

**DEVELOPMENT ASSESSMENT REPORT**  
**Shire of Augusta Margaret River**  
**18 April to 24 April 2024**

**APPLICATIONS RECEIVED**

Date Rec'd	Reference No.	Address	Proposal
<b>PLANNING</b>			
18/04/2024	P224288	11 (Lot 14) Bussell Highway, Margaret River	Amendment to Planning Approval
18/04/2024	P224289	1 (Lot 18) Fairywren Drive, Margaret River	Outbuilding (Shed)
18/04/2024	P224290	12 (Lot 28) Cross Street, Augusta	Carport/Patio
18/04/2024	P224291	17 (Lot 715) Burke Circle, Cowaramup	Swimming Pool
18/04/2024	P224292	12 (Lot 10) Plumage Close, Margaret River	Outbuilding (Water Tank)
22/04/2024	P224294	11 (Lot 123) Lesueur Place, Gnarabup	Sea Container
23/04/2024	P224297	3 (Lot 70) Oxley Place, Augusta	Holiday House Renewal
24/04/2024	P224302	7 (Lot 221) Mecklenberg Drive, Margaret River	Bed and Breakfast
24/04/2024	P224303	211 (Lot 9007) Darch Road, Margaret River	Amendment to Local Development Plan (Stage 2) Spindrift Estate
<b>BUILDING</b>			
19/04/2024	224239	10 (Lot 528) Riesling Street, Cowaramup	Alterations and Additions to Existing Building
19/04/2024	224240	494 (Lot 272) Holben Road, Cowaramup	Single Dwelling, Patio and Rainwater Tank
19/04/2024	224241	382 Boodjidup Road Margaret River	Shed
19/04/2024	224242	2 (Lot 64) Groupthree Drive, Kudardup	Single Dwelling, Garage, Patio, Ancillary Dwelling and Rainwater Tank
19/04/2024	224243	7 (Lot 604) Truffle Circuit, Cowaramup	Single Dwelling and Verandah
<b>Exploration Licenses for Comment</b>			
Nil			

**APPLICATIONS DETERMINED UNDER DELEGATION**

Date Rec'd	Reference No.	Address	Proposal	Outcome
<b>PLANNING</b>				
04/01/2024	P224006	106 (Lot 1) Darch Road, Margaret River	Winery & Ancillary Rural Industry (Distillery)	Approved
30/01/2024	P224074	Holiday House 17 (Lot 877) Chamberlain Place, Augusta	Holiday House	Approved
13/02/2024	P224117	64 (Lot 50) Bussell Highway, Cowaramup	Extensions to Existing Commercial Premises	Approved
27/02/2024	P224155	97 (Lot 63) Treeton Road North, Cowaramup	Holiday House (Renewal)	Approved
06/03/2024	P224172	13 (Lot 19) Hideaway Entrance, Cowaramup	Single House and Outbuilding (Shed)	Approved
11/03/2024	P224182	22/5 (Lot 22) Station Road, Margaret River	Holiday House (Renewal)	Approved
22/03/2024	P224222	Lot 1003 Redgate Road Witchcliffe	Amendment to Local Development Plan (The Leeuwin at Witchcliffe)	Approved
28/03/2024	P224231	407 (Lot 1740) Donaldson Road, Cowaramup	Dam (Retrospective)	Approved
18/04/2024	P224291	17 (Lot 715) Burke Circle, Cowaramup	Swimming Pool	Approved
18/04/2024	P224292	12 (Lot 10) Plumage Close, Margaret River	Outbuilding (Water Tank)	Approved
<b>SUBDIVISIONS</b>				
Nil				
<b>LOCAL LAW PERMITS</b>				
08/04/2024	P224259	Rivermouth Car park, Portion of Reserve 41545, Rivermouth Road, Prevelly	Local Law Permit to operate mobile food business - Hungry Brown Cow	Approved

18/04/2024	P224293	Reserve 46732, Wallcliffe Road, Gnarabup	Variation to Permit to conduct Pilates classes - Pilates in the Wild	Approved
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### LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
<b>PLANNING</b>				
18/01/2024	P224045	52 (Lot 1041) Heron Drive, Margaret River	Retrospective Development Outside of Building Envelope - Earthworks (Permaculture Garden - Swales)	Approve subject to conditions
27/03/2024	P224229	0 (Lot 752) Tingle Avenue, Margaret River	Amendment to JDAP Approval P222528 for Community Purpose (Specialist Disability Accommodation)	Approve subject to conditions
27/03/2024	P224229	10 (Lot 34) Tallwood Loop, Witchcliffe	Building Envelope Variation (Single Dwelling and Outbuilding)	Approve subject to conditions

### DEVELOPMENT ASSESSMENT REPORTING PROCEDURE

#### Assessment of Development Applications (DAs)

For the purposes of this procedure there are three types of development applications:

#### Level 1

DA not advertised

#### Level 2

DA is advertised; and

- No submissions; or
- Submission received but meets one of the following:
  - Not related to the reason the DA was advertised.
  - The development is modified to comply or to remove the element of concern to the submitter.
  - Submission is either of support, conditional support or is 'indifferent'; or is from a non-affected person.

#### Level 3

A submission in opposition is received from an 'affected' person or special interest group in relation to the reason the DA is advertised or the development application is recommended for refusal.

**Note:** This procedure applies to development applications only. It does not apply to structure plans, scheme amendments or other types of planning proposals.



**DEVELOPMENT APPLICATION ASSESSMENT**  
**Report to Manager Planning and Regulatory Services**

**Proposed Retrospective Development Outside of Building Envelope - Earthworks**  
**(Permaculture Garden - Swales and Filtration Ponds)**  
**52 (Lot 1041) Heron Drive, Margaret River**

**Major (Level 2 – 1x objection - DAR)**

**P224045; PTY/11273**

**REPORTING OFFICER : Harriet Park**  
**DISCLOSURE OF INTEREST : Nil**

General Information	
<b>Lot Area</b>	10,100m2 (1ha)
<b>Zone</b>	<b>Rural Residential (RR13)</b>
<b>Proposed Development</b>	<p>Planning approval is sought for retrospective development outside of the building envelope. The development is in form of earthworks to create 4x 0.45m deep swales and 3x 0.45m deep filtration ponds to facilitate a permaculture garden. These works have already been completed without Shire approval. This development is located at the rear of the dwelling and creek line in the southern portion of the property and outside of the allocated building envelope.</p> <p>The existing soak in the south western corner of the site has planning approval (P222479 &amp; P223875). There is an existing creek fed soak on the eastern side of the site. The Shire's historical aerial imagery indicates this soak has existed since at least 2004 and is not part of this application.</p> <p>Any development outside of the building envelope is prohibited unless planning approval is sought.</p> <p>The location of the earthworks proposes variations to the required setback distances from lot boundaries for the rural residential zone.</p> <p>Variations proposed:          -Rear lot boundary setback 3.5m, in lieu of 30m.          -Side (eastern) lot boundary setback of 1m, in lieu of 10m</p>
<b>Permissible Use Class</b>	Single House (earthworks for domestic garden associated with residential use) – 'P' - Permitted
<b>Heritage/Aboriginal Sites</b>	None identified
<b>Encumbrance</b>	None affect this application
<b>Date Received</b>	18/01/2024





Policy Requirements	
Is the land or proposal referred to in any Council Policy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Structure Plans and Local Development Plans (LDP's)	
Is the land in any Structure Plan Area or subject to a LDP?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, state the Policy/Policies	Scheme Amendment No. 188 to Scheme No. 11 and Associated Structure Plan + Subdivision Guide Plan Lots 1-6 & 10-12 Sussex Location 403 and Lots 1-4 & 10-12 Sussex Location 727 Heron Drive Margaret River endorsed 20 March 2009

RR13



Extract of Structure Plan

The Structure plan identifies the building envelope and existing structures on the property prior to subdivision.

There is a 40m Landscape Protection Zone running through the central portion of the site (refer to extract from Structure Plan above) to protect the creek line. The southern area of the site also shows the original vineyard plantations which have since been removed.

