - laundry and water tank involving variations to
standards for the minimum lot size, frontage setbacks and area for stormwater
disposal - Readvertised***

CENTRAL COAST COUNCIL

Division Plan-lan-s

Rec'd 12 AUG 2016

File No

Doc. Id 240029

We wish to object to DA 216005 because of the following reasons outlined in this objection. We believe that the application does not conform to the intent, objectives and goals of the Central Coast Interim Planning Scheme 2013 - nor does it provide suitable reason for allowing deviation from the scheme.

We also object, as the application does not appear to conform to some aspects, as prescribed by law in the LAND USE PLANNING AND APPROVALS ACT 1993 – of which the Central Coast Interim Planning Scheme 2013 is governed.

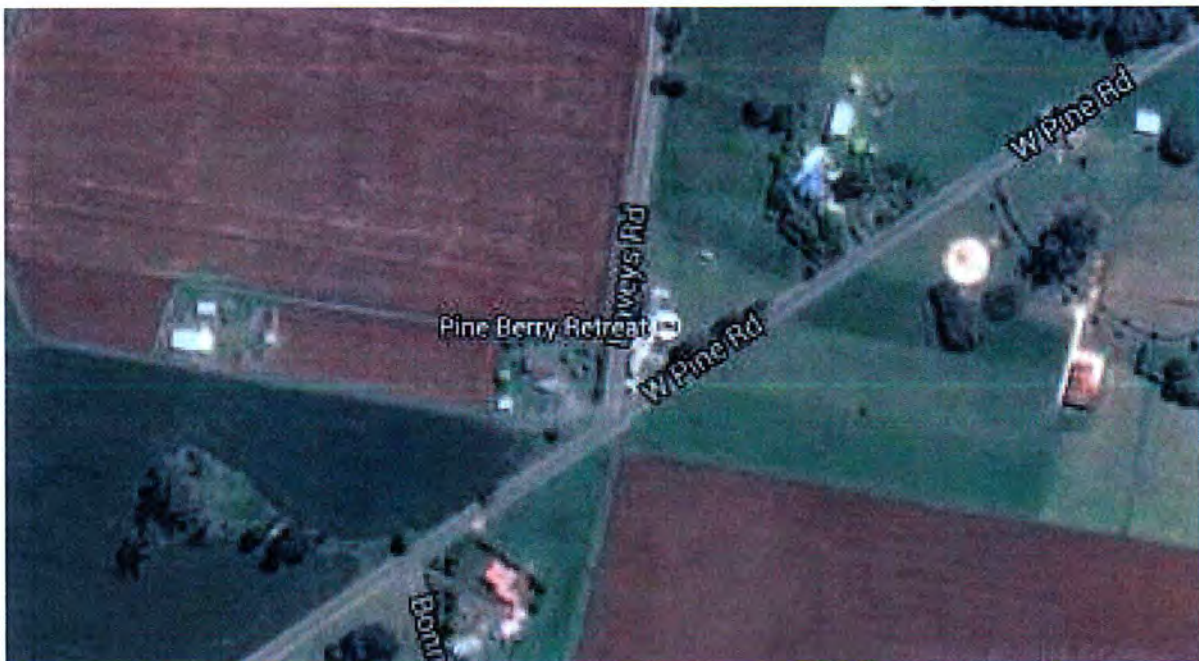
We are direct adjoining neighbours with the title on which DA 216005 relates. As a local, integrated community, we form a cluster of farms that are located on Class 1 and 2 Rural Land – Prime Agricultural land.

Our acreage, though modest in size, is used to rear Angus vealers, boutique Longhorn cattle and for the purpose of hay and silage production. Our children also have horses.

Similarly, the owners of 468 West Pine Road also benefit from having prime agricultural land. While DA216005 attempts to downplay the agricultural significance of their land, the above applicants have also adjusted cattle on their property, have a horse and use their soil as a growth medium for economic advantage - growing and selling their pasture as hay and silage crops annually.

All of our properties in this area are – or have the potential to be – serviced by the Dial Blythe Irrigation scheme. At this stage the title where this development is, and has been, proposed does not access irrigation water – but that's not to say that future owners would not.

The application, presented through the services of Mr Tom Reilly of PDA Surveyors, is in regard to structures associated with a dwelling and visitor accommodation business located at 468 West Pine Road - that operates as Pine Berry Retreat. This business is owned and operated by Mr and Mrs Cure – who reside in their own private residence on an adjoining title at 450 West Pine Road. The application provides an owner's declaration that Mr Reilly has notified the owner and that all information provided is true and correct.



Pine Berry Retreat – set in Tasmania's richest, most productive prime rural soils.

Throughout the remainder of this document, the following abbreviations will be used ...

Central Coast Interim Planning Scheme 2013 – IPS

Mr and Mrs Cure – The owners

Pine Berry Retreat – PBR

Department of Justice – DoJ

The Church dwelling – Church

B & B / The Colorbond visitor accommodation shed – Shed

Land Use Planning and Approvals Act 1993 – the Act

Historical Preamble.

Before considering this application, it is important to consider the history of this particular title and the developments that the owners have constructed there in the very recent past.

The Church was constructed elsewhere around the turn of last century and was relocated to its current position in 1945. It is not heritage listed, but is a historical feature of this area. Locals had no issue with it being located with minimal setbacks – as it had always been there. In relation to setback distances, it did not - and has not - set the standard for approved placement of structures in this area, at least those structures that have been planned and constructed with approval.

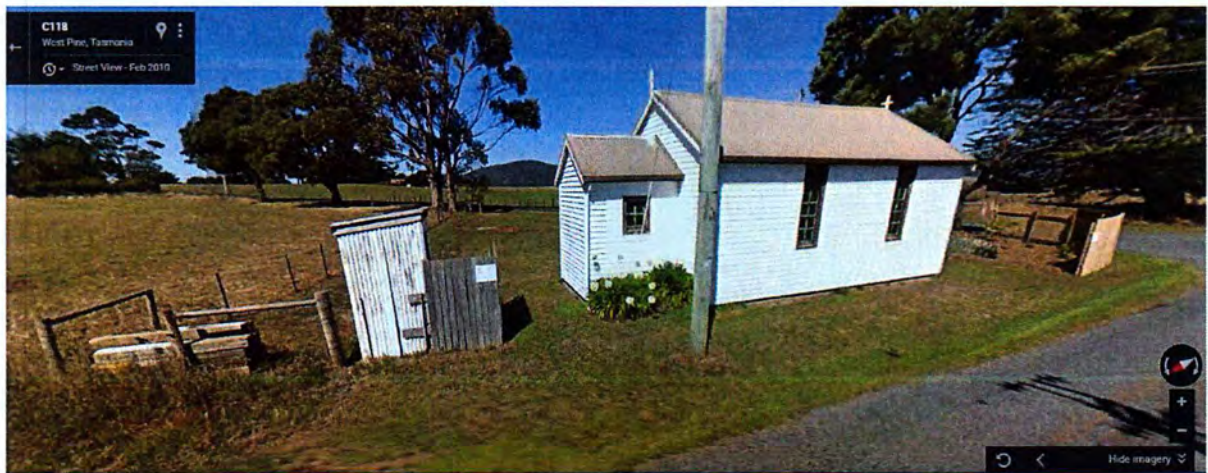
The Owners purchased and began applying for a 'boundary adjustment' and 'change of use' in early 2010.

As the Owners owned the adjoining title, a boundary adjustment was able to be made and the Church was approved for use as a dwelling.

Further development continued on the site, with a laundry, Shed, tank and relocatable amenities building being constructed and or positioned on the title. Each of these structures required planning approval – yet no planning permits were sought by the owners for any of them. This was interesting, as the owner is a Master Builder with more than 30 years' experience. With such a background in the building industry ignorance of planning protocols could surely not be considered as an explanation for failing to seek approval.



The advertising in the current Yellow Pages outlines the experience and accreditation of the owner - a Master Builder.



Note: Public Notice relating to 'change of use' and 'boundary adjustment' on the fence near the original toilet (the only 'shed' on the title.) Google Street View 2010

The LAND USE PLANNING AND APPROVALS ACT 1993 - SECT 51

51. Permits states ...

(1) A person must not commence any use or development which, under the provisions of a planning scheme, requires a permit unless the planning authority which administers the scheme, the Commission, or the Tribunal, has granted a permit in respect of that use or development and the permit is in effect.

This aspect of the law has not been followed, as every structure that required a planning permit on this title was constructed or located - over a series of time - without one ... tank and laundry included.

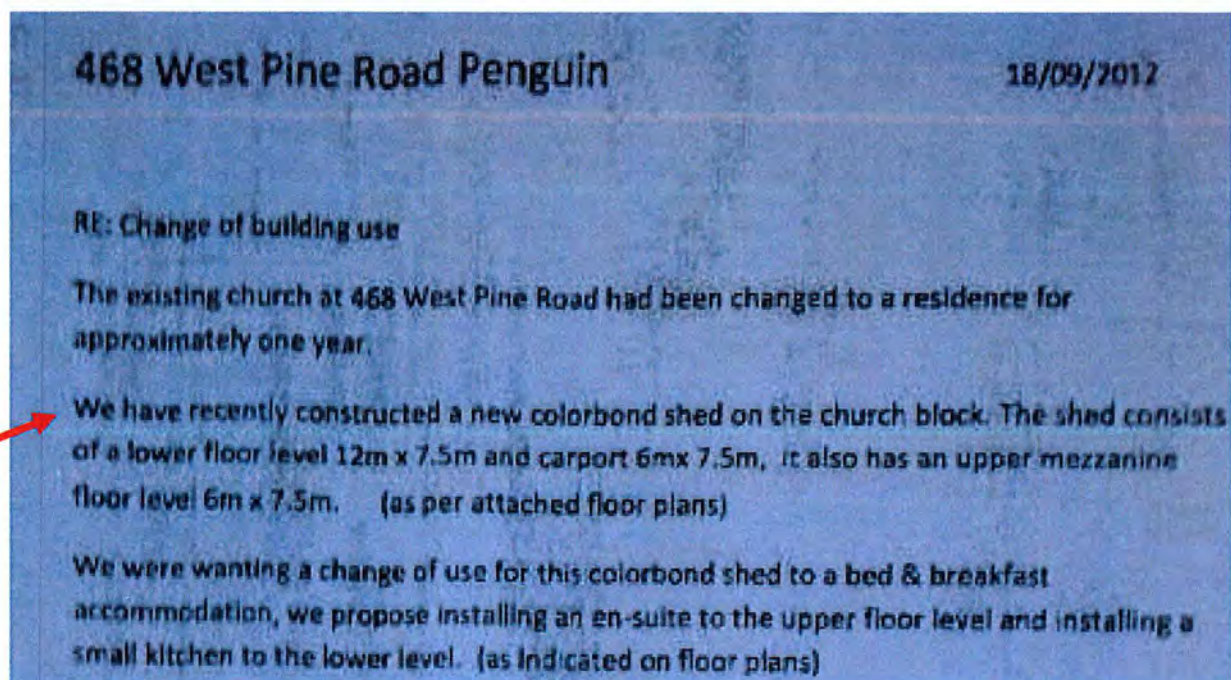
According to the Scheme for the Accreditation of Building Practitioners, July 2008, (amended November 2012) p32 section 2 under **Code of Conduct**, the expectations of Master Builders are ...

