

DEVELOPMENT ASSESSMENT REPORT
Shire of Augusta Margaret River
7 March to 13 March 2024

APPLICATIONS RECEIVED

Date Rec'd	Reference No.	Address	Proposal
PLANNING			
07/03/2024	P224173	Shop 2, 107 (Lot 102) Bussell Highway, Margaret River	Section 40
07/03/2024	P224174	Lot 57 Colyer Drive, Hamelin Bay	Building Envelope Variation
08/03/2024	P224175	122 (Lot 2) Bussell Highway, Margaret River	Section 40
08/03/2024	P224176	78 (Lot 425) Leschenaultia Avenue, Margaret River	Single Dwelling
08/03/2024	P224177	Unit 2/7 (Lot 1) Acacia Court, Cowaramup	Grouped Dwelling
08/03/2024	P224178	91 (Lot 36) Rainbow Cave Road, Margaret River	Holiday House (Large) Renewal
11/03/2024	P224179	14 (Lot 871) Betts Court, Margaret River	(Development outside the building envelope) Additions and alterations to single house, ancillary dwelling and outbuilding.
11/03/2024	P224181	6 (Lot 328) Ibis Court, Karridale	Building envelope variation and single dwelling (variations to LDP)
11/03/2024	P224182	22/5 (Lot 22) Station Road, Margaret River	Holiday House (Renewal)
11/03/2024	P224183	59 (Lot 56) Leeuwin Road, Augusta	Holiday House
11/03/2024	P224184	14 (Lot 871) Betts Court, Margaret River	Holiday House (Renewal)
11/03/2024	P224185	11 (Lot 118) Mentelle Road, Burnside	Holiday House (Renewal)
12/03/2024	P224188	63 (Lot 10) Blackwood Avenue, Augusta	Change of use to restaurant/bar
12/03/2024	P224190	20 (Lot 328) Hardy Street, Augusta	Outbuilding (shed)
12/03/2024	P224191	230 (Lot 6/2) Boodjidup Road, Margaret River	Holiday House Renewal
12/03/2024	P224192	18a (Lot 3) Georgette Drive, Margaret River	Holiday House
12/03/2024	P224193	Unit 103/96 (Lot 3) Bussell Highway, Margaret River	Additions and Alterations to Grouped Dwelling (Patio)
13/03/2024	P224197	10 (Lot 864) Chamberlain Place, Augusta	Holiday House
13/03/2024	P224198	6 (Lot 28) McDermott Parade, Witchcliffe	Bed & Breakfast
BUILDING			
07/03/2024	224145	11 (Lot 14) Bussell Highway, Margaret River	Carport
07/03/2024	224146	2 (Lot 39) Apsley Drive, Margaret River	Duplicated application
07/03/2024	224147	Lot 1005 Hawkesford Place (Lot 92 Shiraz Lane), Margaret River Lifestyle Village	Single Dwelling, Garage and Patio
07/03/2024	224148	Lot 1004 Hawkesford Place (Lot 62 Verdote Lane), Margaret River Lifestyle Village	Single Dwelling, Carport and Patio
07/03/2024	224149	9 (Lot 57) Groupthree Drive, Kudardup	Single Dwelling and Shed
07/03/2024	224150	Lot 1510 Salmon Place, Margaret River	Single Dwelling and Detached Garage
08/03/2024	224151	38 (Lot 143) Tonkin Boulevard, Margaret River	Alterations and Additions to Existing Dwelling - Store Room
08/03/2024	224152	3 (Lot 2) Mann Street, Margaret River	Single Dwelling and Pergola
08/03/2024	224153	15 (Lot 20) Hideaway Entrance, Cowaramup	Site Works and Slab only
11/03/2024	224154	302 (Lot 14) Kevill Road, Margaret River	Shed
12/03/2024	224156	11 (Lot 4) Mulal Avenue, Witchcliffe	Single Dwelling, Carport with Store and Rainwater Tanks x2
12/03/2024	224157	53 (Lot 223) Leeuwin Road, Augusta	Shed
13/03/2024	224158	Reserve R46732, Wallcliffe Road, Margaret River (Gnarabup Oval)	Gazebo
13/03/2024	224159	3 (Lot 240) Villers Street, Cowaramup	Swimming Pool
13/03/2024	224160	3 (Lot 240) Villers Street, Cowaramup	Swimming Pool Barrier Fence