**Schedule 7 – Special Provisions Relating to Development on RR13:**

- 5. A 40m wide Landscape Protection Zone applies to all water courses and no development with the exception of tree planting shall be permitted within this zone – The landscape protection area is discussed further in the planning comment section of the report below.

**An advice note is recommended to ensure the applicant is aware of the Landscape Protection Zone.**

- 9. Clearing of flora is only permitted within the allocated building envelopes - There is no vegetation clearing proposed.

**Planning History**

P98264 – Outbuilding additions approved 30/7/1998  
 P222479 – Retrospective Soak Dam approved 18/10/2022  
 P223875 – Amendment to Planning Approval P222479 approved 22/12/2023

**Building approvals:**

BLD215108 – Water tank – approved 18/3/2015  
 Building application for a dwelling - currently processing

**Advertising/Agency Referrals**

Has the application been referred to adjoining landowners/agency?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Has a submission been received by Council?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A

No. received: **1x objection**

**Details of Submission**

**Officer Comment**

**Private Submission 1: Objection**

The owner commenced extensive earth works at his property for the Permaculture Garden in 2023. The works continued on for months and were clearly not shire permitted, lawful or thoughtful of environment or surrounding neighbours.

Summary of the concerns raised by the objector below:  
 -excessive noise from machinery creating the swales  
 -dust pollution  
 -top soil erosion  
 -swales created a disturbance to the natural lay of the land and water course  
 -unsightly view for neighbours  
 -excavation too close to fence line compromising the health of existing vegetation and structural integrity of the boundary fence.

Submitter has doubts surrounding this permaculture method as the owner has destroyed his top soil, continually pulls water out of its natural course and heavily impacts the peaceful living of surrounding neighbours.

Noted. As the swales are already existing and this is assessed as a retrospective application the works are already complete, therefore no further works are required to create noise or dust impacts on neighbours. The visual impact of the development shall be reduced by applying a landscaping condition to the development approval instructing the owner to install vegetation screening along the southern portion of the eastern side lot boundary and the rear southern lot boundary to screen the development area from view of surrounding land owners. See officer discussion against LPS1 below for further explanation.

DWER and the Shire’s environment department have no concerns regarding the retrospective development proposal.

The complainant raised further concerns regarding pumping water from the existing soaks on the property and works to the creek line impacting water flow down stream which are not assessed, nor applicable to this application.		
<b>Agency Comments</b>		<b>Officer Comment</b>
<b><u>Department of Water and Environmental Regulation (DWER)</u></b> Lot 1041 Heron Drive, Margaret River (Lot 1041) is located within the Blackwood Groundwater Area proclaimed under the 'Rights in Water and Irrigation Act 1914' (RIWI). Any groundwater abstraction in this proclaimed_area is subject to licensing by the Department, other than supply from the shallow watertable (superficial aquifer) for domestic and non-intensive stock watering purposes. The Department can advise that following an inspection of the watercourse, it has completed investigations into the earthworks subject to this retrospective DA. <ul style="list-style-type: none"> <li>The Department has not identified any breach under RIWI.</li> </ul> As such, the Department has no further comment to make and expects the DA to be addressed under Local Government planning powers.		Noted.
<b>Internal Department Comments</b>		<b>Officer Comments</b>
<b><u>Environment Department</u></b> <b><u>Notes from site visit on 28 June 2023</u></b> following a request to inspect potential compliance issues on the above property, including the following: <ul style="list-style-type: none"> <li>Clearing native vegetation within the creek line;</li> <li>Pumping excessive amount of water to the approved dam (DWER issue);</li> <li>Earthworks associated with the permaculture garden without approval;</li> <li>Unapproved crossovers over creek line (DWER);</li> </ul> It appears clearing has been undertaken outside of the building envelope. It is also evident that earthworks have been taking place associated with a permaculture garden. This level of earthworks requires planning approval. The issues relating to interference of the watercourse and taking of a water is a DWER matter.		Clearing of native vegetation along creek line, pumping of water to the approved dam, constructed vehicle crossovers over the creek line issues all dealt with through DWER who have advised no breach has been identified under the 'Rights in Water and Irrigation Act 1914' (RIWI) (see comments above).  Remaining planning compliance issue 'earthworks associated with permaculture garden' outside of the allocated building envelope and development within the Landscape Protection Area have been addressed further below.
<b>Assessment of Application</b>		
Is the land referred in the Heritage Inventory?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there any Contributions applicable?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there any compliance issues in relation to existing development?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	There is a history of non-compliant works being undertaken on the site in relation to the existing 2x soaks and the retrospective earthworks (permaculture garden). 1x soak was existing prior to 2004 as per the Shire aerial imaging and therefore does not require development approval The second soak received retrospective approval in 2022 (P222479). The applicant is seeking retrospective approval for the remaining development (permaculture garden) through this development application in response to two neighbour complaints received by the Shire in June 2023 (compliance matter - P223389).	
<b>R Codes</b>		
Are R Codes applicable?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Local Planning Scheme No. 1 (LPS1)</b>		
Are the development Standards applicable?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

<p><b>Development Standards (Schedule 9)</b></p>	<p>Front Setback: 30m required - &gt;30m proposed - complies  Side Setback (west): 10m required - &gt;10m proposed – complies  Side Setback (east): 10m required – 1m proposed - <b>variation</b>  Rear Setbacks: 30m required – 3.5m proposed – <b>variation</b></p> <p><u>Rear and side (eastern) setback variation:</u></p> <ul style="list-style-type: none"> <li>• The earthworks associated with the permaculture garden consist of shallow trenches (swales) 0.45m deep dug along the land's contour with a berm (0.45m high) on the down hill side created with the soil from the trench excavation.</li> <li>• The earthworks are dug along contour ridge lines matching the natural slope of the land towards the creek line running through the middle of the site. A maximum height of 0.45m from natural ground level for the creation of the bunds can possibly be viewed from the neighbouring properties. All excavation is not visible from neighbouring properties as it is below ground level. Spoil from the swale construction is reused to create the bunds. The 0.45m height of the bunds is considered minor and are unlikely to cause any adverse visual impacts to surrounding land owners.</li> <li>• The development located 1m from the side (eastern) lot boundary has a sufficient separation distance of approx. 50m to the existing dwelling on the neighbouring eastern lot.</li> <li>• The development located 3.5m from the rear lot boundary has a separation distance of approximately 18.5m to the existing dwelling on the neighbouring property at the rear.</li> <li>• The development area is already screened by existing established vegetation to the north and west, therefore it would be reasonable to request the development area to be screened from the adjoining eastern and southern properties by installing additional vegetation along these boundaries.</li> <li>• The application is retrospective, and the earthworks are already existing. Although one objection has been received by a neighbour, any visual impacts/concerns can be addressed through installing vegetation screening along the eastern and southern boundaries where the development area is most exposed to the view of the neighbours. It is not considered necessary to require the earthworks to be relocated to comply with the rural residential setback requirements.</li> </ul> <p><b>Applied condition of development approval to install landscaping along the eastern and southern lot boundaries.</b></p>
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<p><b>4.22 - Development in the Rural Residential Zone</b></p>	<p>-4.22.2 (a) states that all development shall be confined within the limits of the building envelope unless otherwise approved by the local government.</p> <p>In this instance the earthworks are required to facilitate the permaculture garden of which can be considered as landscaping associated with the residential use of the land. The development of the permaculture garden will facilitate planting of additional fruit trees which is permitted outside of the building envelope. As the development is resulting in the planting of additional trees on the property outside of the building envelope then the location of the development can be supported.</p> <p>-4.22.2 (g) All development shall comply with the following requirements: (vii) all disturbed soil and earth works shall be levelled and rehabilitated to restore the visual amenity and appearance of the land;</p> <p>The proposal varies the above provision of the scheme. In this instance the soil excavated to create the swales is reused to create bunds to contain the water collected. The use of landscaping screening around the boundary of the development area will ensure there are no adverse visual impacts to surrounding neighbours.</p> <p>-4.22.4 Landscape, Rural Character and Watercourse protection</p> <p>a) A Landscape Protection Area (LPA) applies to all:</p> <ul style="list-style-type: none"> <li>(i) areas identified as LPAs on Plans of Subdivision or Structure Plans; and</li> <li>(ii) water courses within a definable bed and banks. The minimum width of an LPA is 20 metres including the stream width.</li> </ul> <p>b) Unless otherwise approved by the local government, vegetation within the LPA shall not be removed and where practicable replanting riparian vegetation stream zones with indigenous vegetation shall be encouraged to enhance the visual and rural amenity and to improve the health of the water course.</p> <p>d) Land shall not be used for any purpose which would:</p> <ul style="list-style-type: none"> <li>(i) detract from the rural character of the area generally;</li> <li>(ii) adversely affect any established vegetation on the land; and</li> <li>(iii) adversely affect a water course or the water quality within that water course.</li> </ul> <p>The proposal is partially located within a landscape protection area as identified in the structure plan that applies to the site. One of the swales is located within 10m of the watercourse, proposing a variation to this standard.</p> <p>To ensure that the swales do not lead to sedimentation issues and to achieve the objectives of the above aspects of the scheme, a rehabilitation plan of the watercourse area has been included as a condition of approval.</p> <p>-4.22.8The permaculture garden is intended to produce food for the land owner of the property and is not intended for commercial purposes. Therefore, there is no proposed agriculture intensive use of the property to be assessed against Clause 4.22.8 <i>Agricultural Uses</i> of the scheme.</p>
<p><b>5.10.2 Building Envelopes</b></p>	<p>5.10.2 states the local government may approve a variation to, or relocation of the building envelope where justification is provided by the applicant and the application is advertised to surrounding land owners. Ensuring the objectives of the rural residential zone are not compromised and the visual amenity and rural character of the locality will not be affected to any greater degree by the development.</p> <p>The proposal is for retrospective approval of earthworks located outside of the building envelope. Existing buildings and any future buildings are / will be located inside of the allocated building envelope. A building envelope variation is not necessary for this development application.</p>
<p><b>5.21 Development relating to waterways, creeks and other watercourses</b></p>	<p>5.21.1 Notwithstanding any other provisions of the Scheme, developments the subject of an application for development approval under the Scheme that:</p> <ul style="list-style-type: none"> <li>(a) reduce or are likely to reduce the natural flow of any creek or watercourse; or</li> <li>(b) direct any storm water, other water or liquid from any source to any creek, watercourse or wetland, will only be permitted where it can be demonstrated, to the satisfaction of the local government, that there will be no adverse impacts on the creek, watercourse or wetland and/or environment of the area within which the development is proposed.</li> </ul> <p>The proposal has been reviewed by DWER who have no objections to the proposal. The requirement for a rehabilitation plan has also been included which will assist with nutrient stripping and enhance the landscape function of the creekline.</p>
<p><b>Clause 67</b></p>	
<p>In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?</p>	
<p><b>Officer Comment</b></p>	<p>Yes.</p>
<p><b>In the opinion of the officer</b></p>	