Compliance with Legislation - and it clearly states...

- *All accredited building practitioners **must ensure they comply with all relevant and applicable legislation related to the work they undertake.***
- *It is expected that all accredited building practitioners **will have knowledge, familiarity and understanding of the legislations that applies to the categories and classes for which they are accredited.***
- *Failure to comply with legislation relevant to work undertaken will be considered as **unsatisfactory professional conduct.***

This is reinforced by the DoJ investigation BSR0550/14/10, prepared for the Director of Building Control – as discussed later.

In 2011 the owners built a 'farm shed' on – in fact, according to the DoJ investigation, partly over – their Daveys Road boundary. Before it was complete, they applied for it to have a change of use.



Originally requesting 2 bedrooms, the owners reapplied for 6 bedrooms – where they then accommodated over 20 people. This was in breach of the occupancy limit of 12 persons in a class 1b building.

In March 2014, the owners presented DA 213094 to the local planning authority to apply for further development. This was for increased visitor accommodation with an additional 95 bedrooms and associated outbuildings to supplement the B & B business in the shed – which has never received planning approval.

We are aware that a number of the issues addressed in this application DA 216005 directly relate to concerns raised in the DoJ report - of which clear recommendations were outlined in that report to resolve the identified breaches of compliance. (DoJ Report BSR0550/14/10 - attached).

To further complicate matters, DA 216005 is a blend of requests - seeking retrospective approval of structures that have already been placed without consent - tank and laundry - and also approval for new development - stormwater trench.

Glossary of terms

Prior to the assessment of any application the definitions of the details within the application have to be clearly outlined.

The IPS is clear with its definitions.

4.0 Interpretation.

Agricultural Land:

means all land that is in agricultural use, or **has the potential for agricultural use**, that has not been zoned or developed for another use or would not be unduly restricted for agricultural use by its size, shape and proximity to adjoining non agricultural uses.

Bed and Breakfast establishment:

means part of a dwelling used by its resident to provide, on a short-term commercial basis, accommodations and breakfast for persons away from their normal place of residence.

DA 216005 defines the Visitor Accommodation located in the Shed as a B&B. This is misleading. Breakfast does not get served for the visitors in that building. Further, the shed is not part of a **dwelling** that is **used by its resident** to deliver these services. Therefore, it shouldn't be referred to as a B & B.

Boarding House:

means use of land for a dwelling in which lodgers rent one or more rooms, generally for extended periods, and some parts of the dwelling are shared by all lodgers.

Communal residence:

means use of land for a building to accommodate persons who are unrelated to one another and who share some parts of the building. Examples include a boarding house.

DA 216005 makes references to an accommodation provision, which seems to more closely align with this definition. However, the IPS does not identify communal residences / boarding houses as acceptable in the Rural Resource Zone. In fact, PBR refers to itself on its Facebook site as a Hostel - not a B&B as this application alludes to. Its proper defined use is therefore ambiguous and the applicant is misleading in the assertion that the business acts as a Bed and Breakfast provider.

Dwelling:

means a building, or part of a building, used as a self contained residence and which includes food preparation facilities, a bath or shower, laundry facilities, a toilet and sink, and any outbuilding and works normally forming part of a dwelling.

DA 216005 defines the dwelling as the Church.

Hostel:

means a supervised place of accommodation, usually supplying board and lodging for students, nurses or the like.



Currently, PBR identifies itself as a Hostel, not a B & B as it was approved as.

Prime agricultural land:

means agricultural land classified as Class 1, 2 or 3 land using the Class Definitions and methodology from the Land Capability Handbook, Second Edition, C J Grose, 1999, Department of Primary Industries, Water and Environment, Tasmania.

Setback:

Means a distance from any lot boundary to a building on the lot.

Streetscape:

means the visual quality of a street depicted by road width, street planting, characteristics and features, public utilities constructed within the road reserve, the setback of buildings and structures from lot boundaries, the quality, scale, bulk and design of buildings and structures fronting the road reserve.

*For the purposes of determining streetscape with respect to a particular site, the above factors **are relevant only if within 100m of the site.***

Definition of DEV2009.130

DA 216005 makes continual reference to DEV2009.130 throughout its submission. It should be noted that DEV2009.130 was for a **change of use and boundary adjustment**. Nothing more, nothing less. The change of use in 2010 was from a church to a dwelling / residence.


DEV2009.130, presented to the local planning authority in 2010, is used in this current DA216005 application to...

- justify the use of the church as a residence
- promote it - the Church - as a place of shared accommodation
- propose it - the Church - as a place of shared living arrangements ... though it does not specify what these shared living arrangements might look like.

It should be noted that the defined interpretation for the word *Dwelling* – according to the IPS – does not include shared accommodation or shared living arrangements. These are more appropriately defined in the terms *communal residence* and *boarding house* – terms the church has not been approved to be.

Whilst the 26.2 Use table – Rural Resource Zone – details a permitted use class as residential, it DOES NOT permit Communal Residences or Boarding Houses as an appropriate use in the Rural Resource Zone. Therefore, the Church should not be proposed as a place for shared living arrangements / shared accommodation. Greater clarity is needed by the applicant in this regard.

We object because the use referred to in this application is ambiguous. The public advertising title states **residential** while the application documentation as presented to council states that present use is Residential and Visitor Accommodation and then the **Proposed** (intended use) is stated as purely **Visitor Accommodation**.

 DA216005 - 468 West Pine Road, West Pine - Residential (outbuildings - laundry and water tank) the minimum lot size, frontage setbacks and area for stormwater disposal (re-advertised) (17811 kb)

Zone(s)	Rural Resource [Central Coast Interim Planning Scheme 2013]
Note: Council requires a survey plan or certificate of title to clarify the property description	
Present Use	Residential and Visitor Accommodation
Proposal (intended use)	Visitor accommodation (outbuilding - laundry) and water tank
Development Type	Discretionary Permit Area <80m ²
Estimated Value of Development	\$10,000

Differences on the application between present and proposed use. If the laundry and tank are classified as being aligned with the visitor accommodation, then the laundry doesn't need to be near the church for 'convenience'. It should be moved to an area where setbacks are established and in a more convenient location to the visitor accommodation.

So, is this application seeking future use for this development as a residence and visitor accommodation – or is it seeking to morph the Church residence into a shared accommodation venue ... thus making the use for everything as Visitor accommodation – as it has been used non compliantly in the past. Until this is clarified, the application should not be further considered, nor approved.

To propose it as residential is false - and sets a completely inappropriate precedent for any further development applications on this site. A consideration in this manner would contravene the Act and deny the purpose and intentions of the scheme. Zonings have been implemented and must be observed. West Pine is clearly a Rural Resource Zone.

Visitor accommodation is a separate use to the church dwelling, and therefore requires a permit as a multiple use as it is in a stand alone building.

Visitor accommodation could only be considered a directly associated and subservient part of the church dwelling if included within the main building and is a lesser part of how the building was used.



West Pine – Rural Resource Zone. Image sourced from iPlan

Agricultural land is a valuable resource and its use for the sustainable development of agriculture should not be unreasonably confined or restrained by non-agricultural use or development.

STATE POLICY ON THE PROTECTION OF AGRICULTURAL LAND 2009 3.1

Use or development of prime agricultural land should not result in unnecessary conversion to non-agricultural use not dependent on the soil as the growth medium.

STATE POLICY ON THE PROTECTION OF AGRICULTURAL LAND 2009 3.2

Central Coast Interim Planning Scheme 2013 Purpose and Objectives

The IPS has a clearly outlined Purpose and set of Objectives. These must be considered in the assessment of this application. Whilst 8.10.3 of the IPS states that clauses 2.0 and 3.0 cannot be referred to when considering an application for a permit, the **LAND USE PLANNING AND APPROVALS ACT 1993 - SECT 48, which governs the IPS states ...**

PART 4 - Enforcement of Planning Control Division 1 - General 48.

Enforcement of observance of planning schemes

Where a planning scheme is in force, the planning authority must, within the ambit of its power, observe, and enforce the observance of, that planning scheme in respect of all use or development undertaken within the area to which the planning scheme relates, whether by the authority or by any other person.

Further, the LAND USE PLANNING AND APPROVALS ACT 1993 - SECT 5 states ...

5. Objectives to be furthered

It is the obligation of any person on whom a function is imposed or a power is conferred under this Act to perform the function or exercise the power in such a manner as to further the objectives set out in Schedule 1.

This creates some ambiguity and infers that the planning authority considering DA 216005 should consider the IPS in its entirety, including Clause 2.0 and 3.0.

