

**DEVELOPMENT ASSESSMENT REPORT**  
**Shire of Augusta Margaret River**  
**3 August to 9 August 2023**

**APPLICATIONS RECEIVED**

<b>Date Rec'd</b>	<b>Reference No.</b>	<b>Address</b>	<b>Proposal</b>
<b>PLANNING</b>			
02/08/2023	P223477	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Family Lots (Stage 3) (P221770) (Witchcliffe Eco Village)
02/08/2023	P223478	39 (Lot 134) Grunters Way, Gnarabup	Single Dwelling
02/08/2023	P223479	111 (Lot 202) Dalton Way, Molloy Island	Single Dwelling
02/08/2023	P223480	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Groupie Lots (Stage 3) (P221769) (Witchcliffe Eco Village)
02/08/2023	P223482	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Short Stay Lots (Stage 3) (P221768) (Witchcliffe Eco Village)
02/08/2023	P223485	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Cottage Lots (Stage 4) - (Witchcliffe Eco Village) (P222411)
02/08/2023	P223487	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Family Lots Stage 4 - (Witchcliffe Eco Village) (P222412)
02/08/2023	P223488	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Groupie Lots (Stage 4) - (Witchcliffe Eco Village) (P222413)
02/08/2023	P223489	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Short Stay Lots Stage 4 - (Witchcliffe Eco Village) (P222414)
02/08/2023	P223490	Unit 1, 63 (Lot 171) Town View Terrace, Margaret River	Holiday House Renewal
03/08/2023	P223492	214-222 (Lot 2) Railway Terrace, Margaret River	Free Standing Sign
04/08/2023	P223493	13 (Lot 331) Honeysuckle Glen, Cowaramup	Bed & Breakfast Renewal
04/08/2023	P223494	Lot 9000 Bussell Highway, Margaret River	Signage Application
07/08/2023	P223496	33 (Lot 262) Culhane Road, Margaret River	Holiday House
07/08/2023	P223497	Reserves 41545, 27618 and 37456	Public Event (WSL Surf Pro) - 2024
07/08/2023	P223498	161 (Lot 38) Terry Drive, Margaret River	Home Business
08/08/2023	P223500	35 (Lot 261) Culhane Road, Margaret River	Holiday House
08/08/2023	P223501	12 (Lot 93) Nebbiolo Place, Margaret River	Single Dwelling
08/08/2023	P223502	17 (Lot 609) Truffle Court, Cowaramup	Single Dwelling
<b>BUILDING</b>			
03/08/2023	223384	234 (Lot 5) Gnarawary Road, Margaret River	Shed and Carport
03/08/2023	223385	5 (Lot 3) Mopoke Place Margaret River	Single Dwelling, Garage and Patio
03/08/2023	223386	Shop 2 & 3/49 (Lot 66) Town View Terrace, Margaret River	Occupancy Permit for BLD223305 (Reject Shop Fit Out)
04/08/2023	223387	11 (Lot 21) Seahawk Rest, Gracetown	Alterations and Additions - 2nd Storey Bathroom Addition, Shed and Carport
04/08/2023	223388	22 (Lot 46) Freycinet Way, Gnarabup	Alterations and Additions to Existing Dwelling - 2nd Storey Ancillary Addition and Carport
04/08/2023	223389	34 (Lot 631) Truffle Circuit, Cowaramup	Single Dwelling, Garage, Patio and Retaining Walls
07/08/2023	223390	17 (Lot 41) Tremandra Boulevard, Witchcliffe	Shed

07/08/2023	223391	92 (Lot 3875) Wilson Road, Kudardup	Farm Shed
08/08/2023	223392	64 (Lot 381) Pimelia Drive, Margaret River	Shed
08/08/2023	223393	23 (Lot 32) Elva Street, Margaret River	Pergola
09/08/2023	223394	140 (Lot 1957) McLeod Creek Road, Karridale	Ancillary Dwelling, Retaining Wall, Verandah, Stairs and Balustrade
09/08/2023	223395	115 (Lot 109) Ashton Street, Margaret River	Single Dwelling, Ancillary Dwelling, Patios, Carport, Garage with attached Workshop/Shed and Retaining Walls
09/08/2023	223396	20 (Lot 48) Dawson Terrace, Augusta	Patio
09/08/2023	223397	10 (Lot 9) Plumage Close, Margaret River	Single Dwelling, Patio, Carport, Verandahs
<b>Exploration Licenses for Comment</b>			
Nil			

#### APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
<b>PLANNING</b>				
18/01/2023	P223038	909/911 (Lot 25) Wilson Road, Karridale	Farm Building	Approved
16/05/2023	P223300	92 (Lot 183) Dalton Way, Molloy Island	Single Dwelling Additions (Carport, Bedroom & Ensuite) and Outbuilding	Approved
19/05/2023	P223305	5320 (Lot 4) Caves Road, Gracetown	Change of Use from Farm Building to Winery	Approved
30/05/2023	P223325	128 (Lot 253) Blackwood Avenue, Augusta	Outbuilding (Shed)	Approved
01/06/2023	P223333	1 (Lot 258) Logging Road, Karridale	Single Dwelling (Outbuilding - Shed)	Approved
09/06/2023	P223348	894 (Lot 3207) East Calgardup Road, Forest Grove	Farm Soak	Approved
15/06/2023	P223374	7 (Lot 23) Knox Place, Witchcliffe	Second Water Tank	Approved
19/06/2023	P223381	Unit 2, 70 (Lot 59) Townview Terrace, Margaret River	Holiday House	Approved
<b>SUBDIVISIONS</b>				
12/07/2023	P223434	Lots 14 and 15 Darch Road, Margaret River	Subdivision Lots 14 and 15 Darch Road, Margaret River	Supported
12/07/2023	P223435	127 (Lot 472) Blackwood Avenue, Augusta	Subdivision 127 (Lot 472) Blackwood Avenue, Augusta	Response provided
<b>LOCAL LAW PERMITS</b>				
Nil				

#### LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
<b>PLANNING</b>				
26/04/2023	P223256	12 (Lot 9) Walker Place, Redgate	Holiday House and Vegetation Modification Outside Building Envelope	Refusal
04/05/2023	P223280	Building Envelope Variation and Outbuilding	51 Devon Drive, Margaret River	Approve with 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 Holiday House and Vegetation Modification Outside Building Envelope - 12 (Lot 9) Walker Place, Redgate**

**Major (Level 3 – Government Agency Comments)**

**P223256; PTY/521**

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

<b>General Information</b>	
<b>Lot Area</b>	50,056m <sup>2</sup> (5ha)
<b>Zone</b>	<b>Rural Residential</b>
<b>Existing Development</b>	<input checked="" type="checkbox"/> Single House <input type="checkbox"/> Grouped Dwelling
<b>Proposed use</b>	<p>A planning application has been received for a Holiday House use. The owner is requesting the existing two-bedroom dwelling is to be used to accommodate up to four (4) short stay guests at any one time, for an initial period of twelve (12) months. The management arrangements are to be through Miriam Avery who lives within the Margaret River townsite which is 10 minutes away from the property.</p> <p>The Shires Local Planning Policy determines set criteria to guide the location of short stay accommodation, and has a presumption against the approval holiday homes with a Bushfire Attack Level (BAL) of 40 or Flame Zone. The BAL submitted with the proposal has rated the existing dwelling at BAL-FZ, and consequently a bushfire management plan has been prepared to demonstrate measures that can reduce this rating.</p> <p>As a result, part of the holiday house application involves clearing and vegetation modification in accordance with a submitted Bushfire Management Plan dated 17 March 2023 in order to achieve an APZ for BAL-29.</p> <p>A site visit was conducted on the 14 July 2023 between the Shire's planning officer, the sustainability planning officer, owner and bushfire consultant to discuss the extent of clearing involved to create a BAL-29 APZ. As a result of the onsite meeting a Vegetation Management Plan (VMP) has been included as an appendix within the BMP identifying the vegetation to be removed or modified within a 21m-27m radius from the dwelling. More than 50 percent of the existing trees will need to be removed in order to achieve &lt;15% canopy cover to create a complaint BAL-29 APZ. The VMP is unclear in identifying the extent of intact understorey to be modified and/or cleared.</p> <p>Development approval is required for the removal of vegetation in accordance with clause 5.20 of the <i>Shire's Local Planning Scheme No. 1</i>.</p> <p>The extent of vegetation removal proposed to enable the holiday house use is not supported.</p> <p>The application was placed on hold from the 28/6/2023 to 26/7/2023 awaiting further information (VMP) to identify the extent of vegetation proposed to be removed.</p>

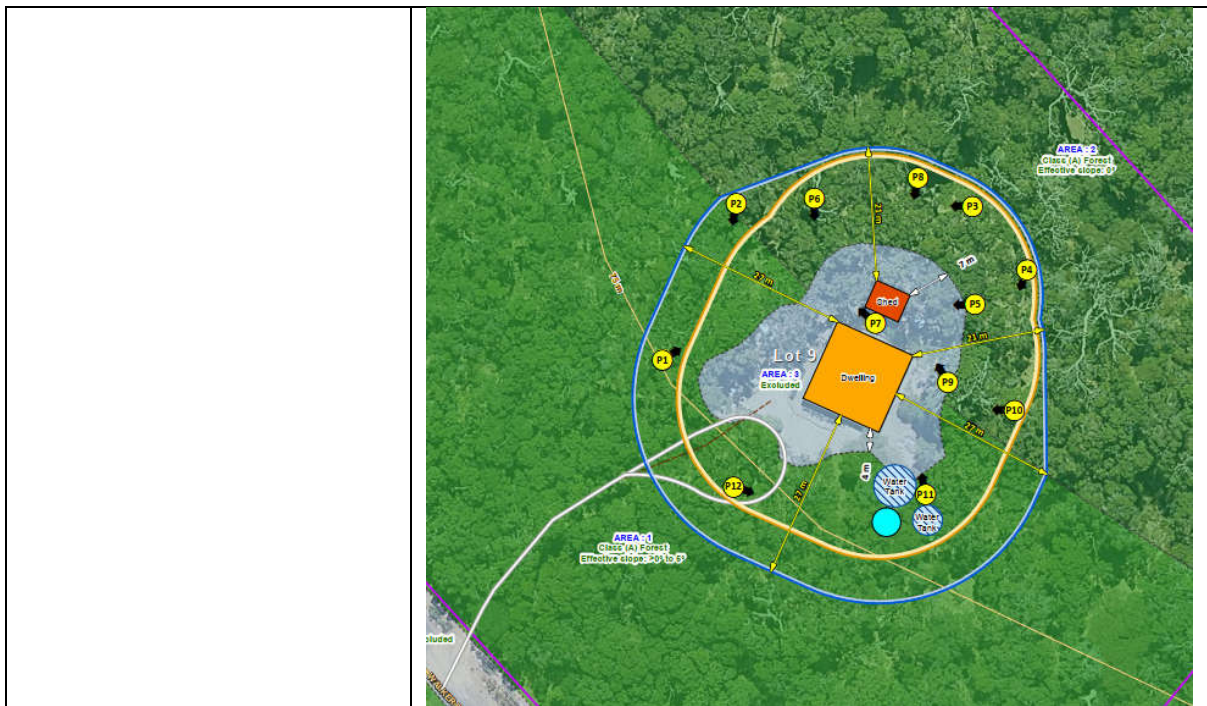
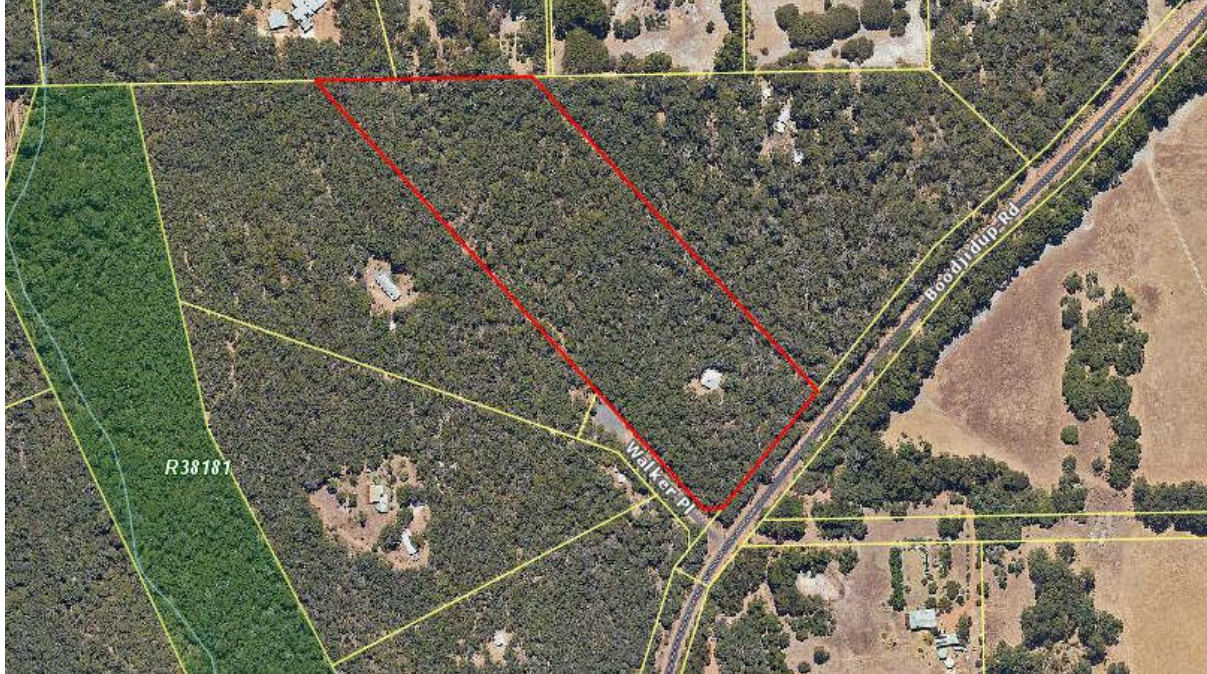