i. Are utility services available and adequate for the development?	Yes
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	N/A – Development existing - No vegetation removal proposed.
iii. Has adequate provision been made for access for the development or facilities by disabled persons?	N/A
iv. Is development likely to cause detriment to the existing and likely future amenity of the neighbourhood?	No. Additional boundary landscaping applied as a condition of DA.
v. Is the development likely to comply with AS3959 at the building permit stage?	N/A
<b>Other Comments</b>	
Any further comments in relation to the application?	
<b>Officer Comment</b>	Noting the permaculture garden has already been constructed and no major concerns have been raised by DWER or the Shire's Environmental Sustainability Officer, the approval of the retrospective earthworks to create the permaculture garden associated with the rural residential use of the land is considered appropriate.  Conditional Approval is recommended.

### OFFICER RECOMMENDATION

**That the Manager Planning and Regulatory Services Grants Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the proposed Retrospective Development Outside of Building Envelope - Earthworks (Permaculture Garden - Swales and Filtration Ponds) at 52 (Lot 1041) Heron Drive, Margaret River subject to compliance with the following conditions:**

### CONDITIONS

- The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	P1 received by the Shire on the 18 January 2024
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- If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
- Residual earthworks and spoil from the swale and filtration pond construction shall not be left in the setback area between boundaries or stockpiled on site. Residual spoil shall be respread or reused on the subject site in such a way as to not cause an adverse visual impact or a nuisance to neighbours.
- This approval does not include use of the permaculture garden for commercial purposes.
- At all times, all stormwater and drainage run-off from the development shall be detained within the lot boundaries and managed to predevelopment flow regimes and/or disposed offsite by an approved connection to the Shire's drainage system in accordance with the Shire of Augusta Margaret River's Standards & Specifications.
- A Landscape Plan shall be prepared to the satisfaction of the Shire by a suitably qualified and/or experienced landscape consultant within 30 days of the determination. The Landscape Plan shall be drawn to scale and show the following:
  - Vegetation screening along the southern portion of the eastern (side) lot boundary and the entire southern (rear) lot boundary.
  - The location, name and mature heights of existing vegetation being retained, proposed trees, shrubs and ground covers on the subject site;
  - Any natural landscaped areas to be retained; and
  - Those areas that are to be reticulated or irrigated are demonstrated to be designed using water sensitive principles.
  - Planting schedule/timing.
- A rehabilitation plan shall be prepared and submitted to the Shire by a suitably qualified and/or experienced consultant within 30 days of the determination. The rehabilitation plan shall indicate the following:
  - the location and species name of existing trees and proposed plantings;
  - quantity of each species to be planted;
  - any soil treatment or mulching;
  - details of any weed control and maintenance;
  - quantitative completion criteria;
  - Detail the timing of planting; and
  - annual monitoring plan.

8. Landscaping and Rehabilitation shall be implemented, in accordance with the approved Landscape and Rehabilitation Plan, and shall be maintained at all times.

**ADVICE NOTES**

- a) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.
- b) A 40m wide Landscape Protection Zone applies to the watercourse that traverses your property. No development, with the exception of tree planting is permitted within the Landscape Protection Zone.
- c) Landscaping should utilise native plant species which naturally occur in the area (i.e. endemic plant species; local provenance plant stock). Please refer to the recommendations within the Cape to Cape Landcare Companion, available from the Shire.



## General Details

<b>Reporting Officer</b>	Lucy Gouws
<b>Disclosure of Interest</b>	Nil
<b>Assessment Level</b>	Minor (Level 1)