The 2.0 Planning Scheme Purpose, 2.2.3 and 2.2.4 (b) should therefore perhaps be considered when assessing this application. It has been publicised in the media where other developers in neighbouring municipalities have had to move or remove structures that were positioned without permit. This section of the scheme seeks conformity with actions across neighbouring local planning authorities.

DA 216005 seeks to retain structures placed without consent, where others in neighbouring municipalities, subject to the same scheme have had to move or remove structures to enable compliance.

It should be also noted that 3.0 Planning Scheme Objectives is to (d) include regulatory provisions to deliver outcomes that:

- (iii) provide efficient, safe, and pleasant places in which to live, work or visit;
- (iv) minimise likelihood for conflict and interference between use
- (x) protect the productive value of agricultural land

DA216005 does not comply with these objectives.

Further, in relation to applications, the LAND USE PLANNING AND APPROVALS ACT 1993 - SECT 52 states ...

52. What if applicant is not the owner?

(2) A person must not obtain or attempt to obtain a permit by wilfully making or causing to be made any *false representation or declaration either orally or in writing*.

(3) A provision in a planning scheme is of no effect to the extent that it provides that an application for a permit by a person who is not the owner of the land in respect of which the permit is required must be signed by, or accompanied by the written permission of, the owner.

DA216005 should not be considered, nor approved as it contains information that is misleading and not factual. Further, no evidence is presented of a signature or written permission being given by the owner by the applicant to present the application on the owner's behalf. This is a requirement of the Act.

8.1 Application Requirements:

8.1.3 (b) where it is proposed to erect buildings, a detailed layout plan of the proposed buildings with dimensions at a scale of 1:100 or 1:200 showing:

DA 216005 contains plans that aren't presented in these required scales, therefore it cannot be assessed.

(iv) car parking space location and layout

DA 216005 only indicates 2 car parking spaces. Correct location and layout is needed for all vehicles – including disabled – for this application to be considered.

(v) major elevations of every building to be erected.

DA 216005 provides no elevations of the tank in its application.

(vi) The relationship of the elevation to natural ground level, showing any proposed cut or fill;

DA 216005 shows no evidence of this with either the laundry of the tank proposed yet It states excavation of 800mm has taken place. There is no mention of any sand or depth of sand used for the base of placement of tank. E4 Change in Ground Level Code should be followed.

(vii) materials and colours to be used on roofs and external walls

DA 216005 does not indicate the colour of the tank – a requirement of legitimate applications.

(c)(ii) paving materials and drainage treatments and lighting for vehicle areas and footpaths;

2 parking spaces are noted on site plan (1:400 scale) but no other details are given for these. Surface types, drainage treatments and lighting information is not provided and is needed as an application requirement. DA 216005 details a proposal for stormwater dispersal – so detail of the drainage treatment for the car park would be needed.

Clearly the application requirements are not met in 8.1, therefore DA 216005 cannot be considered until their omission is rectified.

26.1.1 Rural Resource Zone – Zone Purpose Statements:

DA 216005 infers that the water tank and laundry are incidental, yet crucial to the buildings located on the title. On one hand, it links the laundry predominantly for the Church residence and links the water tank to the Shed visitor accommodation. It then attempts to show how they are both needed by residence and visitor accommodation uses to support local agricultural industry.

False. The DA 216005 has supplied misleading information. The rural industry is not the only industry that benefits from the use described at this location. It is not specifically a 'support service for the local rural industry.' Therefore, contrary to the DA 216005 assertions that the planning authority need not consider the Zone Purpose Statements – they would be wise to do so.

At the time of writing, for instance, the visitor accommodation has been, and is, being used for accommodation of visitors not involved with rural work or local agriculture industries on local properties.



The construction industry also seems to benefit from the visitor accommodation offered at PBR.

Contrary to the claims of DA 216005, this business does not only function to 'benefit ... agricultural productivity in the area for rural industry workers.' 26.1.2 h (i) IPS.

Back packers, holiday makers, tourists and workers engaged in non agricultural industries also use this facility.



Tents erected



Overnight tourists



Holiday makers with surfing gear – not rural workers

The DA 216005 states that the planning authority need not consider Local Area Objectives and uses 8.10.2(b) as justification of this. However, 8.10 Determining Applications, 8.10.2 has the post script that states that this is only to be considered if 'each purpose, local area objective or desired future character statement is relevant to the particular discretion being exercised.'

In this instance, it is apparent that accommodating construction workers, for instance, is not in keeping with the professed main objectives of the specified use for this business – that is, supporting local farms and accommodating rural workers. Nor is this application supporting local area objectives of 26.1.2.

It cannot therefore be unequivocally demonstrated that the use eluded to in this application is in accordance with 26.1.1.1 and on this basis, it is considered that the proposal is not consistent with the Zone Purpose statements.

The opening Letter supplied to council from PDA surveyors states the application has two components (Laundry and 110,000 litre water tank) as they are reliant on each other. This statement is misleading.

The water tank is not dependent on a water supply from the laundry. Were that to be so, the laundry would have guttering installed all around to collect as much rain as possible for the tank.



These images shows how rain from part of the laundry roof simply falls to the ground. The laundry only has a front gutter - (although two are drawn on provided drawing 216059-8). Therefore the reliance of one on the other is hardly remarkable, considering the catchment for the laundry is around 14.0 m² - of which only 8.5 m² is currently used as a source of water collection for the tank. A weak - and misleading - claim.

Both these structures are currently illegal:

The laundry is occupying crown land and the 110,000 litre tank clearly should have had planning, building and plumbing permits prior to being placed OVER THE BOUNDARY. (The acquisition of Crown Land by the PBR owners on Daveys Road has supposedly enabled the tank fit just within the boundary - but without adequate setback.) DA 216005 is therefore seeking planning - and then presumably building and plumbing - permits that should have been applied for and received before construction. Later in this objection it will be shown that the tank continues to be encroaching on Crown Land.

The interesting thing about this application that it is made on behalf of a "Master builder" with over "30 year's experience". Clearly the knowledge base of the applicant should be taken into account when assessing the requests in this application, as the owner has been responsible for the unapproved placement of these structures.

The DoJ investigation BSR0550/14/10, prepared for the Director of Building Control report States...

"... the owner acknowledged the water tank is over the boundary of the property

"... the owner knowingly constructed the water tank outside the true boundary, justifying it as a common sense approach." Pg 29

Surely, a more common sense approach by an accredited Master Builder would have been to follow due process in the construction of the water tank (placed significantly on Crown Land). Interestingly, the owner builder also followed the same process for the construction and siting of the laundry (partly on Crown Land), the siting of the shed (partly on Crown Land) that is now referred to as a B&B and the amenities building that is attached to the B&B - all constructed without any planning approval.

The lodgement of an application now to obtain RETROSPECTIVE approval does not right the wrongs that have already been established and outlined at this site. Approval of such a process would simply “rubber stamp” non compliant building activities and provides no “weight” to the IPS which has very clear guidelines for ALL.

26.1.2 Rural Resource Zone – Local Area Objectives:

26.1.2 Local Area Objectives specifically state that priority be given in rural resource zone to use rural land for access to naturally occurring resources – and is to protect against permanent loss of rural land to ‘non agricultural’ uses. 26.1.2 (e) specifically states ... All agricultural land is a valuable resource to be protected for sustainable agricultural production.

Therefore, contrary to DA 216005, the planning authority should consider the Local Area Objectives in this application – as ‘the particular discretion’ being applied for does not specifically relate to the outlined Local Area Objectives.

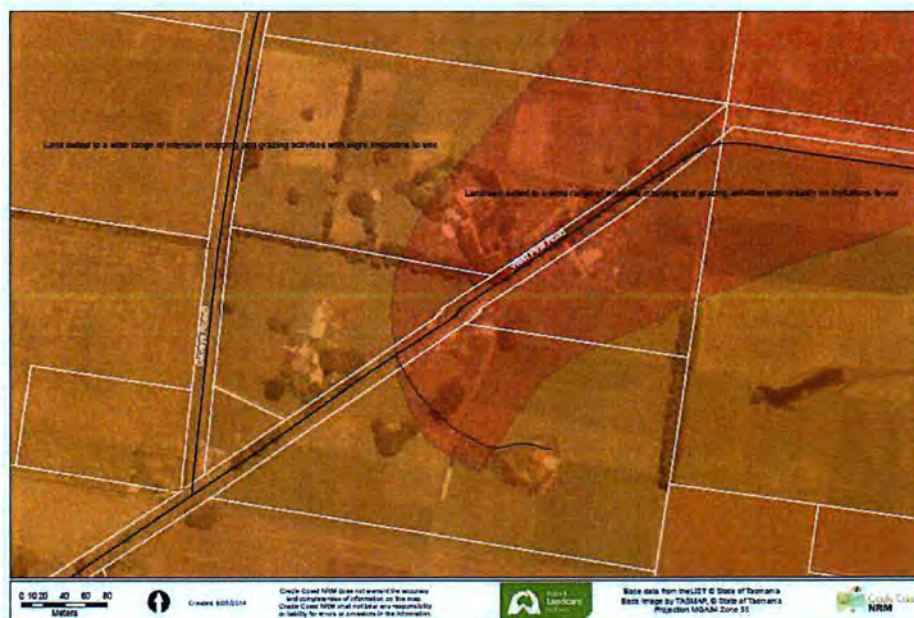
6.5 Buildings and Works in the Rural Resource Zone or Significant Agriculture Zone

6.5.2 states ...

The construction of buildings or works other than a dwelling, in the Rural Resource Zone or the Significant Agricultural Zone, that are directly associated with and are subservient part of an agricultural use if:

- (b) the setback from all property boundaries is not less than 30 metres – they aren’t.
- (e) the building or works are not located on prime agricultural land – they are.

The DA 216005 claims that the land on which the laundry and tank is, and are proposed to be, sited have been converted to non agricultural use. The application goes on to state that the adjoining land (“to the North”) is also converted to non agricultural use. This is speculative and misleading. This title, and its adjoining land is prime agricultural land – as defined previously in the definitions section of this document.