Figure 1: Extent of vegetation modification required to create a BAL 29 APZ surrounding the dwelling (blue line).

<b>Permissible Use Class</b>	'A' – discretionary use
<b>Advertising Required</b>	Yes
<b>Reason not exempted from planning approval?</b>	Discretionary uses are not permitted unless the Shire exercises its discretion by granting development approval.
<b>Heritage/Aboriginal Sites</b>	None identified
<b>Encumbrance</b>	None
<b>Date Received</b>	26/04/2023
<b>Date of Report</b>	7/8/2023

Location Map



<b>Have there been any objections?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Neighbour Advertising</b>	
<b>Nature of Submission</b>	<b>Officer Comments</b>
1x late submission of support received	The application was advertising to surrounding land owners. 1x late submission of support with no comments was received on the 7 June 2023. Noted.
<b>Government Agency Comments</b>	
<b>DFES Comments</b>	Agree with all points raised by DFES. The proposal is introducing a vulnerable land use in a bushfire

**1. Policy Measure 6.5 a) Preparation of a BAL Assessment**

**Issue: Construction to AS3959 Building Standards**

DFES acknowledges that AS3959 does not apply retrospectively to existing buildings, if the use does not change.

However, the decision maker should consider upgrading the dwelling to utilise all of the elements of AS3959 that apply to the appropriate Bushfire Attack Level (BAL). This is consistent with Clause 78E(i) Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 that requires the local government to have regard to the bushfire resistant construction requirements of the Building Code of Australia.

Although BAL construction standards do not guarantee the survival of the occupants or building, DFES supports the improved bushfire resilience provided by AS 3959-2018 construction standards.

**2. Policy Measure 6.5 c) Compliance with the Bushfire Protection Criteria**

**Issue: Vulnerable Tourism Land Uses – Intent**

**Intent – does not comply**

The intent of Element 5 is to provide bushfire protection for tourism land uses relevant to the characteristics of the occupants and/or the location, to preserve life and reduce the impact of bushfire on property and infrastructure.

The development is on a lot that has, and is surrounded by, an extreme hazard that, in the opinion of DFES, cannot be adequately managed.

While it is noted that there is an existing dwelling on the site, DFES maintains concerns over the introduction of a vulnerable land use at this location, which is not considered to reflect the vulnerable nature of the occupants.

Should the decision maker be of the mind to approve the proposal, it is critical that appropriate mechanisms are in place to implement and enforce hazard management requirements.

It is noted that a significant area of vegetation would require modification in order to achieve BAL-29 to facilitate the change in use. SPP 3.7 Policy Objective 5.4 seeks to achieve a balance between bushfire risk management and environmental measures. Consideration should be given to whether vegetation management of the scale required achieves this objective.

**3. Policy Measure 6.6.1 Vulnerable land uses**

**Issue: Bushfire Emergency Plan (BEP)**

The referral has included a 'Bushfire Emergency Plan' for the purposes of addressing the policy requirements. Consideration should be given to the Guidelines Section 5.5.4 'Developing a Bushfire Emergency Evacuation Plan'. This contains detail regarding what should be included in a BEEP and will ensure the appropriate content is detailed when finalising the BEEP to the satisfaction of the Shire.