## Application Details

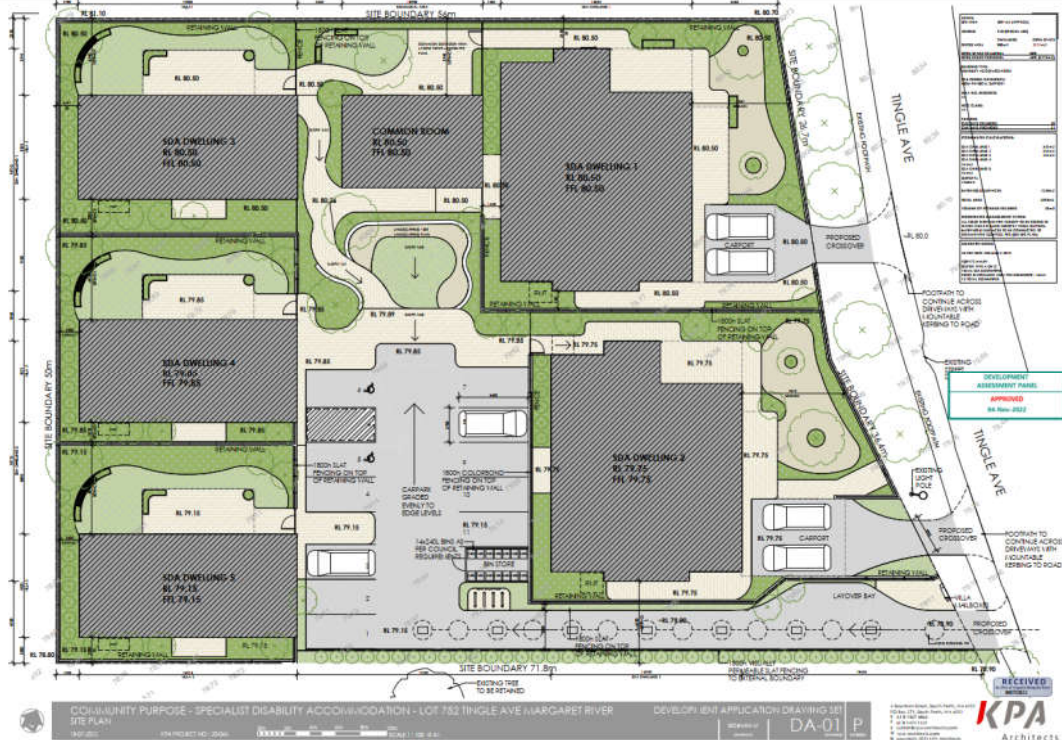
<b>Address</b>	0 (Lot 752) Tingle Avenue, Margaret River		
<b>Proposed Development</b>	<p>Amendment to Regional JDAP approved P222528 for Specialist Disability Accommodation.</p> <p>The amendment to the approval includes the following:</p> <ul style="list-style-type: none"> <li>• Increase from 5 to 6 Specialist Disability Accommodation (SDA) units.</li> <li>• All 6 x SDA units are two bedroom. Previous approval included 3 x 3 bedroom dwellings, and 2 x 2 bedroom.</li> <li>• Occupancy remains at 12 people.</li> <li>• Each dwelling will provide 1 bedroom for specialist carer.</li> <li>• The common room will be replaced with an outdoor common area.</li> <li>• Amended landscaping, paths and 1 x additional crossovers from Tingle Avenue from 3 to 4; and</li> <li>• 16 car parking bays and 4 bicycle bays.</li> </ul> <p>The facility is intended to be operated by Enable WA, who provide support to individuals and their families living with disability. The facility will offer both short and long term living arrangements to suit all needs for people living with disabilities.</p> <p>It was agreed by the JDAP that the application for an amendment is able to be assessed by the Local Government.</p>		
<b>Zoning</b>	<b>Special Use – R8</b>		
<b>Lot Area</b>	<b>3091m<sup>2</sup></b>		
<b>Use Class and Permissibility</b>	Community Purpose / Community Home		
<b>Heritage/Aboriginal Sites</b>	Nil		
<b>Other Considerations</b>	Visual Management Area	<input type="checkbox"/>	Sewerage Sensitive Area <input type="checkbox"/>
	Special Control Area	<input type="checkbox"/>	Watercourses/Rivers <input type="checkbox"/>
	Bushfire Prone Area	<input type="checkbox"/>	Environmentally Sensitive Areas <input type="checkbox"/>
<b>Structure Plans/LDP's</b>	Nil		
<b>Easements/Encumbrances</b>	Nil		
<b>Why is Development Approval Required?</b>	No exemptions apply within the Special Use zone.		



Site Image

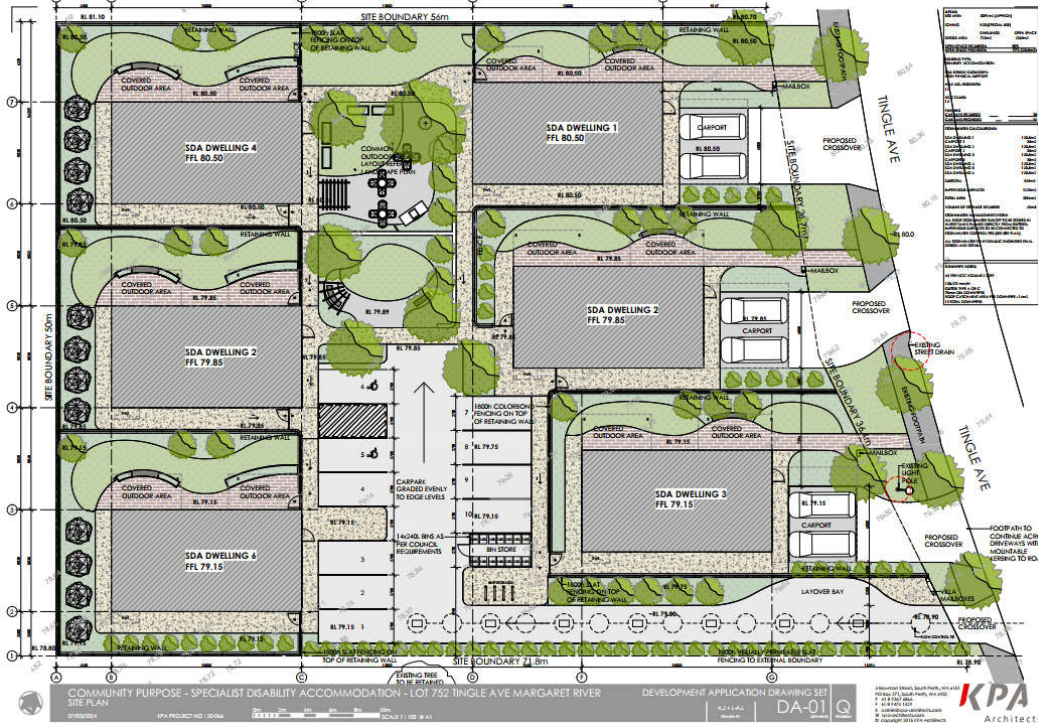


Original Approved Site Plans





## Proposed Amended Site Plans



## Assessment

Referrals	Yes	No
Adjoining Neighbours/Property Owners / 2km Radius (Non Rural use in Rural Zone)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Government Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Internal Shire Departments Infrastructure	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Where any objections received?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Where any issues raised through the referrals process?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The JDAP underwent extensive consultation program both by the applicant and statutory consultation process. The applicant undertook pre-engagement and various community communications for the proposal. This was carried out between the 28th of February and the 30th of March 2022 before the application was lodged and included the following:

Pre lodgement communication's:

1. AMR Times media advertisement
2. Direct email and letter invitations
3. Social media posts
4. Onsite poster

Pre lodgement engagement:

5. Community Access and Inclusion Reference Group
6. Key Stakeholder meetings
7. Open House Session
8. Community Online Survey.

As a result of the pre lodgement communications and engagement sessions there was over 350 visits to the project website, 43 online survey submissions and 14 Open House attendees.

Letters were sent to 168 land owners within a 200m radius of the development site, with a copy of the development plans provided on the Shires website.



# Development Assessment P224229

A total of 41 submissions were received which included 36 objections and 5 submissions which supported the proposal. The majority of the submissions raised concerns with the loss of the dog exercise area which equates to 6.5% of the total reserve area and the loss of the public open space. It was found that the proposed use was suitable for the land zoning and that the area of land since previous schemes has always been for an urban use and that the surrounding reserve would remain untouched. The amendments proposed are not considered to warrant further advertising of the proposal as they do not involve substantive changes to the previous approval.

Internal Department Comments		
Department	Department Comments	Officer Comments
Infrastructure Department	Note the additional crossover, whilst this isn't ideal, there is sufficient parking within the site that will ensue there is no parking on the street. Ensure condition for continuous footpaths.	Noted.

Policy Framework	Yes	No
Does the proposal involve variations to the Residential Design Codes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Scheme Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Policy Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other matters that require discretion (Vegetation Removal)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Policy Requirements

Building Height (delete for Outbuildings)		
Standard	Required	Provided
Wall	7m	4.1m
Overall	8m	6m
Car Parking		
Standard	Required	Provided
Local Planning Scheme No.1 (insert ratio)	As per residential building 1 bay per 2 beds = 9	16
Design	Forward entry into the Street/AS 2890.1 Parking Facilities: Off street car parking/AS 2890.6 Parking Facilities: Off street parking for people with disabilities	Based on advice from Engineering for commercial proposals.