Cradle Coast NRM document showing DA 216005 title and owners adjoining title as Class 1 and Class 2

Prime Agricultural Land.

Whilst the lot size might be presented as a reason that the land has been converted to non agricultural use – with the buildings that have been already placed there ... without planning approval – it must be noted that 26.1.2 (d) states ‘Primary industry is diverse, dynamic and innovative; and may occur on a range of lot sizes and at different levels of intensity’.

Therefore this application does not meet these objectives.

The DA 216005 states that the adjoining land is also converted to ‘non agricultural (residential) use.’ It is erroneous for the PDA author to presume that whenever a dwelling is placed on an agricultural lot of land that it then deems the land of no agricultural use. This presumption is false and misleading. The ‘adjacent land to the north’ is not residential. Its use is rural resource – with a manager’s residence. It is classified as prime rural land and has most definitely not been converted to non agricultural use. If this were so, the residents there would not adjust cattle - as they have done in the past - run a horse and sell off their pasture growth annually for silage and hay production.



The adjoining land where the owners live has not been converted to non agricultural use – contrary to the claims of the DA 216005 author. It remains prime Class 1 and or 2 rural land.

The change of use for the Church was approved – from Church to dwelling – but this did not change the zone classifications, desired future statements and local area objectives outlined in the IPS.

Setback standards remained and need to be followed.

The DA 216005 states ‘it is hard to imagine the laundry and the water tank would cause any significant loss of agricultural land ...’ This acknowledgement shows consent for the laundry and tank to have standard setbacks applied to their placement – as their location within setback zones would not – by the author’s own words – perceivably create issues with further loss of land. The applicant concedes, therefore that the laundry and the tank don’t need to have setbacks relaxed, as the surface area lost - if relocated within setbacks - would not be any greater than that currently lost by their unapproved siting.

In fact, the relaxation of setbacks – as applied for – would indeed create issues and would continue to cause potential interference with neighbouring agricultural activities. The PDA report states that the tank is necessary for clean drinking water supplies. Unfortunately, the tank has been placed without approval and already issues with overspray and irrigation are apparent. Applied setback standards prior to its placement would have mitigated these concerns.

IPS 26.3.1 performance criteria

(d)(ii) states the application should minimise likelihood for – constraint of interference and potential primary industry use on the site and on adjacent land; clearly this is not met by DA 216005. This is further illustrated below ...



Irrigator water going onto shed and tank – water from shed runs into tank for drinking. Appropriate setbacks would have mitigated this issue. Notice water pooling along roadside. Stormwater unable to be contained that runs from tank roof located less than 300 mm from boundary.

Protection and provision of a secure, reliable, safe and adequate water supply is critical for the health of natural, human and economic systems.

Cradle Coast Regional Land Use Strategy 2010 – 2030 page 111.

There is no guarantee that the water from neighbouring irrigation dam is potable, thus the health of the visitors and residents could be at risk. Agricultural activities should not be fettered because of the unapproved placement of buildings at this site. Relaxation of setbacks should not be approved. The DA 216005 is misleading in stating that undue conflict or interference is 'hard to imagine' with the practice of primary industry.

In relation to irrigation directly impacting on this site, the position of a storm water trench in this location beside the shed wall is therefore deemed inappropriate. Absorption trenches should not be placed in positions where irrigators are going to be watering. The site requested for the storm water trench does not drain easily and therefore water from the irrigator pools – as seen in the photo. This shed - placed without approval – and the subservient structures that are associated with it should not fetter the use of the adjacent prime agricultural cropping land. The trench needs to be somewhere else on the title. There is ample space for it to be accommodated elsewhere.

26.1.3



The DA 216005 states that service and support buildings are required in the Rural Resource Zone. This is obviously correct. However, as already proven, the laundry and tank are not just used to support 'services for local rural industry'. The author makes no mention of the accommodation being needed to support, for instance, non rural workers, construction industry workers and others.

DA 216005 refers continually to the approved use of the Shed as a B & B. Correct also, but the PDA report continually fails to mention that the building in which the use has been approved has never had planning approval to be constructed.

Due process has not been followed in the inappropriate siting of the shed.

Then author states that the tank is 'visually prominent to a **minor extent.**' This could be otherwise be described as being inconspicuous – something that is misleading in assertion.

The tank most definitely in not 'visually prominent to a minor extent'. Photo taken from Daveys Road frontage.

The application states that the development is in a 'small scale residential node' but doesn't provide a definition of what this is generally characterised as. What is a small scale residential node – and how is it then reflected at this site.

The author of DA 216005 indicates that the 'rusty corrugated iron rural shed vernacular style' is in keeping with the Desired Future Character statements for a Rural Resource Zone. Wrong. If this were so, the shed and tank would have been constructed from rusty second hand materials also. Where do the IPS Desired Future Character statements indicate that buildings and structures in Rural Resource zones are preferred as old looking, constructed from second hand materials?

The DA 216005 goes on to outline that the cluster of buildings are and would be a rural shed like style which is seen throughout the district. This is also an erroneous statement. The cluster he talks about is:

- 1 x white weatherboard church
- 1 x rusty corrugated iron laundry
- 1 x colorbond shed
- 1 x colorbond tank
- 1 x colorbond relocatable building.

There is no other cluster like that in the district!



DA 216005 also outlines that it is not uncommon for buildings throughout the Rural Resource Zone to be located in such a manner. False. Nowhere else in the district have buildings and structures been permitted without setback.

Although the information was requested, the Central Coast Council was unable to supply information on where, within their municipality, other dairies and sheds had been approved to be constructed without setbacks in the past 5 years. The applicant claims it is 'not uncommon' for these buildings to be placed on boundaries in the area.

Whilst examples of historically located buildings might be found, there is certainly no evidence of new development occurring on boundary lines – except for those placed without consent at PBR.

There are examples of new sheds being constructed, but these have had to be judged on their merit through Discretionary Applications before being approved. Where approved, there have been setbacks enforced that in no way resemble the miniscule distances requested to be approved in DA 216005.

For instance, within a 5 kilometre radius, only one example of a shed can be provided that was built less than 20 metres from frontage – but with proper Discretionary Application approval. It does not fit with the assertions made by the DA 216005 author that the area is characterised by sheds, dairies etc being on title frontages.



A local dilapidated shed – 236 Pine Road, Penguin. Image sourced from Google Street View 2011.



The new shed – DA 213242 was needed to replace the old shed ... Photo taken August 2016

In discussion with the owner of the new shed, (pictured above) it was stated that a discretionary application was needed to replace a new shed where the old shed was previously located. Just because there was an old shed previously there didn't automatically mean they could build a new one there in the same position. Approval was needed.

Application Number	Property Address	Development Application Type	Description of Proposed Use	Application Date	Decision Date	Day Determined
DA213242	236 Pine Road Penguin 7316	Discretionary Development Application	Storage shed	24-Jun-2014	25-Jul-2014	31

Central Coast Council record of DA 213242 as found in council minutes.

The building line is 18 metres. This shed at 236 Pine Road received local planning authority approval to be built around 15.5 metres from the centre of the road centre **before** it was constructed.



Sheds have not been approved to be built on road frontages throughout the district. The only reason the shed at 468 West Pine Road is built without setbacks is because it was constructed there without council approval.

DA 216005 is seeking retrospective approval for the tank and laundry. As with the tank, it was constructed by the master builder without planning, building or plumbing approvals. DA 216005 states that the laundry replaced an old shed.

It did not.

That statement is false and misleading. Section 52 of the Act states that it is against the law to provide ‘any *false representation or declaration either orally or in writing.*’

If it were built on the site of a previous structure, council approval would have been needed – as with the case of the shed at 236 Pine Road. It appears, like every other structure constructed or placed at 468 West Pine Road since 2010, that though approvals were needed, approvals were not sought by the owners.



Where was the shed that the laundry replaced? This statement is not true.
Image sourced Google street view 2010



The Laundry in position – it did not replace a shed. Even if it had, it would have needed council approval to be placed there. It is also partly on Crown Land – without permission.

26.2 Use Table: Rural Resource Zone

DA 216005 once again endeavours to state that the church has been approved for medium to long term rental accommodation through its reference to DEV2009.130. Its approval was for a change of use to dwelling – without specifics on rental parameters. The author of the report states that tenants 'are often permanent employees on local farms in the area.' Another example of false and misleading information. The Act states that false information must not be given. Casual and seasonal workers almost exclusively 'reside' in the church, not permanent employees of local farms. The author then submits that DA 216005 is seeking for approval for the church 'to be used as shared living accommodation.' So is DA 216005 also seeking change of use for the church dwelling? This needs further clarification – and should be listed in the subject title of the application if it is the case.

The DoJ investigation reported issues with the use of the church. '...the owner has failed to comply with the occupancy permit of the church by offering short term rental accommodation to persons who were not using the church as a dwelling.' Page 11

DA 216005 fails to clarify the proposed use of the church appropriately. Until the proposed use is defined as it should be – according to being a dwelling – then the application should be refused.

The DoJ (BSR 0550/14/10) p12 recommendations stated ... 'The owner must only permit the church to be used as a dwelling.' Page 12

DA 216005 also states that the shed provides '... accommodation for up to 12 rural workers.' It then states that this is cognisant with the **Table 8.2 Use Class** as it '... provides short to medium term accommodation for people away from their normal place of residence.' That seems to fit what is also happening in the church, so is the church dwelling also considered visitor accommodation – it isn't approved for that.

Once again, DA 216005 is misleading. Every season the shed has been used to accommodate more than 12 people – contrary to its occupancy permit.

The Director Development and Regulatory Services advised May 2nd 2014, that council had met with the owners of PBR the previous afternoon and among a long list of other requirements, stated the following ...