Exploration Licenses for Comment
Nil

APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
PLANNING				
14/11/2023	P223755	237 (Lot 12) Glengarry Road, Margaret River	Dam	Approved
04/12/2023	P223827	Lot 2770 Warner Glen Road, Warner Glen	Dam	Approved
03/01/2024	P224003	11 (Lot 14) Bussell Highway, Margaret River	Outbuilding (Shed)	Approved
12/01/2024	P224025	9 (Lot 10) Tulip Way, Margaret River	Single Dwelling	Cancelled
16/01/2024	P224040	24 (Reserve 23211) Waverley Road, Cowaramup	Market (Farmers Market)	Approved
30/01/2024	P224075	4 (Lot 31) Wigglesworth Drive, Cowaramup	Warehouse Units x4	Approved
SUBDIVISIONS				
Nil				
LOCAL LAW PERMITS				
26/02/2024	P224180	Bussell Highway (main street), Old Settlement and river walk beside Old Settlement and Rotary Park	Authorisation to film on Shire Reserves - Great Australian Walks - 15&16 March	Approved

LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
PLANNING				
27/09/2023	P223621	166 (Lot 34) Bushby Road, Karridale	Camping Ground	Refusal
25/10/2023	P223697	104A (Lot 35) Ashton Street, Margaret River	Development Outside of Building Envelope	Conditional Approval

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.

General Details

Reporting Officer	Tessa Ashworth
Disclosure of Interest	Nil
Assessment Level	Level 3 – refusal

Application Details

Address	166 (Lot 34) Bushby Road Karridale			
Proposed Development	Camping Ground			
Zoning	Priority Agriculture			
Lot Area	13.5ha			
Use Class and Permissibility	'A'			
Heritage/Aboriginal Sites	None			
Other Considerations	Visual Management Area	<input type="checkbox"/>	Sewerage Sensitive Area	<input type="checkbox"/>
	Special Control Area	<input type="checkbox"/>	Watercourses/Rivers	<input checked="" type="checkbox"/>
	Bushfire Prone Area	<input checked="" type="checkbox"/>	Environmentally Sensitive Areas	<input type="checkbox"/>
Structure Plans/LDP's	None			
Easements/Encumbrances	None			
Why is Development Approval Required?	Camping ground is an 'A' use in Priority Agriculture zone			



Assessment

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

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 checked="" type="checkbox"/>	<input 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

Local Planning Scheme No.1 – Schedule 9		
Standard	Required	Provided
Setback (Front)	30m	50m – complies
Setback (West Side)	20m	37m - complies Freestanding gazebo 17m – variation
Setback (East Side)	20m	45m – complies
Setback (Rear)	20m	400m – complies
Site Coverage	N/A	
Plot Ratio	N/A	
Landscaping	N/A	

Discussion

Background

The site has 2 chalets called the 'surf shack' and the 'hobbit house' which were approved in 2013 (P213457) and 2016 (P216477) respectively.

There have been compliance issues at the site for an illegal campground in January 2021 and building and habitation of unapproved structures. The Shire successfully prosecuted the landowner who received an infringement in 2022 under the *Building Code Act* for the unapproved structures.

Consultation

The application received 8 submissions of objection, 6 of support and 1 indifferent.

Note that of the letters of support, 2 were from the subject lot landowners and 2 from submitters not advertised to and that do not live in the area.