## Discussion

The site is zoned 'Special Use' and is identified as having a Restricted Use (No. 8) which limits the land uses which can be considered for the site. The use of the site for Community Purpose / Community Home has previously been considered acceptable when approved by the previous JDAP. The purpose of this assessment is to focus on the changes to the approval. As outlined above, the changes consist of the following:

- 1 x additional SDA dwelling,
- 1 x additional crossover,
- Increase in open space from 2111m<sup>2</sup> up to 2368m<sup>2</sup>,
- Removal of the building that was to serve as a common room,
- Reduction in overall building footprints from 980m<sup>2</sup> to 723m<sup>2</sup> and
- Increase in landscaping.

With the changes proposed the occupancy remains the same at previous approved which is a maximum of 12. The amended design also allows for greater setbacks to the adjacent reserve, increasing the separation distances and allowing more area to be landscaped which softens the visual impacts of the development from the reserve. The setbacks have been increased along the northern boundary by 400mm, the western boundary 2.65m and 1.5m on the southern boundary. This is an improvement to the previous approval by reducing the bulk of the buildings.



# Development Assessment P224229

## Conclusion

The amendments to the approval are found to be acceptable. Whilst this does allow for one additional building, it will accommodate the same number of people as previously approved. The focus of this assessment has solely on the changes to the buildings and not the land use which has already been approved. The development will make a positive contribution to the community and the development is sensitive to the location.

## Determination

**That the Manager of Planning and Regulatory Services Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the Amendment to JDAP approved P222528 for Community Purpose (Specialist Disability Accommodation) at Lot 752 Tingle Avenue, Margaret River subject to compliance with the following conditions:**

1. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plan P1 -P6 received by the Shire on the 27 March 2024
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2. This decision constitutes planning approval only and is valid for a period of **4 years** from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.



3. Prior to lodging a building permit application, a detailed Stormwater Management Plan shall be submitted to the Shire for acceptance and must include details of storage capacity, lid levels, pipe inverts, sump connections, slow release, offsite infrastructure connections, supporting calculations and a feature survey showing existing services, street trees, footpaths and furniture, etc. The Shire's written acceptance of the Stormwater Management Plan must be provided at the time of submitting a building permit application. (Refer to advice note 'a').
4. Prior to occupation of the development, stormwater management systems on the subject site shall be constructed in accordance with the accepted Stormwater Management Plan and shall thereafter be maintained by the property owner.
5. Prior to lodging a building permit application, a detailed Vehicle Parking Construction Plan shall be submitted to the Shire in accordance with the Australian Standard AS 2890 for acceptance showing construction details including pavement levels, thickness, cross fall, stormwater drainage, signage, line marking and lighting. The Shire's written acceptance of the Vehicle Parking Construction Plan must be provided at the time of submitting a building permit application (refer to advice note 'a').
6. Prior to occupation of the development, crossovers shall be designed, constructed, sealed, and drained in accordance with the Shire's standards and specifications. Pedestrian paths shall remain continuous at vehicle crossovers and shall be reinforced with mesh.
7. ACROD parking bay and statutory signs shall be located convenient to the building entrance and shall be designed in accordance with AS2890.6 Parking Facilities Part 6: Off street Parking for People with Disabilities, to the satisfaction of the Shire.
8. Noise emissions resulting from the development or use of the land shall not exceed the assigned levels in the Environmental Protection (Noise) Regulations 1997, and shall not unreasonably interfere with the health, welfare and amenity of an occupier of another premises.
9. The development or use of the land shall not cause or permit to cause the escape of dust, smoke, fumes, offensive matter or foul odours in such quantity or of such nature as to unreasonably impact on the amenity of the locality.
10. Any external fan, air conditioner or similar equipment shall be installed and located so that there is no loss of amenity to the locality by appearance, noise, emissions or otherwise, to the satisfaction of the Shire.
11. During construction, areas of native vegetation must not be damaged by any works including the placement of fill, rubble, rubbish or any other material, nor is any removal, clearing or damage to occur to any vegetation.
12. A final Landscape Plan shall be prepared to the satisfaction of the Shire by a suitably qualified and/or experienced landscape consultant and shall be submitted to the Shire prior to the commencement of development. The Landscape Plan shall be drawn to scale and shall show the following:
  - The location, name and mature heights of existing and proposed trees and shrubs and ground covers;
  - Any lawns and paved areas to be established;
  - Any natural landscaped areas to be retained; and
  - Those areas that are to be reticulated or irrigated are demonstrated to be designed using water sensitive principles.
13. Landscaping shall be implemented, in accordance with the approved Landscape Plan, prior to occupation/use of the development and shall be maintained at all times.
14. Prior to lodging a building permit a Construction Management Plan being prepared to the specifications of the Shire and submitted for the approval of the Shire prior to the issue of a building permit.
15. Prior to commencement of the development, a final waste management plan must be submitted to and approved by the Shire. The Waste Management Plan must then be implemented to the satisfaction of the Shire, and have due regard for the following:
  - (i) Ownership, maintenance and management of waste receptacles;





- (ii) Categories (landfill, recycling, FOGO, medical/clinical etc.) and volumes of waste expected to be produced;
- (iii) Bin storage area and types of receptacles – showing quantity and placement of bins in storage area;
- (iv) Method of collection and disposal of waste including access, circulation and collection times for the servicing of waste bins/receptacles;
- (v) Hygiene and noise, odour and vermin control;
- (vi) Health, safety and environmental considerations, particularly focussed around manual handling, and prevention of accidental spills and releases; and,
- (vii) Waste avoidance and staff education on avoiding waste and separating medical and clinical waste from the general waste streams.

16. Prior to issue of a building permit for the development, the proponent shall make a contribution toward public art in accordance with the Shire's Draft Public Art Policy (Local Planning Policy No.30 Public Art in Development – dated September 2022).

#### **Advice Notes**

- (a) Engineering plans are required to be developed and designed by a suitably qualified engineer and submitted to the Shire's Asset Services department (Ph 9780 5274). The plans must include a feature survey of the Shire's road reserve.
- (b) The Construction Management Plan to include but not limited to the following:
  - a. Preparation and Implementation of a Traffic Management Plan
  - b. Pre start meeting with Shire Officers;
  - c. Protection of existing infrastructure;
  - d. Protection of vegetation;
  - e. Working in Shire reserves;
  - f. Ensuring proper approvals have been obtained;
  - g. Access points to building site;
  - h. Materials lay down;
  - i. Haulage routes;
  - j. Construction workers parking;
  - k. Fencing of building sites;
  - l. Scaffolding and protection works;
  - m. Litter and building rubbish control;
  - n. Stormwater, sedimentation and erosion control;
  - o. Dust control;
  - p. Working hours;
  - q. Construction noise;
  - r. Minimum facilities to be provided;
  - s. Storage of goods;
  - t. Insurances for construction related use of public areas;
  - u. Infrastructure development bond.



## General Details

<b>Reporting Officer</b>	Harriet Park
<b>Disclosure of Interest</b>	Nil
<b>Assessment Level</b>	Major (Level 2 – 3x submissions of support and 1x objection received, Government Agency Submission)