'The use of the dwelling as a bed and breakfast to cease immediately as it is contrary to the planning permit'

'Level of occupation for the Bed and Breakfast in the shed to allow for no more than 12 persons as per occupancy permit'

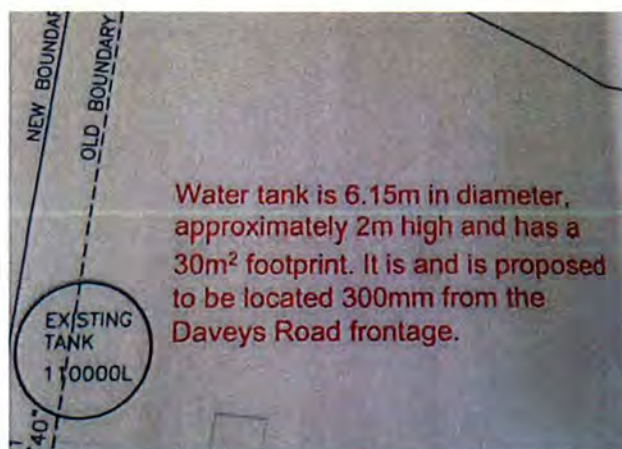
The DoJ report states '... according to the owner, occupancy of the bed and breakfast since commencing operations, had reached up to 20 persons per night, usually averaging around 16 ...' BSR0550/14/10 p 23

Therefore the owners had known since May 2014 – at least - that they were only allowed 12 persons to occupy the shed, yet each season since, they have not complied with this directive.

With this in mind, it is likely that without a clarification on the use of the dwelling – once again – it is possible that it would again be used contrary to its permitted use. Shared living accommodation it should not be. Then history of misuse needs to be addressed.

26.3.3 Residential Use - Rural Resource Zone

DA 216005 states that the footprint of the tank is 30 m². False - the DoJ report states the tank has an eight metre diameter, yet the Site Plan 216059 – 2 of 9 states that the tank is 6.15 metres in diameter. Why the discrepancy and why is the tank size misrepresented in this application?



The application therefore presents misleading information, portraying the tank to be smaller in size – and less significant – than it actually is. Its actual footprint is therefore more like a little over 50 m². Therefore, doubts are cast as to the consistency of information provided in this application. Section 52 of the Act states that it is against the law to provide 'any false representation or declaration either orally or in writing.'

Clearly this is not consistent with performance criteria or area objectives of this section.

26.4.1 Suitability of a site or lot on a plan of subdivision – for use or development.

A recent purchase of Crown Land took place – which has allowed the tank to be sited almost within the title boundary. The new title – registered number SP169899 – states the area of the resurveyed site to be 3194 m². This conflicts with the SEAM report that states that the size of the lot is '5197 m² (after boundary adjustment)' – a significant difference of over 2000 m². This raises questions about the validity of the SEAM report – and whether the formulas used in calculating its assessments for the wastewater system have been accurate. In that, DA 216055 is found to be confusing and misleading in its information provided and should not be considered until such discrepancies are sorted.

The author suggests the access is suitable and that the area of lot size is not an issue for the placement of the laundry and tank. 'On this basis, the lot would be of sufficient area for the intended use and development and therefore would comply with the performance criteria.' This is certainly true. The proposed absorption trench is also included in this statement – rendering its placement in a narrow parcel of land between the shed and boundary unnecessary. Further comment on this to follow.

There is more than enough space on this title for the laundry, tank and absorption trench to be positioned without having to relax setbacks.



There is ample room on this title for the tank and laundry to be repositioned – without interference to the septic absorption trenches, Telstra cable etc. and to comply with the setback / building line requirements. Shaded area indicates available area.

IPS 26.4.1 A2

The DA 26055 author claims that site access is satisfactory and that 'it is understood that the Road Authority ...' would issue a 'Statement of Compliance' in relation to that access. Understood by whom? This is a speculative statement. We object because the application should have included the Statement of Compliance if it was indeed so easily achievable. Without it, the application loses credibility for its assertions. Broad generalisations should not be considered in this instance.

Granting relaxation of setbacks should not be considered with the width of the country roads around this location. Wide vehicles travel on these roads. Structures such as tanks and laundries should not be built within the mandated setback and building lines – or on land that was once crown land as part of the roadside verge.

Dual wheel tractor travelling past the laundry at Pine Berry Retreat.

For safety reasons, such structures should not be built near the road.



IPS 26.4.1 A3

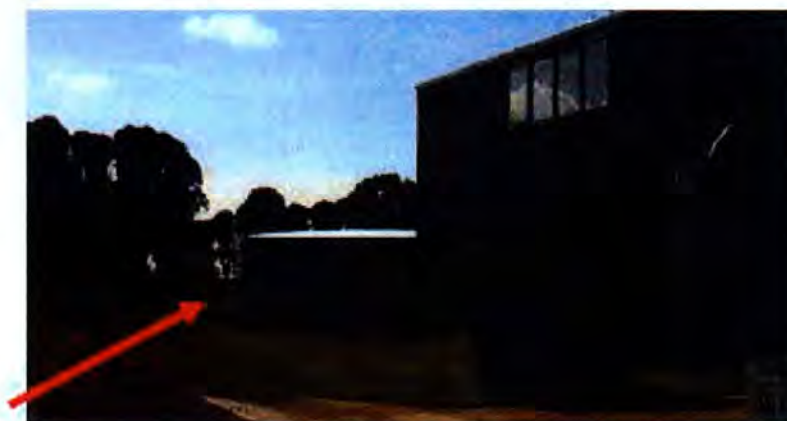
Whilst the water tank seems large in capacity, it is not sufficient for the needs of those residing and visiting the site. Then SEAM report estimates average usage as 80 litres per day per person. In a previous Discretionary Application DA 213094 the same SEAM author reported that estimated use would be 100 litres per day for persons on this site. In DEV2009.130, the same SEAM author states the water use on this title would be 140 litres per person per day. The proposed usage per person on this site has somehow decreased by over 40 per cent, but has the soils capacity to absorb water increased in correlation.

With 16 permitted persons on site, then current daily total requirement is 1280 litres. Allowing for the E1.6.2.3 provision of 10 000 litres per habitable building, the tank always needs a reserve of 20 000 litres. If completely full, the capacity for the site is therefore 70 days. The DoJ report states that 'some persons might stay up to four and a half months' – almost double the time. Peak season is during the driest months – so top up rainfall might not be reliable. The Declared Cradle Coast Regional Land Use Strategy 2011, page 31 remarks on then future trend of '*drier summers*'.

The author of the application does not seem to anticipate a problem with water availability. In the past, then owners have drawn on their own domestic bore to top up the tank through the summer – though this application makes no mention of this. Possibly such a statement would then draw attention to the possibility of water depletion for others who also rely on bores. This problem will be further addressed in the SEAM section of this objection.

Further, DA 216005 asserts that the existing tank can provide adequate levels of water quality to the church, shed and laundry. In 2014, private and council water testing of a stormwater outlet from 468 West Pine Road revealed E.coli levels that were alarmingly high. At the time a councillor representative indicated that it might be due to birds or wildlife on the roof of the shed. DA 216005 states that the roof water drains into the tank for drinking. How then, can then author of the report state that water quality be adequate when past water sampling had shown health concerns?

Relating to stormwater, Planning Consultant Korlan Pty Ltd noted in DA 215177 – pertaining to 468 West Pine Road in June 2016 – that 'the site is not connected to a reticulated storm water system. Disposal of concentrated storm water drainage from buildings and hard surfaces (including car parking areas) **need to be contained on site**. The tank would not, and does no, keep stormwater from its roof on site. The tank needs to be set back further from the site boundary to ensure that storm water from its 50 m² roof catchment is retained and dealt with on site. At present, storm water runs from the tank roof onto the ground and then over the boundary – therefore storm water is not retained and managed from the tank in its current location.



Stormwater from the tank roof is not able to be retained and managed on the property – with the tank in its current location. Exceptional circumstances have not been provided as to why the tank should receive relaxation of setbacks to 30 cm.

26.4.2 Location and configuration of development:

The objective states the location and configuration of development is to provide **reasonable** consistency between sites for setback from a frontage, height of buildings, and location within the landscape. A 200mm setback does **not** comply with is objective in the IPS.

DA 216005 requests that the laundry be placed so that it sits 20 centimetres within the title boundary. This structure, like the tank, is located beside a 100 kph zone road – and is currently located 1.8 metres (DoJ Report page 30) over the boundary on crown land.

The question must also be asked - is it a bathroom or a laundry? Generally, a laundry does not contain a bath (as shown in the DA 216055 supplied floor plan on the business facebook site).



The owner says it is over the boundary but 2.5 metres inside fence line. Laundry is over the boundary by about 1.8 metres.

468 West Pine Road West Pine BSR 0550/14/10

The DoJ Report BSR0550/14/10 (page 31) recommends that the laundry be moved **within the building line** or demolished. Council gave this directive to the owner more than two years ago.

The building line is 18 metres from the centre of the road DOJ BSR0550/14/10 p14. This distance is indicated in the picture to the right, (building line distance shown) there is ample room in the top right hand side of the photo to accommodate this recommendation – as shown in the response to 26.4.1.



There is confusion at this part of the application ... the author has stated that the '...proposed new structures and their setbacks ...' for the laundry is to be '... 200 mm from the Daveys Road Frontage, 14 m from West Pine Road frontage ...'

On the site plan, 200 mm is indicated from the West Pine Road Frontage, not the Daveys Road Frontage, yet in the application, 26.4.2 Location and configuration of development - 14 metres is given from West Pine Road.

Certainly the latter of the two confusing distances would be preferred – though 14 metres still wouldn't meet the recommendation of the DoJ report's 18 metres. Until such discrepancies in this application be corrected, the application should not be considered.

What's being applied for? 20 centimetres or 14 metres as a setback from West Pine Road?

The author claims that the laundry needs to have a relaxation of setbacks due to the location of septic tanks and for convenience to residents in the church. Then configuration of the waste water management systems might indeed limit available ground in the church garden, but convenience is not an argument that could be suitably used to relax a setback standard. In fact, the majority of people on this site are accommodated in the shed, so the laundry would be more convenient nearer the shed – and there's plenty of room to the north eastern aspect of the shed for it to be positioned there.