**Recommendation – compliance with Intent not demonstrated**

DFES does not consider that the proposal demonstrates compliance with the Intent of Element 5: Vulnerable Tourism Land Uses.

prone area with an extreme bushfire hazard both in and surrounding the lot. Even if vegetation clearing and modification within a BAL-29 APZ is completed, the vegetation surrounding the APZ and subject site cannot be adequately managed and remains a high risk to human safety and property.

<p>The proposal is introducing a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot.</p> <p>Notwithstanding the above, if the decision maker is of a mind to approve the proposal, it is critical that the bushfire management measures within the BMP can be implemented to reduce the vulnerability of the development to bushfire.</p>	
<p><b>Internal Department Comments</b></p>	
<p><b><u>Environment Department Comments</u></b></p> <p><b>Vegetation Clearing to address BAL requirements</b>  The proposed holiday house is currently rated BAL-FZ with a separation distance of &lt;10metres. In order to comply with the APZ BAL-29 requirements, additional significant clearing is required between 21 metres and 27 metres from the edge of the dwelling, into mature karri, marri and jarrah forest with in tact under-storey vegetation.</p> <p><b>Recommendation</b></p> <ol style="list-style-type: none"> <li>1. Do not support change of use to a 'holiday house' due the extensive clearing of native vegetation.</li> </ol>	<p>The extent of vegetation removal proposed through the Vegetation Modification Plan (VMP) is considered to have a detrimental impact to the environment.</p> <p>According to Shire mapping the vegetation present on site is classified as W1 – Wilyabrup Complex consisting of Tall open forest of Eucalyptus diversicolor-Agonis flexuosa-Callistachys lanceolata with some Corymbia calophylla on flats and valleys in the hyperhumid zone.</p> <p>In accordance with clause 5.20.1(b) of the Scheme, when assessing a proposal to remove vegetation the Shire will take into account the quality and type of vegetation being removed.</p> <p>The remnant vegetation is of high quality and significant clearing of mature trees and intact understorey is proposed. From a site visit it has been established that more than 50 percent of the existing trees will need to be removed in order to achieve &lt;15% canopy cover to create a compliant BAL-29 APZ. The VMP is unclear in identifying the extent of intact understorey to be modified or cleared. The Shire's Sustainability Officer expressed that the extent of clearing for the purposes of this application is not supported.</p>
<p><b>Health Department Comments</b></p> <ul style="list-style-type: none"> <li>• The environmental health department is satisfied that the existing effluent disposal system is adequate to accommodate 6 occupants.</li> </ul> <p><b>Recommended Conditions of development approval:</b></p> <ul style="list-style-type: none"> <li>• The development is to provide a potable water source in accordance with Shire of Augusta Margaret River Health Local Laws 1999 (EH).</li> <li>• Noise emissions resulting from development/use of premises for the approved purpose shall not exceed the assigned levels in the Environmental Protection (Noise) Regulations 1997, and shall not unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of any other premises. (EH)</li> <li>• The number of people proposed for the holiday house is to comply with Section 23, of the Shire of Augusta Margaret River Health Local Laws 1999, Overcrowding:</li> </ul> <p>The owner or occupier of a house shall not permit;</p> <ol style="list-style-type: none"> <li>(a) a room in the house that is not a habitable room to be used for sleeping purposes; or</li> <li>(a) a habitable room in the house to be used for sleeping purposes unless – <ol style="list-style-type: none"> <li>i. for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and</li> <li>i. for every person between the ages of 1 and 10 years there is at least 8</li> </ol> </li> </ol>	<p>Noted.</p> <p>A cumulative total of 150,000L is provided on site for domestic use. A Further 10,000L water tank is proposed for fire fighting purposes.</p>

cubic metres of air space per person; or  
(b) any garage or shed to be used for sleeping purposes

### Local Planning Scheme No. 1 (LPS1)

#### 5.20.1 - Land clearing

In accordance with clause 5.20.1(b) of the Scheme, when assessing a proposal to remove vegetation the Shire will take into account the quality and type of vegetation being removed.

*The local government will, when presented with an application to clear the land or an application to develop the land pursuant to the Scheme, have regard to the extent of clearing to be undertaken, the quality and type of vegetation to be removed and any re-vegetation carried out on the same land. The local government may impose conditions or make arrangements to retain some of the vegetation on the land or refuse the application if the removal of the vegetation, in the opinion of the local government, would result in a deleterious environmental, amenity or landscape impact.*

- In this case the proposal includes the removal of high quality remnant vegetation to create an APZ of BAL-29. According to Shire mapping the vegetation present on site is classified as W1 – Wilyabrup Complex consisting of Tall open forest of Eucalyptus diversicolor-Agonis flexuosa-Callistachys lanceolata with some Corymbia calophylla on flats and valleys in the hyperhumid zone.
- The vegetation proposed to be removed is high quality and in good condition.
- Areas of the proposed land clearing consists of intact understory and untouched native vegetation endemic to the area.
- The site is identified within a visual management control area – “Landscape Protection” within the Shire’s Local Planning Strategy 2036.
- The additional clearing proposed is considered to result in a deleterious environmental impact given the quality of the vegetation impacted.
- The vegetation proposed to be cleared and modified serves as potential habitat trees for endangered fauna such as the Western Ringtail Possum and Carnaby’s Cockatoo (*Zanda latirostris*), Baudin’s Cockatoo (*Zanda baudinii*) and Forest Red-tailed Black-cockatoo (*Calyptorhynchus banksii naso*).

The vegetation is of high quality and significant clearing of mature trees and intact understorey is proposed. The extent of clearing for the purposes of this application is not supported.

In accordance with 5.20.1 (a) of the Scheme, *all land clearing requires the prior development approval of the local government, with the exception of the following:*

*(ii) clearing within a building envelope where a building permit has been issued and no development approval for the building is required;*

*(xii) clearing upon residential lots less than 2000m<sup>2</sup> in size*

A building envelope does not exist for this rural residential lot and one has not been allocated through previous Shire building or planning approvals. Majority of the site is densely vegetated besides an already cleared area to the south west of the dwelling. The APZ can be wholly contained within the properties boundaries however exceeds the size of a 2000m<sup>2</sup> building envelope.