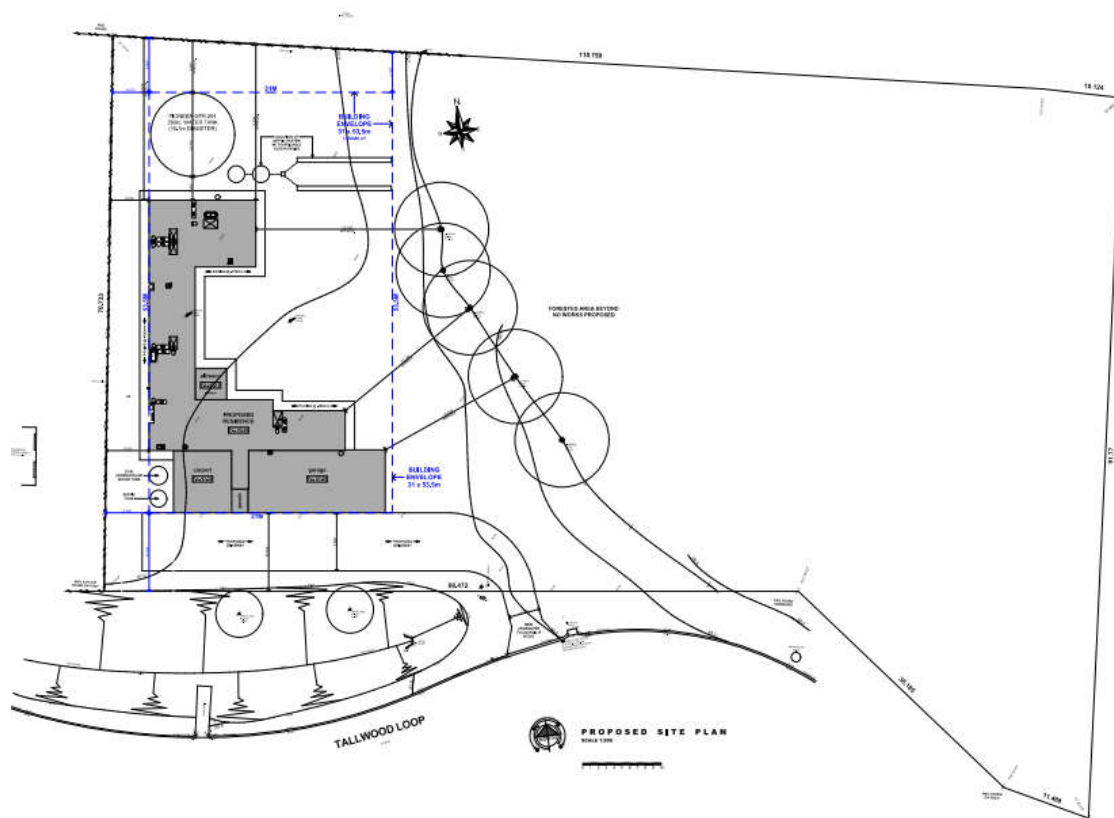
## Application Details

<b>Address</b>	10 (Lot 34) Tallwood Loop, Witchcliffe		
<b>Proposed Development</b>	Single House and Building Envelope Modification		
<b>Zoning</b>	<b>Future Development (Residential R2)</b>		
<b>Lot Area</b>	9203m <sup>2</sup>		
<b>Use Class and Permissibility</b>	'P' Permitted Use (Single House)		
<b>Heritage/Aboriginal Sites</b>	Nil		
<b>Other Considerations</b>	Visual Management Area	<input checked="" type="checkbox"/>	Sewerage Sensitive Area <input type="checkbox"/>
	Special Control Area	<input type="checkbox"/>	Watercourses/Rivers <input type="checkbox"/>
	Bushfire Prone Area	<input checked="" type="checkbox"/>	Environmentally Sensitive Areas <input type="checkbox"/>
	DBCA Conservation area	<input checked="" type="checkbox"/>	
<b>Structure Plans/LDP's</b>	Leeuwin Parklands Estate, Witchcliffe LDP – approved 8 July 2019		
<b>Easements/Encumbrances</b>	1x Restrictive Covenant and 2x notifications – do not affect this application.		
<b>Why is Development Approval Required?</b>	<p>A building envelope variation is proposed to include a dwelling and 290,000L rainwater tank.</p> <p>The existing building envelope approved through planning approval P221018 is only 559m<sup>2</sup>, the proposal is to increase the envelope size to 1,658.50m<sup>2</sup> to include all proposed development.</p> <p>Although the subject property is zoned Residential R2 a building envelope has been allocated to the property to restrict development to the existing cleared area on the lot and to protect the landscape buffer and habitat trees located along the eastern portion of the property identified in the LDP and ensure clearing is not imposed on this area through Bushfire Attack Level implications.</p> <p>The proposed dwelling seeks the following setback variation: -4.73m side (western) lot boundary setback, in lieu of 5m. (R-codes)</p> <p>The proposed building envelope variation is assessed against Clause 5.10.2 of the Local Planning Scheme No. 1 (LPS1).</p> <p>A determined BAL-29 is achieved for the location of the dwelling without affecting the existing vegetation on site.</p>		



Site Image





Proposed building envelope location


**Assessment**

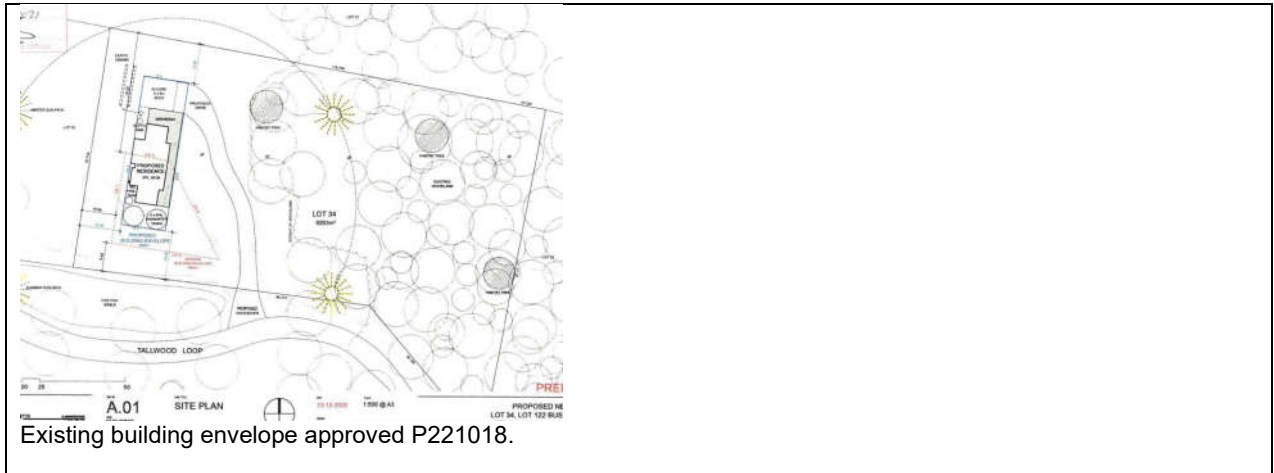
Referrals	Yes	No
Adjoining Neighbours/Property Owners	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Private Submission 1: Support No comments	Noted.	
Private Submission 2: Support No comments		
Private Submission 3: Support No comments		
Private Submission 4: <b>Object</b> Concerns about such an oversized water tank located only 5 metres from their property boundary. Described as an “unavoidable eyecatcher”. The house is sprawled along the lot and should have considered the neighbours view. Hoping for a satisfactory answer to their concerns.	<p>Noted. The building envelope in this case has been imposed to limit development to the western third of the lot in order to retain as much remnant vegetation as possible to the west of the property.</p> <p>The water tank proposes setback of 6.661m from the rear boundary, which is consistent comfortably meets the 1m rear setback for an outbuilding as stated in table 2a of the R-Codes which would apply if an envelope was not in place, as is the case with most lots within this area.</p> <p>The size of the tank (10.7m diameter, 290,000L) is required to service the large proposed 6 bedroom, 6 bathroom dwelling and to irrigate the future garden.</p>	