The DoJ investigation report states that on 10th August 2010, an Estimate of Cost Statement was provided as part of a requirement for a Certificate of Likely Compliance. The following was 'consistent ...nominated by the owner ...' and included the following ...

(b) A new kitchen with laundry facilities.

So, when the owner of this business, who is also the builder, nominated the building works that would be taken to convert the church to a dwelling, a laundry was indicated to be incorporated into the kitchen. Such being the case, it is irrelevant for the laundry to be necessary in the garden area – and available to the church dwellers.

The owner builder had stated that a laundry would be incorporated into the church's kitchen.

There has never been any indication that the shed has its own laundry facilities, therefore it would benefit this business to locate the laundry in closer proximity to the habitable building that does not have laundry facilities.

DA 216005 states that the tank must remain in its current location because it is needed beside the shed and is in the lowest position on the title.

It should be noted the owner has stated he excavated the site for the tank – therefore creating the lowest point. This could be done elsewhere on the title inside the building line.

The height of the two storey shed is another reason why the tank could be placed anywhere on the title – in the setback zones - and still receive ample fall to collect water. Similarly, the height of the church gutters would also allow for similar suitable fall – therefore the tank should be moved within an appropriate setback.

At its current location it is stated in the application for DA 216005 - some minor excavation work was done to prepare the site for the tank – and with the SEAM report stating only a 1 – 2 degree fall on this site, any position that complied with mandated frontage set backs would be suitable. Any gradient would be easily excavated to allow for the tank to sit at a 'suitable' height to collect water. Neither topography nor lack of available space are suitable reasons to cause the tank to remain with a setback of 300 mm.

The application is also controversial in its request for setback relaxation of the tank. A setback request is for 300 mm, yet the tank wall is not 300 mm from the boundary survey marker. However, the tank outlet protrudes toward the boundary further than this setback, meaning the distance requested in this application is false and misleading. This evidence shows that the tank is not 300 mm within the boundary – in fact it continues to encroach partly on Crown Land.



Tank set back less than 300 mm.

Tank outlet protrudes 300 mm.

Tank not set back 300 mm – as claimed.

Therefore, the tank is encroaching on crown land and must be moved.

Setbacks must not be relaxed.

The DoJ recommendations should be followed.

Erroneously, DA 216005 endeavours to make the claim that the streetscape has been predetermined by the church. False and Misleading. Up until July 2016 the Church did not have a setback and was in fact historically placed partly on Crown Land. Therefore, it did not set the standard for 'minimal setback streetscape character' as it did not have a setback. DA 216005 states that the shed assisted on setting the standard for streetscape setbacks. It should not – as it was positioned illegally without approval and without consent from the Crown Lands Department. Therefore, the streetscape has been illegally created by the placement of a laundry, shed and tank – and all of them have never received planning approval. The author's rationale is therefore inconsistent with the actual facts.

Further, there is no other structure within 100 metres of this site that has any similar relaxation of setback. This is a requirement of the IPS for streetscape to be considered.

The IPS 4.1 Planning Terms and Definitions is specific in considering streetscape – dictating determining factors as needing to be within 100 metres to be considered relevant. In this case, the benchmark for the 100 metre radius is the Church.

The shed, laundry and tank are the only structures with a relaxed setback within 100 metres of the church (historic) and must not be considered as they have been willingly positioned there without authority. Setbacks should be mandated in this instance – as good reasons have not been provided to relax them.

Once again, the DA 126005 reports erroneous facts. It states that 'the laundry is located where a toilet used to be located for many years. False and misleading.



This picture from Google street view shows where a toilet was located for many years – and it is nowhere near where the laundry has been sited.

It appears that the old toilet has been moved to nearer the West Pine Road frontage and stood near the laundry – is this an attempt to legitimise the author's erroneous statement? Either way, it does not. **The laundry did not replace where a toilet stood for many years.** We object because deceptive comments like this has been made as supporting evidence in this application.

DA 216005 indicates that because the tank is inside the fence line, it is 'reasonably compatible with the existing buildings and also compatible with the streetscape.' A fence line is not, and has never been, the IPS's rule of measure for appropriate structure placement.



The author then makes an attempt to justify the placement of the proposed stormwater trench because it would be within the fence line and hidden from view. Just because something is out of sight doesn't automatically legitimise its existence.



Water pools in the area where an absorption trench is proposed.



Proposed area drains poorly, is unfenced, previously identified as site for location of potential future fire escape – reasons not to accept the location of the proposed stormwater trench

The location and configuration of the stormwater trench is certainly flawed. As seen in these photos, this area does not drain adequately and is not suited for a site for an absorption trench. Further, it is unfenced and vehicles, farm equipment or visitor parking could simply drive onto the verge and damage the trench. Being so near building, it would not be acceptable for rising damp and foundation softening. Should the trench require maintenance – lengthening etc – there is not enough room to provide a viable solution to any unforeseen problems. As previously stated, the proposed site is also subject to irrigation water being liberally applied to it, thus reducing its effectiveness as an absorption field area.

Further, the applicant provides confusing detail and contradicts the SEAM engineering design for the absorption trench. The author states that the trench would be ‘approximately 600m deep.’ The building foundation would likely be undermined or weakened with such a deep trench and bedrock and ground water would be problems for the designer. This application should not be considered with such discrepancies present.

Considering all these factors, it is considered that there is not compliance with the Performance Criteria.

26.4.3 Location of New Sensitive Use Development:

It should be noted that DA 216005 appears to make way for passive approval to be achieved for the placement of the unapproved shed. This should not happen. The shed has never received planning approval.

A proper, formal Discretionary Application process should be enacted where planning approval for this shed is also retrospectively sought.

The location of the church is not being questioned, though the use of the church requires clarification.

In this section, the author states that it is approved as residential, but makes no mention of shared living accommodation as was done in other parts of the application. The tank and laundry are unlikely to have any ‘significant impact on the sensitivities’ of this location when moved within the appropriate setbacks – as available area, topography and convenience to the main group of people on this site allow.

E4 Change in Ground Level Code:

This part of DA 216005 is also confusing and provides conflicting evidence.

The author states that the tank is '... approximately 300 mm from the boundary' while earlier in the application in 24.6.2 Location and Configuration of Development the author states '... 300 mm from Daveys Road frontage' Further in the same section, then author states 'The 110,000 lt water tank is and would be located 300 mm from the boundary.'

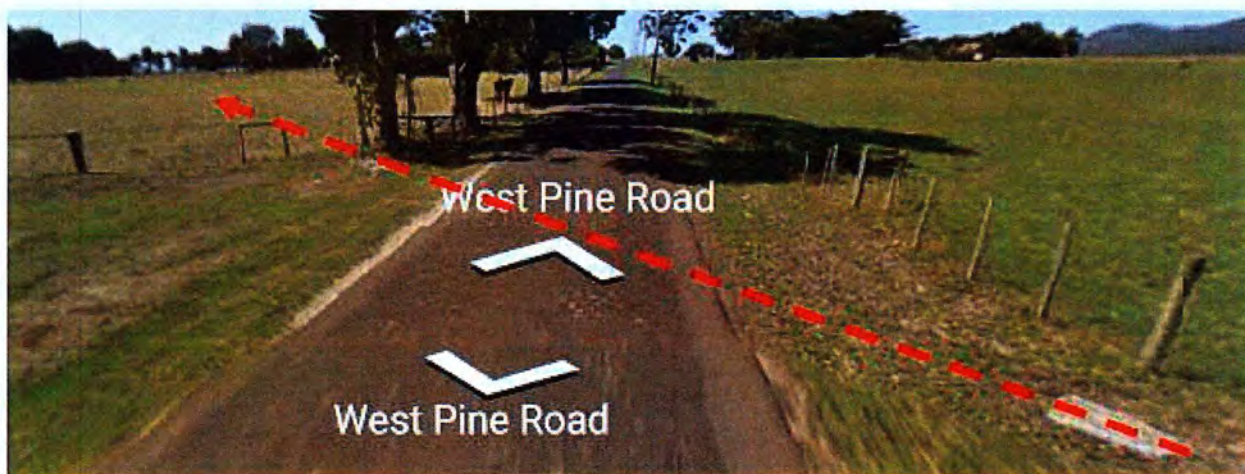
So, what is the actual distance being requested – 300 mm or approximately 300 mm. Until this is established, this application cannot be considered.

The IPS has clear guidelines for this code:

E4.4 (b) change in existing ground level or natural ground level –

(ii) is not less than 1.5 metres from a boundary to the site

Clearly, the tank does not meet this requirement – and neither does the laundry. Both structures are less than 1.5 metres from the boundary to the site therefore they are not exempt from this code.



Telstra inspection plates indicate that Laundry proposed placement is not less than 1 metre from underground utility service E4.4 (b) (v) – therefore this application does not comply with this code.



Laundry location needs to be behind the building line – as recommended by the DoJ, with appropriate setbacks and away from utilities – like the indicated Telstra line.

Recommendation of DoJ report BSR 0550/14/10 page 31

'... ensure that the laundry is moved within the building line or demolished.'

E9 Traffic Generating Use and Parking Code:

Parking is, and continues to be, a haphazard affair at PBR.



E9.3 Definition of Terms details the following ...