Vegetation modification is proposed 21m to the north and east, and 27m to the south and west of the dwelling in order to achieve a BAL-29 APZ distance. The Shire is not willing to support the extent of clearing as it will cause a significant detriment to the indigenous native vegetation of the site, and is beyond that specified in the Shire’s annual Firebreak Notice.

#### 4.22.4 – Development in the Rural Residential Zone

The proposal is not consistent with the aims and provisions of Local Planning Scheme No. 1 applicable to the Rural Residential Zone 4.22.4, particularly Objective (d)(ii) which are aimed at minimising the clearing of established vegetation.

*(d) Land Shall not be used for any purposes which would:...*

*(ii) Adversely affect any established vegetation on the land.*

### State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) and Guidelines

The property is located within a bushfire prone area therefore a BAL assessment, BEEP Plan and Report and BMP are required for applications for short stay accommodation which is classified as a vulnerable land use within SPP3.7.

The application and BMP dated 17 March 2023 prepared by Bushfire Prone Planning is assessed against Element 5 of the **Guidelines for Planning in Bushfire Prone Areas Version 1.4 December 2021.**

To comply with the acceptable solutions A5.4 Siting and Design an asset protection zone must be established to BAL-29 as outlined in the BMP. Currently the dwelling has a BAL rating of BAL-FZ which does not comply. The Shire does not support the additional vegetation clearing outlined in the BMP to achieve a BAL-29 APZ therefore, the dwelling is not sited or designed to minimise clearing of existing vegetation and cannot achieve compliance with the support of the Shire.

The officers assessment demonstrates that application does not comply with the acceptable solutions or performance criteria for Element 5.4 Siting and Design of the Bushfire Guidelines.

A significant area of vegetation would require modification in order to achieve BAL-29 to facilitate the change in use. State Planning Policy 3.7 - Policy Objective 5.4 seeks to achieve a balance between bushfire risk management and environmental measures. Vegetation management of the scale proposed does not achieve this policy objective and will detrimentally affect the biodiversity and environmental values of the site.

### Local Planning Strategy 2036



The proposal is not consistent with the Shires Local Planning Strategy 2036. The Strategy seeks to minimise all clearing into the future where it can be avoided and specifically mentions the incremental impacts of land clearing at a smaller-scale through bushfire risk mitigation.

#### Shire's Overarching Sustainability Policy

The proposal is not consistent with Policy Provision 1 of the Shire's Overarching Sustainability Policy which aims to protect the biodiversity and ecological integrity of land within the Shire.

1. *Protect, enhance and regenerate our environment, build climate resilience and rapidly reduce our carbon emissions by:*  
 1.8 *Valuing our ecosystems by protecting remaining intact native habitats from further damage and rehabilitating and restoring systems.*

The extent of clearing intact existing native vegetation for this proposal is not supported.

#### State Planning Policy No.2 – Environmental and Natural Resources Policy

Point 5.5 Biodiversity states decision making should (ii) *Seek to avoid or minimise any adverse impacts, directly or indirectly, on areas of high biodiversity or conservation value as a result of changes in land use or development.*

The proposed change in use to a vulnerable land use (holiday house) is not supported due to threats that clearing and vegetation modification has on the biodiversity of the area.

#### Local Planning Policy 7 – Short Stay Accommodation

##### Policy Requirements

Policy Element	Provision	Comment
<b>Location</b>	Coastal settlement	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Urban area located within Policy Plan 1?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Within 50m of Village Centre zone?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Located outside of Policy Plan 1 but comprise of an area not less than 1ha?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Design / Layout</b>	One parking bay per bedroom, Or two bays for grouped dwellings	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Reticulated water supply, or minimum 120,000 (plus firefighting provision) rainwater tank?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 1x existing 90,000L concrete rain water tank and 1x 60,000L existing poly rain water tank.
	Existing or proposed one site effluent disposal system sized accordingly to number of guests?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Decks and balconies located away from the bedrooms of neighbouring dwellings?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Decks and balconies located close to the living and dining areas of neighbouring dwellings, provided with suitable screening?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Each bedroom accommodates a maximum of two persons?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The owner is requesting the existing two-bedroom dwelling is to be used to accommodate up to four (4) short stay guests at any one time.
<b>Fire</b>	If within bushfire prone area a BAL provided?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No BAL-FZ
	For sites with a BAL above Low, a BMP prepared by accredited consultant and where required referred to DFES for comments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	BAL rating at BAL-40 or FZ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Determined BAL-FZ. An indicative BAL-29 may be achieved through clearing and vegetation modification.</b>
	As part of the holiday house application clearing and vegetation modification is proposed to occur within and outside of the unallocated building envelope for the site in accordance with a submitted Bushfire Management Plan dated 17 March 2023 in order to achieve an APZ for BAL-29. At present, the dwelling has a determined BAL rating of BAL-FZ. A 20m APZ is in place for the dwelling which consists of a maintained understorey and internal 3m wide firebreak at the 20m distance. The canopy cover remains substantial.  According to LPP7 GF3 Holiday House accommodation proposed in areas with a BAL assessment rated at BAL-40 or BAL-FZ are unlikely to be granted planning approval. Therefore, onsite vegetation modification and management to a low threat state is necessary in order to achieve the asset protection zone.  Subsequently, A Bushfire Management Plan submitted with this application indicates an extreme bushfire threat of BAL FZ. The BAL report identified that through the implementation of an Asset Protection Zone the site is able to achieve an acceptable rating of BAL 29 to satisfy the Shire's Short Stay Accommodation Policy 7 (LPP7) with substantial vegetation removal and modification proposed.	

The BMP requires a 21-27m APZ fuel reduction area around the house to be managed in a low threat state and maintained by the landowner.