	<p>The colour of the tank is proposed to be Colorbond Monument which is considered a dark earthy tone which will ensure the development blends into the surrounding natural landscape.</p> <p>The applicant is willing to plant landscaping screening between the water tank and the rear boundary to reduce any visual impact that the water tank may have on the northern neighbour.</p>	
<p><b>Government Agencies</b> <b>DBCA</b></p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Recommended advice notes:</p> <p><b>Advice Note 1</b> It is noted that the BAL assessment report by Bushfire Prone Planning refers to an asset protection zone of 23 metres measured from the edge of the bushland to the north eastern corner of the proposed dwelling, although the south eastern corner of the proposed dwelling is closer to the bushland and may require vegetation clearing to occur.</p> <p>Western ringtail possums (WRP) and black cockatoos have been observed within close proximity to Lot 10.</p> <p>WRP and black cockatoos are listed as a threatened species under the Biodiversity Conservation Act 2016 and it is an offence under the Act to take WRP and black cockatoos. The definition of take is:</p> <p>Take – in relation to fauna, is: (i) to kill, injure, harvest or capture fauna by any means; (ii) to cause or permit anything referred to in subparagraph (i) to be done.</p> <p>Penalties exist under the Biodiversity Conservation Act 2016 for the unlawful take of threatened species.</p> <p><b>Advice Note 2</b> Immediately prior to clearing occurring, pre-clearance checks of the vegetation should be undertaken to determine the presence of WRP and black cockatoos that may be adversely impacted by clearing and associated works. Checks should include looking for signs of WRP activity such as scats and dreys in the vegetation and suitable hollows for black cockatoos. For further information on looking for signs of WRP and black cockatoo activity, please email <a href="mailto:swlanduseplanning@dbca.wa.gov.au">swlanduseplanning@dbca.wa.gov.au</a>.</p> <p>If found to be present, clearing should be undertaken in such a manner that allows the dispersal of WRP and black cockatoos. For further information please email <a href="mailto:speciesandcommunities@dbca.wa.gov.au">speciesandcommunities@dbca.wa.gov.au</a> or <a href="mailto:swlanduseplanning@dbca.wa.gov.au">swlanduseplanning@dbca.wa.gov.au</a>.</p>	<p>Although no clearing of vegetation is proposed as part of this application, the recommended DBCA advice notes have been applied to this DA to increase awareness to the owner.</p>	
<p><b>Internal Shire Departments</b></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Where any issues raised through the referrals process?</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



<b>Policy Framework</b>	<b>Yes</b>	<b>No</b>
Does the proposal involve variations to the Residential Design Codes?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the proposal involve any variations to Scheme Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Policy Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Local Development Plan Requirements?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Structure Plan Requirements?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other matters that require discretion	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Local Planning Strategy 2036</b>		
<p>The property is located within a visual management area as identified in the Shire's Local Planning Strategy 2036 (LPS).</p> <p>Travel Route Corridor intersects Landscape Qualities of Rural Significance &amp; Visual Management Area A.</p>  <p>The use of reflective materials is not permitted in this area.</p> <p>The proposal includes the following material / colour schedule:                      Dwelling:                      Wall cladding: James Hardie Matrix Panels – Painted Woodland Grey                      Roof: Colorbond Monument</p> <p>Water Tank: Colorbond Monument</p> <p>These colours and materials are dark and will blend into the surrounding rural landscape. They are considered to be compliant with the intent of the LPS.</p>		
<b>Planning History</b>		
<p><b>P221018</b>                      Building Envelope Variation approved 17/3/2021</p>		



## Policy Requirements

Building Height (delete for Outbuildings)		
Standard	Required	Provided
Wall	7m	5.7m from NGL - complies
Overall	8m	6.15m from NGL - complies
Car Parking		
Standard	Required	Provided
Residential Design Codes	2 Bays	5 bays - complies

Residential Design Codes / LPS1		
The building envelope setbacks are assessed against the relevant R-Codes for an R2 property and LPS1 below		
Standard	Required	Provided
Primary Street Setback	20m (Can be reduced by 50%)	10m  The dwelling proposes a 10m front (southern) primary street setback which complies with the R-Codes when part 5.1.2 C2.1 iii reduction of front setback by 50% is applied. - complies
Secondary Street Setback	N/A	N/A
Side (western) Setback	5m (LPS1 Clause 4.21.2)	4.75m to water tank - <b>Variation</b>
Side (eastern) Setback	5m (LPS1 Clause 4.21.2)	>10m - complies
Rear Setback	10m for habitable structure 1m for non-habitable structure (water tank) – table 2a	Water tank 6.661m - complies
Retaining/Fill Setback	>0.5m	>0.5m - complies
Garage Setback	4.5m or contained within the building envelope	Contained within building envelope - complies
Garage Width	<50% street frontage	<50% street frontage – complies
Driveway Width	3-6m	4m - complies
Outdoor Living Area	N/A	N/A
Open Space	80% total site	>80%
Overshadowing	N/A	N/A
Standard	Complies	Does Not Comply
Visual Privacy	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Street Surveillance	<input checked="" type="checkbox"/>	<input type="checkbox"/>



	Kitchen and living room windows 1.5m <sup>2</sup> each have view of street through carport.	
Street Walls and Fences	<input type="checkbox"/>	<input type="checkbox"/>
	N/A	

## Discussion

### Building Envelope – LPS1 Clause 5.10.2 Building Envelopes

Although the subject property is zoned Residential R2 a building envelope has been allocated to the property at the structure plan stage in order to restrict development to the existing cleared area on the lot and to protect the remnant vegetation (landscape buffer) and identified habitat trees located along the eastern portion of the property identified in the LDP.

Clause 5.10.2 of LPS1 allows the local government to approve a variation to building envelopes given;

- the objectives of the zone are not compromised
- the visual amenity and rural character of the locality will not be affected
- the development of the property will not increase the risk of bushfire
- the proposed size and location can accommodate future development while not having a detrimental impact on the environment.

The building envelope confines development to the eastern portion of the land. The purpose of the envelope on this property is to ensure separation between development and existing vegetation on site. The modified envelope remains in a similar location on the site to that currently approved through planning approval P221018. Therefore, sufficient separation to vegetation can still be achieved through the modified envelope layout without increasing the bushfire risk to the proposed buildings and maintaining a determined BAL rating of BAL-29 for the dwelling.

The modified building envelope allows for future development on the site without having any environmental impacts on the existing remnant vegetation on the property. The visual amenity and rural character of the site will not be affected through the building envelope modification as it remains in a similar location to the existing envelope, and all proposed development within the envelope shall be constructed of non-reflective colours and materials that complement the surrounding natural landscape.

Dwelling:

Wall cladding: James Hardie Matrix Panels – Painted Woodland Grey

Roof: Colorbond Monument

Water Tank: Colorbond Monument

The building envelope allocated as per the LDP was modified under planning approval P221018. The current approved building envelope approved is only 559m<sup>2</sup>, the proposal is to increase the envelope size to 1,658.50m<sup>2</sup> to include all development onsite. The proposed envelope is below the maximum considered size of 2000m<sup>2</sup> as stated in LPS1 and therefore the proposed size is supported.

### Setbacks

The building envelope setbacks have been assessed against the R-Codes for an R2 property and the relevant provisions of LPS1 Clause 4.21.2. The following lot boundary setback variation is proposed:

-Dwelling proposes a 4.73m side (western) lot boundary setback, in lieu of 5m. (LPS1 Clause 4.21.2)

The Shire can consider a variation to the 5m side setback through consultation with adjoining land owners. The setback distance falls short 0.27m of the LPS1 5m setback requirement. This variation is considered minor and following consultation with surrounding land owners, the affected adjoining owner to the west has provided their written support for the application.

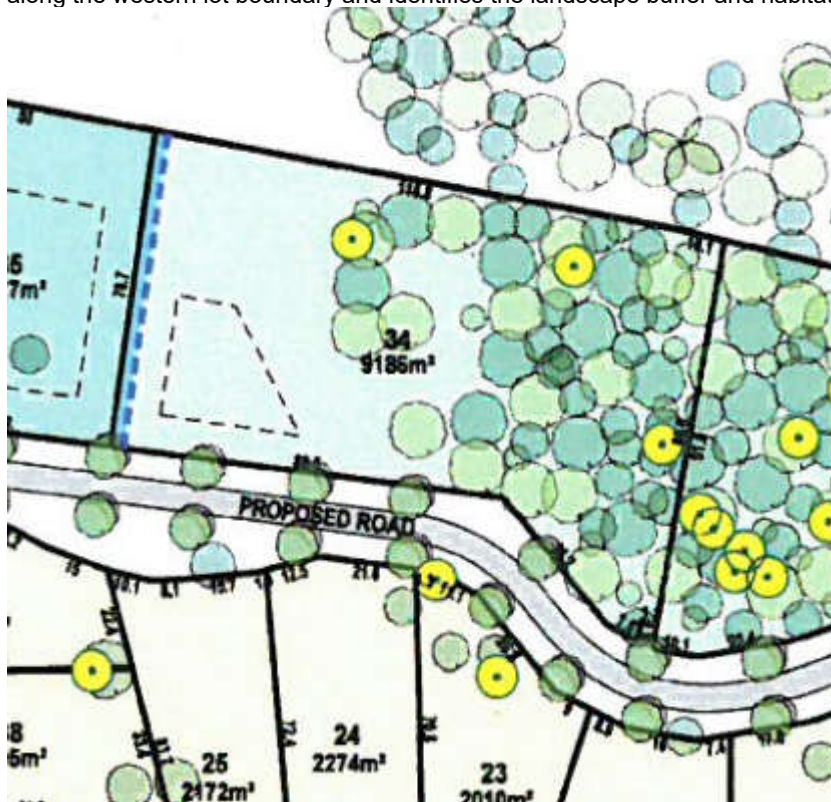
The proposed side (west) lot boundary setback does not increase the affect of the building bulk on adjoining properties. Nor does the setback distance affect access to direct sun and ventilation to the adjoining properties due to the size of the neighbouring lots being 3,927m<sup>2</sup> – 19,358m<sup>2</sup> resulting in sufficient separation distances between dwellings within this locality.