The concerns raised as follows:

Submitter Concerns	Officer/Applicant Comment
<ul style="list-style-type: none"> Impact on amenity of neighbours from the noise from a number of parties that have taken place over the years. 	<p>Applicant confirmed this has happened however responded that it is irrelevant to the camping ground application.</p>
<ul style="list-style-type: none"> Property has a history of non-compliance. Campground has been operating on the property for years with large numbers of people and several permanent campers. 	<p>Applicant responded that the previous unapproved commercial campground run a previous owner who no longer has ownership. Since then, has just been used by friends and family. Applicant sees the paying of infringement fines as resolving the campground non-compliance however, fines related to unapproved structures.</p>
<ul style="list-style-type: none"> Site is not zoned tourism and should be maintained for the predominant agricultural use. 	<p>Applicant response that the site is a hobby farm zoned tourism due to the 2 chalets on site. This is an incorrect interpretation of the intended use of the land.</p>
<ul style="list-style-type: none"> Rubbish from the property blowing onto neighbours from occupants, burning of rubbish on site – more people on site will make worse. 	<p>Applicant response that this complaint likely to be from building works in the past, but not relevant to campground.</p>
<ul style="list-style-type: none"> Fire risk from use of fire pits during summer and autumn when dry. Will there be a caretaker residing at the property to manage bushfire risk? Often owner is not on site. 	<p>Caretaker to be present on site. Will put in place signs reminding of fire risk around the site.</p>
<ul style="list-style-type: none"> Ability to run cattle on adjoining lots negatively impacted – do not ensure animals stay on their side of the fence, rubbish blowing over and noise from parties. 	<p>Fence has been fixed, neighbours have owners phone number if there are any issues.</p>
<ul style="list-style-type: none"> Concern around diversity of ownership (joint tenancy) and who will take responsibility when illegal activity takes place. 	<p>Full time caretaker to be in place to manage campground and chalets.</p>

Government agency referral

DFES

- Secondary access point required, LG to be satisfied it is not possible.
- Some minor modifications to BMP required including turn around area for water tank.

Relevant Policy

SPP3.7 – Planning in Bushfire Prone Areas

The proposal has been assessed according to Element 5: Vulnerable Tourism Land Uses (other short-term accommodation) under the Guidelines for Planning in Bushfire Prone Areas (the guidelines).

The proposal shows that it can meet the guidelines with some vegetation clearing around campground facilities (toilet and ablution) which need to achieve a BAL-29. Tent sites can be located in areas above BAL-29 according to the guidelines.

A second access is suggested to the lot, however the guidelines state that this is 'where possible'. A second access is not possible without disturbing the creek line and native vegetation. Generally, it meets the requirements of the guidelines with some minor modification to the BMP – such as water tank turn around area and fitting, and further detail on vegetation removal.

Given the recommendation for refusal based on provisions of LPS1, it is not considered necessary to finalise these modifications.

LPS1

4.16.3 (b) *The number of chalets/cabins, caravan/camping bays or guest house accommodation permitted on lots having area between 5 hectares and 20 hectares within the Priority Agriculture and General Agriculture Zones shall not exceed 2 chalets/cabins, 4 caravan/camping bays or 4 guest bedrooms.*

The site is 13.5ha, and two chalets have already been approved on the lot. The applicant is seeking a variation to the scheme by the addition of four campsites.

In addition, the scheme requires that the tourism proposal *'will not have any adverse effect on rural production activities on the subject land or nearby land and that the proposed development will be incidental to the principal use of the land for agricultural purposes'* (Clause 4.16.3 (i)).

There is no evidence of continued rural use on the lot, and increasing the tourism use above scheme requirements has not been suitably justified by any proposed agricultural use. The proposal will essentially further shift the predominant use of the lot to 'tourism'.

As such, the proposal does not meet the objectives of the priority agriculture zone to ensure that the rural productivity and the rural character and amenity of land within the zone is preserved, and to allow for sustainable low-impact tourist development such as chalet development but only where there is an established and continued agricultural, horticultural, viticultural or similar rural production.

All immediate neighbours have written strong objections to the proposal with 8 objections in total. Impact on amenity has occurred through previous illegitimate use as a campground, as such it cannot be determined this will lessen if it is legitimised.

Refusal recommended.