A Vegetation Management Plan (VMP) has been included as an appendix within the BMP identifying the vegetation to be removed within a BAL-29 21m-27m separation distance from the dwelling. More than 50 percent of the existing trees will need to be removed in order to achieve <15% canopy cover to create a complaint BAL-29 APZ. The VMP is unclear in identifying the extent of intact understorey to be modified and/or cleared, therefore, the extent of proposed vegetation removal may be higher than that documented in the BMP.

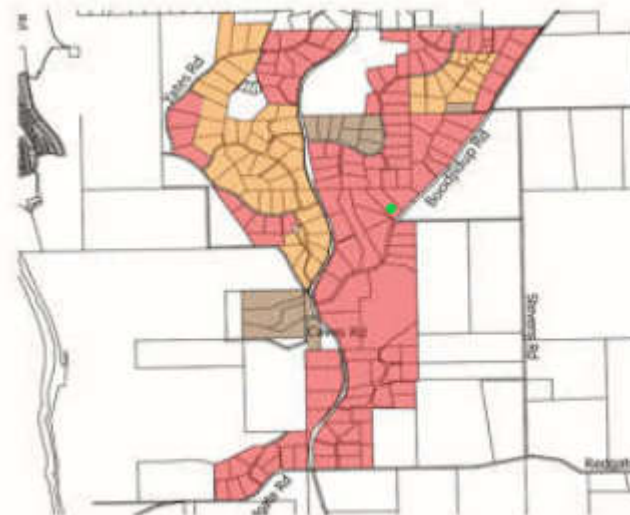
Therefore, in order to achieve a BAL-29 APZ further clearing into untouched unmaintained intact understorey and mature dense vegetation is required.

Modifying vegetation to a low threat state within the bal-29 APZ for the site will not decrease the bushfire risk from the broader landscape surrounding the site which consists of dense untouched vegetation and needs to be taken into account when decision making.

For these reasons, short stay accommodation cannot be supported where the determined BAL rating for the dwelling is BAL-FZ.

**Draft updates to LPP7**

A review of Local Planning Policy 7 – Short Stay Accommodation is underway and has recently closed for public consultation. The changes to the policy are intended to prevent holiday homes from locating in rural residential areas where the bushfire hazard is categorised as ‘extreme’. The extreme rating is shown in red below, and includes the subject site.



Plan 3b - Margaret River 02

If this policy is adopted this would oppose densely vegetated properties such as this site being used for short stay accommodation and reduce the extent of vegetation clearing proposals for short stay accommodation in the future.

<b>Management</b>	Management Plan submitted?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	BEEP provided	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Manager, or employee permanently resides 35m drive from Site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The management arrangements are to be through Miriam Avery who lives within the Margaret River townsite which is 10 minutes away from the property.
	House Rules?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Amplified music may not be played outside between the hours of 10pm to 10am	Require as a condition if supported.
	Display the manager's 24hr contact details	Require as a condition if supported.
<b>Recommended period of approval</b>	<input type="checkbox"/> 12 months <input type="checkbox"/> 3 years <input checked="" type="checkbox"/> None (Refusal)	

<b>Clause 67</b>	
In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?	
<b>Officer Comment</b>	No. The proposal does not meet Clause 67 (2) (n)(i), (o), (p), (q) and (r) of the Deemed Provisions. Clearing to support a short stay accommodation use is not supported.

<b>In the opinion of the officer</b>	
i. Are utility services available and adequate for the development?	N/A
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	No. Clearing is not supported given the extent of native high quality remnant vegetation that will be affected. This including the potential loss of habitat for endangered Western Ringtail Possum and Carnaby's Cockatoo ( <i>Zanda latirostris</i> ), Baudin's Cockatoo ( <i>Zanda baudinii</i> ) and Forest Red-tailed Black-cockatoo ( <i>Calyptorhynchus banksii naso</i> ).
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?	Yes. The proposal will have a negative impact on the environmental amenity.
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>	<p>The proposal is considered to have a detrimental impact to the environment and is recommended for refusal on this basis.</p> <p>The proposal is introducing a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot. The dense vegetation within and surrounding the lot cannot be sufficiently managed to reduce the risk of bushfire on occupants of short stay accommodation. The extent of high quality native vegetation removal proposed on site will not reduce the bushfire risk of the broader landscape.</p> <p>The extent of land clearing proposed for this land use is considered unreasonable and not supported.</p>

#### **OFFICER RECOMMENDATION**

**That the Coordinator Planning Services REFUSES TO GRANT Planning Consent under Delegated Authority Instrument No. 34 pursuant to clause 68 (2) of the Deemed Provisions of Local Planning Scheme No. 1 for a Holiday House and Vegetation Modification Outside Building Envelope at 12 (Lot 9) Walker Place, Redgate for the following reasons:**

#### **REASONS FOR REFUSAL**

1. The proposal is not consistent with the aims and provisions of Local Planning Scheme No. 1 applicable to the Rural Residential Zone 4.22.4, particularly Objective (d)(ii) which is aimed at minimising the clearing of established vegetation.
2. The proposal is inconsistent with Clause 5.20.1(b) of Local Planning Scheme No. 1 as the proposed vegetation to be cleared is in good condition and its removal would result in a deleterious impact upon the environment.
3. The proposal is not consistent with the Shires Local Planning Strategy 2036. The Strategy seeks to minimise all clearing into the future where it can be avoided.
4. The proposal is not consistent with the objectives of the Shire's Overarching Sustainability Policy, particularly point 1.8 which is aimed at protecting intact native habitats from further damage by minimising clearing of endemic vegetation.
5. The proposal does not meet Bushfire Policy Provision GF3 of the Shire's Local Planning Policy 7 – Short Stay Accommodation, which restricts short stay accommodation in areas with a high Bushfire Attack Level (BAL) rating of BLA-40 or BAL-FZ.
6. The proposal is not consistent with State Planning Policy 3.7 – Planning in Bushfire Prone Areas, in particular Policy Objective 5.4 which seeks to achieve a balance between bushfire risk management measures and environmental protection.
7. The proposal would result in extensive clearing of vegetation which is potential habitat for the critically endangered Western Ringtail Possum, Carnaby's Cockatoo (*Zanda latirostris*), Baudin's Cockatoo (*Zanda baudinii*) and Forest Red-tailed Black-cockatoo (*Calyptorhynchus banksii naso*).