Parking space:

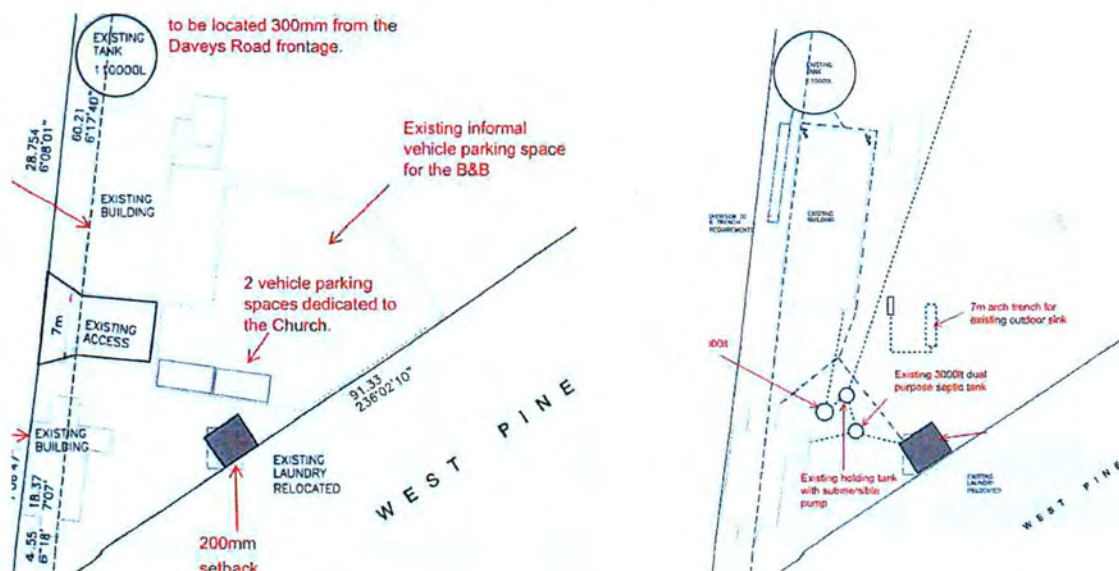
Means an area allocated **and marked out** for the parking of one vehicle and includes any manoeuvring space to access it.

E9.6.2 Design of Vehicle parking and loading areas details the following ...

(g) be formed and compacted with sub base and surfaced with an all weather dustless surface, such as bitumen, concrete, or brick permeable paving blocks; and

(h) provide for the collection, drainage and disposal of stormwater.

The supplied Site Plan details dedicated parking spaces for the church (although the surface and stormwater are not mentioned) – but none for the visitor accommodation.



The provided Site Plan indicates that the 7 metre absorption trench, shown on the provided Drainage Plan, is within the car parking area – meaning trucks, heavy service vehicles and cars are driving over it and parking on it. This is not appropriate. Traffic parking and movements over such an area creates hard soils, and destroys vegetation - creating less efficient processes for water absorption and evaporation.



The SEAM report states a surface water cut off drain is to be installed above trenches. Where is it located in the instance of this 7 metre trench – and the main absorption trenches for that matter.

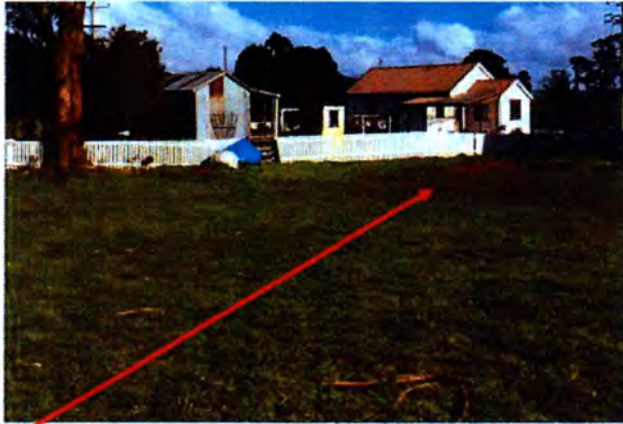


Photo 1: Laundry to left of photo, residential church building to left of photo.

The author's supplied photo shows disturbance to vegetation from traffic movements in the vicinity in of the drainage trench – in the designated car park.



Further evidence of disturbance from truck movements - where absorption trench is indicated on drainage plan.



On 31st May and 1st June 2014, the PBR owner installed the 7 metre absorption trench ... seen in the photo in the vicinity of the white posts – indicated by arrows. Council communication stated that the builder performed plumbing works for which he was not licenced to perform on this occasion also.

Considerable soil was also disturbed on the fence line beside the laundry area – as indicted in the photo taken just after the owner had completed the work. Whatever took place there was not detailed on any drainage plan. This same area is now apparently a dedicated parking zone for the church 'residents'. The Drainage Plan 216059 – 3 of 9 Amendment 6 states:

'Please note that the location and dimensions of drainage services are indicative only. Please see the as constructed drawings (on the council record) for more precise locations and dimensions of drainage services.'

Originally, 'as constructed drawings' of the drainage were included in the DA 216055 application. Upon Re advertising, they had been removed.

However, the application letter from PDA Surveyors that accompanied the re advertised application continued to state ...

‘..... I have also included:

‘As constructed drainage diagrams by Graeme Cure’

Accepting the invitation to consult the drawings on council record, the following were received.

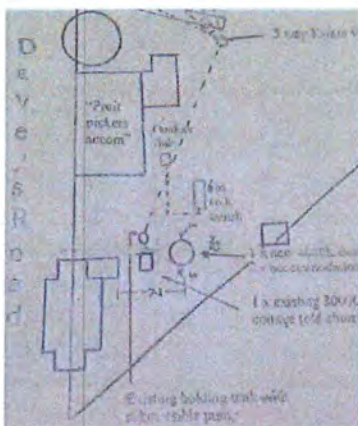


Figure A

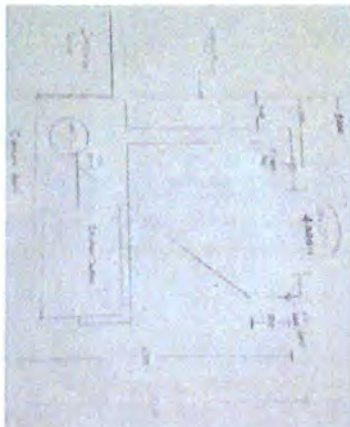


Figure B

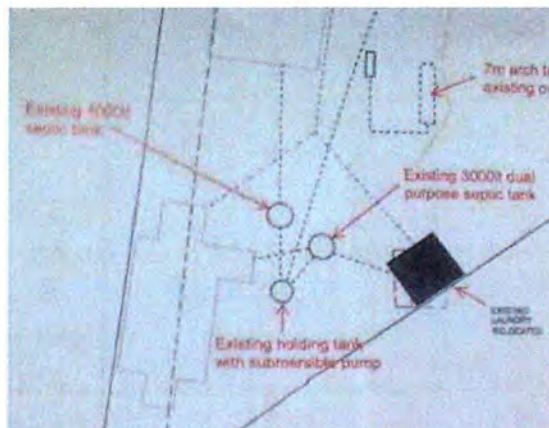


Figure C – already in DA 216005

Figure A shows the pump for the two septic tanks to the north and west of the tank locations

Figure B Shows the pump in a similar configuration

Figure C is the Drainage plan presented with the pump south of the two tanks and with the tanks in the opposite order to the as constructed drawings. Surely, if the drafting had been done from the as constructed drawings, the arrangement of the waste water system's main features would have been more closely reflected. This raises concerns about the accuracy of other aspects of the plans presented.

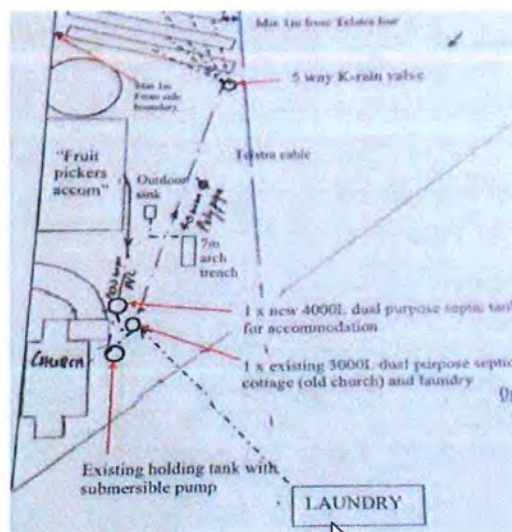
Neither of the as constructed drawings indicate where the waste water from the laundry actually goes.

To further complicate matters, the SEAM site plan presented in DA 216005 shows the septic configuration differently to the site plan as received from council.

On site waste water systems have to be designed and certified by an accredited engineer.

Neither Figure A or Figure B are signed and dated by any person – with or without accreditation. Their validity as acceptable documents is therefore questioned.

Mr Cure is cited as being the author of the 'as constructed drainage diagrams' by the PDA report author. Does Mr Cure have the qualifications and authority to present as constructed drainage drawings on behalf of the SEAM design engineer?



Shouldn't the system designer, or a qualified delegate, have witnessed and then certified the system's correct installation - as per their design requirements while the excavations were open.

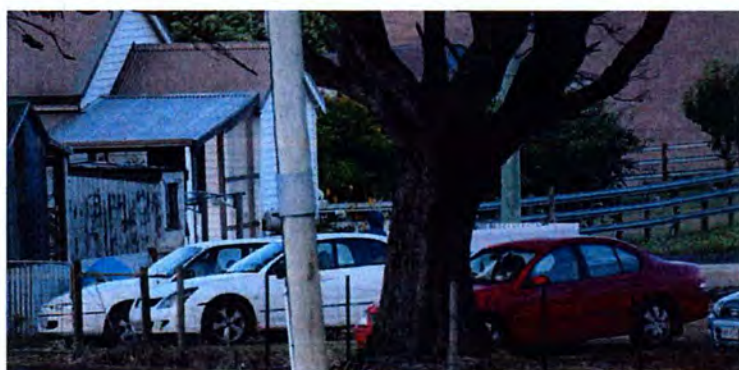
These drawings therefore are not suitable to be used as evidence that the waste water system has been correctly installed, making DA 216005 unable to be appropriately assessed. The laundry relies on this system – and there is no credible signatory in this application to acknowledge that the system is installed as per the engineered design or as constructed drawings.

Further, the 7 metre arch trench as shown in the DA 216005 drainage plans is represented as a 6 metre trench in the as constructed drawing – Figure 1 that was later obtained from council. Which calculation is correct and where is the evidence that this particular absorption trench was designed and certified by an appropriately qualified person. This trench is in a supposed car park area.