Determination

That the Coordinator Planning Services Refuse 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 the Camping Ground at 166 (Lot 34) Bushby Road Karridale for the following reasons:

Reasons For Refusal

1. The proposal is inconsistent with Clause 4.16.3(b) of Local Planning Scheme No. 1 in that the proposal exceeds the number of chalets and camping bays permitted on lots between 5 and 20 hectares.
2. The proposal is inconsistent with Clause 4.16.3(b) of Local Planning Scheme No. 1 as the proposal is not incidental to the principal use of the land for agricultural purposes.
3. The proposal is inconsistent with the aims and provisions of Local Planning Scheme No. 1 applicable to the Priority Agriculture Zone 4.2.2.1, particularly Objective (iii) to manage land use changes so that the rural productivity and the rural character and amenity of the land is preserved.

4. The proposal sets an undesirable precedent for tourism development in the rural zone, where there is no relationship between agricultural land use and tourism.



DEVELOPMENT APPLICATION ASSESSMENT
Report to Manager Planning and Regulatory Services

Proposed Single Dwelling and Ancillary Dwelling
104A (Lot 35) Ashton Street Margaret River

Major (Level 2 – Objections Received)

P223697; PTY/1328

REPORTING OFFICER : Harriet Park
DISCLOSURE OF INTEREST : Nil

General Information	
Lot Area	10,252m2 (1ha)
Zone	Rural Residential
Proposed Development	<p>Planning approval is sought for a new two storey dwelling and 64.3m2 ancillary dwelling upon a vacant lot. The buildings are architecturally designed to sit in the landscape and accommodate the natural slope of the land towards the Margaret River.</p> <p>The application was originally submitted presenting a dwelling wall and roof height variation to LPS1. However, in response to objections received by neighbours during the advertising period the applicant has reduced the building height to be compliant with the 8m building height limit specified in LPS1. The retaining wall located in the south western corner of the site has also been modified to be located inside of the allocated building envelope, originally the retaining wall was to protrude outside of the envelope.</p> <p>No building envelope has been allocated to the Rural Residential lot during the subdivision process, therefore the applicant has presented a 1,922m2 building envelope to the Shire through this planning application.</p> <p>The dwelling and ancillary dwelling is located inside of the building envelope which is compliant with the setbacks for the rural residential zone.</p> <p>However, the proposal presents earthworks (cut), a battered rock wall for retaining and driveway located outside of the building envelope to facilitate vehicular access to the garage. The closest point of the batter is located 3.5m from the eastern lot boundary in lieu of the standard 10m rural residential side boundary setback.</p> <p>No vegetation removal is proposed.</p>
Permissible Use Class	P – Permitted (Single House and Ancillary Dwelling)
Heritage/Aboriginal Sites	None identified.
Encumbrance	<p>Restrictive Covenant – Building height not to exceed AHD RL:73m</p> <p>Clause 5.13 of LPS1 specifies the maximum building height for development in this area which prevails over that specified in the Restrictive Covenant.</p> <p>Restrictive Covenant – Landscape Protection Area Drainage Easement along shared boundary between Lot 35 and Lot 36 and across battleaxe driveway of Lot 35. Notification – Bushfire Prone Area Notification – No reticulated sewerage service available</p>
Date Received	25/10/2023

Subject Property



Location Map



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	<p><i>Ashton Street Local Structure Plan – Modification No. 1 Lot 2 Ashton Street, Margaret River</i> endorsed 17 August 2015 -Outlines the zoning for the property Rural Residential and Landscape Protection Area at the rear of the lot abutting the Margaret River foreshore Reserve.</p> <p><i>Ashton Street Outline Development Plan</i> endorsed 16 September 2008 -Shows a 30m Landscape protection area at the rear of the lot abutting the Margaret River foreshore Reserve.</p>