Majority of the dwelling windows along the western elevation have a sill height of above 1.6m besides the scullery, therefore are considered minor openings and shall not affect the privacy of the adjoining western neighbour. There are no overlooking concerns.

The setback variation is supported to ensure protection of the existing landscape buffer and habitat trees located on the eastern third of the property. This confines any development on the property to the western third of the lot where it is already clear. The setback variations are necessary to ensure the dwelling can achieve an acceptable BAL rating of BAL-29 without the APZ affecting any vegetation onsite. This has been achieved and demonstrated in the BAL report submitted with this application. No removal of vegetation is a positive outcome on this site and for this reason the reduced side setback distance is supported.



A **Local Development Plan** applies to the subject lot titled *Leeuwin Parklands Estate, Witchcliffe Lot 122 Bussell Highway Witchcliffe* approved 19 February 2019. The LDP identifies the zoning as Residential R2, shows the original building envelope which has since been amended through P221018, recognises the 3m drainage easement located along the western lot boundary and identifies the landscape buffer and habitat trees to remain on the site.



Extract from LDP showing the subject lot 34.

Relevant LDP provisions addressed below:

Provision 1: Through a planning application the Shire can consider non habitable structures locate outside of the building envelope for Lot 34 providing existing vegetation is not affected and non habitable structures are located behind the dwelling. In this instance the applicant has included the non habitable development (water tank) within the proposed envelope. However, the water tank location satisfies LDP provision 1 as it will not affect the existing vegetation on the lot and is located behind the dwelling. - complies

Provision 5: the buildings (including water tanks) reflect the rural character through the use of non reflective colours and materials. A skillion roof format has been chosen. A landscaping plan has been included as a condition of the development approval with an added advice note to recommend the use of native species consistent with the locality. – complies

Setback Table: Setbacks are to be as per the building envelope. Building envelope has since been changed through planning approval P221018. – complies.

A **Structure Plan** for Lot 122 Bussell Highway, Witchcliffe approved 22 August 2018 is applicable to the lot. This includes similar information to that covered in the LDP above, no further assessment required.

### Submissions

3x submissions of support and 1x neighbour objection was received during the advertising period.

An objection was received by the neighbour to the north of the subject property. The objection expressed concerns about the size and location of the water tank being too close to the rear lot boundary. Local Planning Policy 1 – Outbuildings, Farm Buildings and Swimming Pools (LPP1) classifies a water tank as an outbuilding, and the R-Codes allows outbuildings to be setback as per table 2a permitting the water tank to have a minimum setback of 1m, which the proposal setback at 6.661m comfortably meets.



Although the water tank does not pose a setback variation the applicant has agreed to apply landscaping screening in the area between the water tank and rear lot boundary to reduce any visual impact the water tank may have on the amenity of the concerned neighbour. The landscaping installed on the subject lot combined with the existing vegetation already planted on the affected adjoining northern neighbouring property will result in a wide area of landscape screening to ensure the large water tank blends in with the natural surrounding environment. A condition of development approval it has been added re landscaping.

Government agency (DBCA) recommended advice notes have been added regarding Western Ring Tail Possum and Black Cockatoos. However their recommended advice notes are only relevant if vegetation clearing occurs which is not included as part of this DA.

## Determination

**That the Coordinator Planning Services Grants Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the Building Envelope Variation at 10 (Lot 34) Tallwood Loop, Witchcliffe subject to compliance with the following conditions:**

1. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plan P1 - P2 received by the Shire on the 27 February 2024
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2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
3. At all times, all stormwater and drainage run-off from the development shall be detained within the lot boundaries and managed to predevelopment flow regimes and/or disposed offsite by an approved connection to the Shire's drainage system in accordance with the Shire of Augusta Margaret River's Standards & Specifications.
4. The revised building envelope hereby approved, wholly replaces that previously applicable to the site.
5. Clearing of vegetation is prohibited outside the building envelope, unless in accordance with the Bush Fires Act 1954 or required for the purpose of constructing an approved driveway, installing essential services, or removing dead or dangerous trees.
6. Prior to lodging of a building permit application a Landscape Plan shall be prepared to the satisfaction of the Shire by a suitably qualified and/or experienced landscape consultant. The Landscape Plan shall be drawn to scale and show the following:
  - a) Screening vegetation located between the water tank and the rear lot boundary.
  - e) Those areas that are to be reticulated or irrigated are demonstrated to be designed using water sensitive principles.
  - f) Planting schedule/timing.
7. Landscaping shall be implemented, in accordance with the approved Landscape Plan, prior to occupation/use of the development and shall be maintained at all times.
8. The Shire's Local Planning Strategy 2036 identifies that the site is located within a Visual Management Control Area. Therefore development must not include zincalume or materials with a colour which has a solar absorbance rating less than or equal to 0.4. Prior to lodging of a building permit for the development, a schedule of colours for the exterior building materials shall be submitted to the satisfaction of the Shire. The approved schedule of colours shall be implemented for the development from commencement of works and all times thereafter.
9. The Dwelling shall be constructed and the site maintained to achieve a minimum Bushfire Attack Level Rating of 29. Details shall be provided with the building permit.

## Advice Notes

- a) You are advised of the need to comply with the requirements of the following other legislation:



- (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.
- b) A certified and / or registered fauna handler is required to be present during any removal of vegetation. The handler is to provide a post clearing report to DBCA [swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au) that includes the numbers of adult or juvenile WRP observed, taken or disturbed, any injuries or fatalities, and the location of the fauna after any clearing has occurred.
- c) Western ringtail possums (WRP) and black cockatoos have been observed within close proximity to Lot 10. WRP and black cockatoos are listed as a threatened species under the Biodiversity Conservation Act 2016 and it is an offence under the Act to take WRP and black cockatoos. The definition of take is:
- Take – in relation to fauna, is:
- (i) to kill, injure, harvest or capture fauna by any means;
  - (ii) to cause or permit anything referred to in subparagraph (i) to be done.
- Penalties exist under the Biodiversity Conservation Act 2016 for the unlawful take of threatened species.
- d) Immediately prior to any clearing occurring, pre-clearance checks of the vegetation should be undertaken to determine the presence of WRP and black cockatoos that may be adversely impacted by clearing and associated works. Checks should include looking for signs of WRP activity such as scats and dreys in the vegetation and suitable hollows for black cockatoos.  
For further information on looking for signs of WRP and black cockatoo activity, please email [swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au). If found to be present, clearing should be undertaken in such a manner that allows the dispersal of WRP and black cockatoos. For further information please email [speciesandcommunities@dbca.wa.gov.au](mailto:speciesandcommunities@dbca.wa.gov.au) or [swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au).
- e) Landscaping should utilise native plant species which naturally occur in the area (i.e. endemic plant species; local provenance plant stock). Please refer to the recommendations within the Cape to Cape Landcare Companion, available from the Shire.
- f) In relation to condition 8, colourbond colours which have a solar absorbance of less than 0.4 are 'Dover White', 'Surfmist', 'Classic Cream', 'Whitehaven', 'Cosmic' and 'Southerly'. Use of these colours does not meet condition 8.