**DEVELOPMENT APPLICATION ASSESSMENT**  
**Report to Manager Planning and Regulatory Services**  
**Proposed Building Envelope Variation**  
**51 (Lot 391) Devon Drive, Margaret River**

**Level 3**

**P223280; PTY/11807**

**REPORTING OFFICER : Don Bothwell**  
**DISCLOSURE OF INTEREST : Nil**

<b>General Information</b>	
<b>Lot Area</b>	10005m <sup>2</sup>
<b>Zone</b>	<b>Rural residential</b>
<b>Proposed Development</b>	<p>The proposed application is for the development of an Outbuilding (Shed) on the subject site.</p> <p>The proposed Outbuilding (Shed) is 12m in length and 9m in width with a floor area of 108m<sup>2</sup>. There is an existing Sea Container on the subject site which is 13.86m<sup>2</sup> and a Garden Shed of 7m<sup>2</sup> with a total Outbuilding area proposed of 128.86m<sup>2</sup> in-lieu of 120m<sup>2</sup> set out in the acceptable development standards of Local Planning Policy 7 (LPP7).</p> <p>To accommodate the new Outbuilding the applicant is also proposing a relocated building envelope as per below:</p> <p>The amended Building Envelope variation which is proposed to remain at the same size of 1440m<sup>2</sup> and presents a variation to Schedule 9 of LPS1 of 14m in-lieu of 30m to the front lot boundary to Devon Drive. The existing Building Envelope has a 19m setback to the front lot boundary to Devon Drive.</p>
<b>Permissible Use Class</b>	A building envelope is not a use class but can be varied in accordance with Clause 5.10 of LPS1. A Single Dwelling is a Permitted use in the zone.
<b>Heritage/Aboriginal Sites</b>	None identified.
<b>Encumbrance</b>	Nil.
<b>Date Received</b>	04/05/2023



Policy Requirements	
Is the land or proposal referred to in any Council Policy?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p><u>Local Planning Policy 1 (LPP1)</u>            The proposed outbuilding (shed) at 108m<sup>2</sup> on its own is under the allowable size of 120m<sup>2</sup> set out in LPP1. When combined with the existing garden shed of 9m<sup>2</sup> and a sea container of 13.86m<sup>2</sup>, the total aggregate outbuilding size is 128.86m<sup>2</sup>.</p> <p>This presents a variation of 28.86m<sup>2</sup> to Clause AD1.7 of the acceptable development standards of LPP1.</p> <p>This variation is assessed against the relevant performance criteria below:            The variation to the acceptable development standards under LPP1 for the height and setback is assessed against the performance criteria as follows:</p> <p><i>Outbuildings that are/can be adequately screened from view from the street and neighbouring properties, or are otherwise an appropriate form and scale, and in an appropriate location, consistent with the visual management guidelines of the Local Planning Strategy.</i></p>	

- The outbuilding is adequately screened from view from Devon Drive and the surrounding properties due to the existing vegetation in the front setback area to Devon Drive as shown in the below images:



- The landowner(s) have agreed to implement a landscape plan which would increase planting to provide a further vegetative screen to shed as viewed from Devon Drive. It is noted that there may be fire break implications with increased planting in this area with 'fire wise' planting to be considered where necessary

*Outbuildings constructed of colours and materials that complement the landscape, dwelling and/or the amenity of the surrounding area.*

- The outbuilding is proposed to be constructed of complimentary colours with the use of Colorbond "Woodland Grey" for the skillion roof of the proposed shed to match that of the existing dwelling.
- The use of colours that are dark rather than light for the walls of the shed have been identified to blend into the trees and surrounding landscape.

*Outbuildings that will not have an adverse impact to or detract from the streetscape or amenity of neighbouring properties.*

- The outbuilding is not considered to have any adverse impact to or detract from the streetscape or amenity of the neighbouring properties.
- The skillion roof design is low in profile and complies with the height requirements outlined in LPP1.

*Outbuildings that, where practical, are grouped with the residence to limit potential adverse visual impacts and are proportionally scaled relative to the dwelling on site.*

- The proposed outbuilding has been effectively grouped with existing dwelling on the site.
- The size of the outbuilding of 108m<sup>2</sup> is considered of appropriate scale within a rural residential area on a lot of this size. Once the sea container has been removed as recommended as a condition of approval, the combined size of the proposed outbuilding (shed) and the garden shed of 7m<sup>2</sup> would be 115m<sup>2</sup> which would comply with the relevant acceptable development criteria of LPP1.