The author of DA 216005 states that the laundry and tank have no impact on parking or traffic movements and therefore 'no further parking submission is required.' This is possibly correct with the laundry and tank in their current position, however, the application fails to deliver 'exceptional circumstances' why the setbacks should be relaxed ... so parking might have to be significantly altered. If nothing else, parking on the absorption trench and whatever is located near the laundry must be addressed.

The site plan shows the designated car parking for the church and the shed. Why doesn't it show dedicated spaces for the appropriate number of cars relevant for the capacity of the shed? It saw merit in doing so for the church.

The following images show that the cars at this site do not park in the area that has been shown by DA 216005. Once again misleading information has been supplied.



Cars parked on absorption trench
– marked on the plan supplied in DA 216005 as a car park
area.



Car parking does not occur in the designated area as claimed by the application.

E10 Water and Waterways Code:

The SEAM report has some anomalies.

It states that an audible and visual alarm needs to be hard wired back to the house – which house? Does the author mean the *church* or does he mean the business owner's house located on an adjacent title? This needs to be clarified as it is confusing information.

This report seems to be a conglomeration of many previously prepared reports for this business and is therefore a confusing supporting document. For instance, it states that the size of the title is 5197 m². The new title states that it is 3194 m².

The site plan on this SEAM document shows a diagram of trench placement, but also states in the 'Notes' on Page 11 that absorption trenches are to follow the contours of the land.

The provided plans – and any contour map – shows that the absorption trenches have been already installed differently to the SEAM engineer's notes and requirements. They are in fact perpendicular to the contour of the site, not following the contour as the system engineer stated that they had to be.

Why have current trenches on this site not been placed in accordance to the SEAM engineered notes – and who signed them as being installed correctly.



Does this provide confidence in the proposed stormwater trench being installed correctly?

The supplied SEAM site plan also shows details that have been added by hand. The location and configuration of the some aspects of the wastewater management utilities are different to the way they are shown on the Drainage Plans. Conflicting and confusing – as which ones are right.

DA 216005 states in the SEAM report that 'The only development with any potential to impact on ground water is the on site waste water system. The potential has been considered and addressed in the report by SEAM dated 6 November 2015.'

The SEAM report, Page 7, 'Risk to adjacent bores' indicates that risk to ground water contamination is low – as the nearest bore is 200 metres away. The author of the report provides a map from the groundwater Information Portal as supporting evidence. Once again, this application provides false and misleading information.

Neither of the lots has a water right to any irrigation scheme or permanent irrigation water source, nor do they have any on-farm catchment dams. Water supply for the residence on 161363/2 and facilities on 161363/1 are provided by a bore on 161363/2.

There are no known Scheme overlays affecting the lot.

See the Appendix for title details.

PID	Title Reference	Address	Hectares (Approx)
3097573	161363/2	450 West Pine Road, West Pine	2.6
3097581	161363/1	468 West Pine Road, West Pine	0.4



Figure 1: Location

A previous Discretionary Application for Visitor Accommodation application - same owner, same business, same property - presented the information shown in the image labelled Figure 1 Location.

The report states that water for the church title would be supplied from the bore on the owner's title.

Further, page 9 of the same report states ...

I have been informed that water for the proposed development will be sourced from the existing bore located on 161363/2 as well as capturing rainfall from the development and holding it in an above ground tank (see Figure 4).

Therefore the assertion in the SEAM report that the nearest bore is over 200 metres away is simply not true. Did the SEAM consultant discuss this with the owner prior to presenting the information? The author of the SEAM report does not state the depth of the water in the owners bore, nor any other detail about it – instead detailing information that made the impact on the nearest bores seem insignificant because of its 200 metre distance away.



From the bore at the Owner's residence to the Shed accommodation is around 90 metres.
It is less than 70 metres to the wastewater absorption drains.

The nearest bore is not 200 metres away from this development.

Estimates

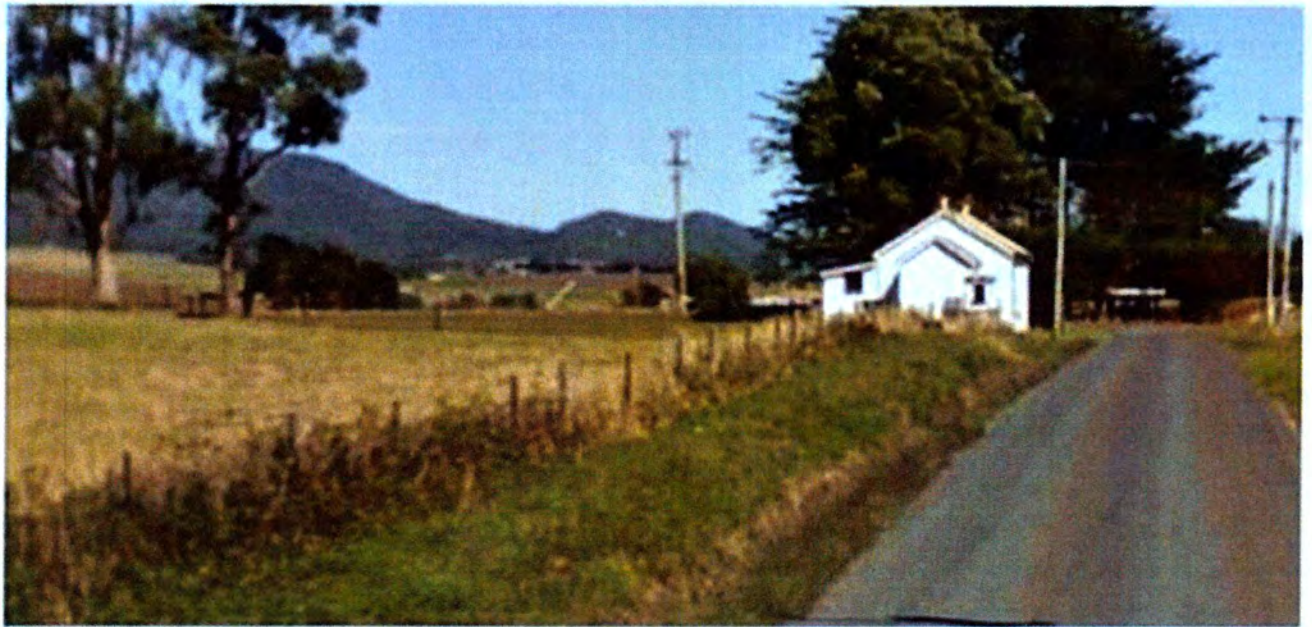
Another example of the confusing and or misleading information presented in this application is the estimated value of the development. The introductory document states that the value of this planned proposal is \$10,000.00.

Surely, this is not accurate. The application should be viewed as if the structures were a proposal – awaiting approval, prior to building, plumbing and other relevant permits being given. In such, the value should reflect the cost of purchasing, constructing and placing the tank, laundry and absorption trench on this site. The value of \$10,000.00 is therefore under estimated. The tank alone is of that value, without excavation etc of the site, building and repositioning the laundry and installing the absorption drain – along with associated plumbing and electrical costs.

Why would the applicant undervalue the cost of this development? What is there to gain from not reflecting its real value?

The DoJ report showed that gross underestimation of costs had been a feature of previous applications from this site also.

Present Use	Residential and Visitor Accommodation
Proposal (intended use)	Visitor accommodation (outbuilding - laundry) and water tank
Development Type	Discretionary Permit Area <80m2
Estimated Value of Development	\$10,000



Pine Berry Retreat

A comparison of the development between 2010 and 2015

In Summary:

As members of the West Pine community we object to any proposals that do not give consideration for the zone in which they are situated and try to bend the rules. The guidelines given in the Interim planning scheme are supposed to protect our precious resources like our beautiful red soil! To approve a retrospective planning application that has had no consideration to the scheme is setting a dangerous precedent.

This proposal and the plethora of errors that preceded it has significantly affected our quality of life – providing much stress. We live in a wonderful rural setting that at times has to be seen to be believed. We consider ourselves very blessed to live here. We have been here for 17 years and believe it is a wonderful environment to raise our children.

We have always resided amicably with all neighbours and members of our community and have never had any personal issues with anyone. This amicable setting however has been somewhat spoilt by the lack of process and procedure we have seen on the site where this application relates.

The Interim planning Scheme is there to protect ALL and should not be ignored and this is why we object to this proposal. The blatant disrespect for process has to stop. The planning Scheme adherence to desired future character statements should protect the Rural Resource Zone.

We believe that this application should be rejected as it does not follow the guidelines of the Interim Planning Scheme and certainly has not met the 8.1 Application Requirements 8.1.3. Further, The applicant has not provided exceptional circumstances why the setbacks should be relaxed. The application in some ways simply seems to be requesting a passive acceptance of the planning indiscretions that have occurred at that site by a knowing developer.

The site does not have topography and area limitations that prohibit set back distances being met. If there were to be conciliation on the distance, the Department of Justice's recommendations should at least be followed – and the building line protected.

Upon request, DEV2009.130 was viewed at the council. This was also an application process that appears to have had major issues. It is referenced in DA 216005 repeatedly as being the foundation of the developments that were to follow. It would be wise to review DEV2009.130 to get a better understanding of the issues associated with this development. The SEAM report changes several times in the DEV2009.130 file – with the system design and configuration evolving with each new revision. Originally a single absorption drain is shown, following the contour of the land and with the plumbing located to the west of a proposed shed. The shed – later to be called a Bed and Breakfast – is then shown in a later revised SEAM application with the same reference number with the word 'proposed' removed. The tank appears in a later edition of the application. Continual change and modification and all in the same file referenced as DEV2009.130. The application was supposedly just for a boundary adjustment and change of use for the church to a dwelling.

We appeal to the planner to abide by recommendations of the Department of Justice report BSR0550/14/10 and allow due process to finally be followed. We have attached the Department of Justice Report for referencing purposes.

Yours sincerely,



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10/8/2016

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