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	Subdivision and Detailed Area Plan – Lot 33 Devon Drive, Margaret River
<b>Officer Comment</b>	No relevant provisions or implications for the proposal.
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: <b>One (1) submission of objection and one (1) submission of support.</b>
<b>Details of Submission</b>	<b>Officer Comment</b>

<u>Submission 1 – objection</u>			
<ul style="list-style-type: none"> <li>My concern with the proposal is that the variation is being sought in order to build an outbuilding (shed) of substantial size that would be highly visible from the street and detract from the street's rural residential character.</li> <li>If a building of this size was to be erected in that location I would like to see that its profile, materials and colour have regard for the streetscape.</li> </ul>		<p>Noted. The existing sea container existing on the property which results in the aggregate size of the proposed and existing outbuildings to exceed to allowable 120m<sup>2</sup> has been conditioned to be removed from the site within 12 months. The existing vegetation acts as a visual screen to Devon Drive with a condition applied for increased landscaping in the Devon Drive front setback area to further ameliorate any undue visual impact from the street.</p> <p>Further discussion on the street setback is provided below.</p> <p>Noted. The applicant has nominated a 'Woodlands Grey' roof to match that of the existing single dwelling with dark colours indicated for the walls of the outbuilding to tie in with the trees and surrounding landscape with characterises the streetscape and locality. The low profile of the skillion roof which complies with the height requirements of LPP1 is not considered to have an adverse impact on the Devon Drive streetscape.</p> <p>The location on the site has been identified for the development of the shed as it did not require the removal of any vegetation on the site.</p>	
<u>Submission 2 – no objection</u>			
<ul style="list-style-type: none"> <li>We have no objection to the application providing that the outbuilding (shed) is not used for commercial use and will not be used for making undue or unreasonable noise to neighbouring properties.</li> </ul>		Noted.	
<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
		<p>There is an unapproved sea container (outbuilding) located at the rear (west) of the existing single dwelling, this is a legacy building which was existing when the current landowner(s) purchased the property.</p> <p>The applicant has advised that they are willing to remove the sea container noting that the structure is unapproved, not clad and aesthetically unappealing and contributes to the aggregate size of all outbuildings on the subject site exceeding 120m<sup>2</sup>.</p> <p>The applicant has advised that they will not be able to get on-site and construct the new outbuilding until the new year. The owner has requested sufficient time for the new proposed outbuilding to be constructed so that they can relocate some items stored in the sea container into the new outbuilding once constructed.</p> <p>Accordingly, a condition has been included in the recommendation for the sea container to be removed within one (1) year from the date of approval.</p>	
<b>R Codes</b>			
Are R Codes applicable?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>Design Element</b>	<b>Policy / R Codes</b>	<b>Provided</b>	<b>Officer comment</b>
<b>Development Standards (Schedule 9)</b>			
Are the development Standards applicable?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

<b>Officer Comment</b>	The below table is an assessment of the relevant provisions of Schedule 9 of LPS1:			
	Development Standard	Required	Provided	Officer Comment
	Front Setback (Devon Drive)	30m	14m	Variation.
	Rear Setback (West)	30m	20m	Variation. No change to location of existing building envelope on rear (west) side.
	Side Setback (North)	10m	>10m	Complies. No change to location of existing building envelope on the right (north) side.
Side Setback (East)	10m	>10m	Complies. Building envelope pulled away from left (south) side boundary and reduced by an equal area to compensate for the amended building envelope at the front.	
Please refer to the <i>Officer Comments</i> section of this report justification and commentary around the new proposed front setback of the building envelope of 14m in-lieu of 30m.				

<b>Building Height</b>	
Scheme / Policy Requirement	Skillion Roof – for Outbuilding (as per LPP1) – 3.6m median height
State the proposed building height	Roof – 3.395m median height
	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply

**Clause 67**  
 In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?

<b>Officer Comment</b>	<p>Yes. The proposed building envelope variation is consistent with the objectives of the rural residential zone as the development will provide a range of low scale rural related lifestyle type development and ancillary pursuits consistent with the amenity whilst conserving native vegetation.</p> <p>It has been confirmed that there are no trees or vegetation to be removed to accommodate the proposed outbuilding (shed) position with the outline of the shed depicted in the below photo's:</p>
	<div style="display: flex; flex-direction: column; align-items: center;">   </div> <p>The location of the outbuilding is clustered with the dwelling, arranged to make use of existing vehicle access, prevent clearing and maintain solar access to the existing dwelling. It is considered that potential visual impacts to Devon Drive can be reduced through the use of non</p>



	reflective materials and through landscaping being undertaken to supplement the roadside vegetation screening the eastern elevation of the outbuilding.
<b>In the opinion of the officer</b>	
vi. Are utility services available and adequate for the development?	Yes.
vii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	Yes. No removal of vegetation on the site is required for the proposed outbuilding.
viii. Has adequate provision been made for access for the development or facilities by disabled persons?	N/A.
ix. Is development likely to cause detriment to the existing and likely future amenity of the neighbourhood?	No. The proposed shed is not considered to have an adverse impact on the amenity of the neighbourhood and the locality.
x. Is the development likely to comply with AS3959 at the building permit stage?	Yes.
<b>Other Comments</b>	
Any further comments in relation to the application?	
<b>Officer Comment</b>	Conditional approval recommended.

### OFFICER RECOMMENDATION

**That the Coordinator Planning Services Grant 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 Building Envelope Variation at 51 (Lot 391) Devon 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 28 July 2023 and P2 received 4 May 2023
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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.
- All stormwater and drainage run-off from the development shall be detained within the lot boundaries, managed to pre-development 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 Standards & Specifications.
- The Outbuilding shall be used solely for the purposes incidental and ancillary to the authorised use of the land.
- The Outbuilding shall not be used for human habitation.
- Prior to the issue a Building Permit, a landscaping plans shall be submitted to and approved by the Shire showing vegetative screening of the outbuilding from the street (Devon Drive) to the satisfaction of the Shire.
- Landscaping shall be implemented and maintained in accordance with the approved landscaping plan.
- The revised building envelope hereby approved, wholly replaces that previously applicable to the site.
- Within 12 months from the date of this planning approval, the existing sea container on the site shall be removed from the subject property at No. 51 (Lot 391) Devon Drive, Margaret River.
- The walls and roof of the building shall be clad in a non-reflective material and painted in a colour of natural or earth toning consistent with the existing landscape and existing development. To this end, reflective materials or reflective colours as cladding/external (including but not limited to) 'silver' sheeting painting white, cream, off white or pale grey are prohibited.

### ADVICE NOTES

- You are advised of the need to comply with the requirements of the following other legislation:
  - 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*;
  - Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.