Planning History	
None	
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: 2	
Details of Submission	Officer Comment
<p>Private Submission 1: Objection</p> <p>Objection to building height and side setback variation (retaining wall and driveway)</p> <ul style="list-style-type: none"> View Impacts on surrounding properties The building wall height impacts the view of the forest from 106A and 106 Ashton Street. Aesthetic Impacts on surrounding natural landscape The proposed building height will have a negative impact on the surrounding natural landscape. Setbacks are designed to maintain a harmonious streetscape and prevent overcrowding of buildings. When a structure extends significantly beyond the prescribed setback, it can disrupt the visual coherence of the neighbourhood and impact the overall aesthetics. Privacy issues The close proximity of the proposed development to the boundaries of existing properties requires adequate screening to maintain privacy and security for surrounding residents. There is not enough space for adequate screening to be implemented between properties, this could result in overlooking issues compromising the privacy of residents. 	<p>The applicant was provided with an opportunity to respond to the issues raised in the submissions. The following response was received;</p> <p>Applicant's Response: The maximum height proposed for the dwelling is 72.97AHD which is below the maximum height stated in the Restrictive Covenant for the property of 73AHD. The development is cut into the site to avoid excessive fill and additional building height.</p> <p>Planning officer comment: Although the height of the buildings are compliant with the restrictive covenant for the site of 73AHD, the application is assessed against the height requirements of the relevant planning legislation, Local Planning Scheme No. 1 (LPS1). The original design proposed an 8.8m roof height and 8.48m wall height from natural ground level taken at the highest point, a variation to the 8m roof, 7m wall height maximums outlined in LPS1. As there are no major site restraints to support the over height dwelling, it has been requested that the applicant reduces the maximum height of the dwelling to 8m or below.</p> <p>As the roof design is a skillion the 7m maximum wall height is dismissed as long as the 8m roof height can be achieved. The applicant has reduced the slope of the skillion roof to make the dwelling compliant with the 8m maximum height requirements. The building height of the dwelling is now planning compliant.</p> <p>Applicant's Response: The building itself is contained within the building envelope and is compliant with rural residential setback requirements. A portion of the proposed retaining wall originally extended outside of the building envelope which has now been shortened to be contained within the envelope. The driveway and earthworks including rock batter will still be located outside of the building envelope to allow access to the garage. Additional planting along the southern portion of the eastern boundary as been proposed to screen the driveway and batter from view of neighbours.</p> <p>Planning officer comment: the retaining wall extending off the garage to stabilise the earthworks (cut) has been reduced in length to be contained within the allocated building envelope. This is no longer considered a planning variation. The building height has also been reduced to be compliant with the prescribed 8m maximum roof height from natural ground level, and is no longer considered a planning variation. It is unlikely that the earthworks (cut), batter rock wall and driveway could be seen by surrounding landowners due to the slope of the land, therefore shall not have any affect on the amenity of surrounding land owners.</p> <p>Applicant's Response: The building is compliant with lot setback requirements. The areas facing lots 106 and 106A Ashton Street are also all largely the Garage and back of house areas with high level windows. There is one full height window but as demonstrated on the provided overlooking diagram (drawing A-09) this is compliant with the R-codes.</p> <p>Planning Officer Comment: The R-Codes do not apply to development in the rural residential zone however the</p>

- Sunlight and Ventilation

Setbacks also consider factors such as sunlight and ventilation accessing a property. Encroachment may lead to reduced sunlight reaching adjacent homes and limit the natural ventilation affecting the quality of living for residents in the vicinity.

- Property Values

An encroaching structure can potentially impact property values in the surrounding area. Buyers and renters often consider factors such as space, privacy and neighbourhood aesthetics when making housing decisions. Violating setback regulations may affect the attractiveness of neighbouring properties.

- Safety and Building Codes

Setback regulations are often based on safety considerations and building codes. Encroachment beyond these limits could potentially compromise safety standards and increase the risk of issues such as fire hazards or inadequate emergency access.

- Community character

Maintaining a consistent and harmonious community character is an important aspect of setback regulations. When a structure extends too close to property lines, it may create a jarring contrast with neighbouring homes, disrupting the overall character of the community.

The submitter recommends moving the dwelling further down the lot to reduce cutting in and need for retaining, and ensure the driveway is located within the building envelope.

Private Submission 2: Objection

Private Submission 2 includes the exact same wording as private submission 1, however in addition includes an objection to:

high windows facing neighbouring properties is beneficial for the privacy of neighbouring properties.

Applicant's Response: The building itself is entirely compliant with lot setbacks and is located within the building envelope. The only encroachment is the retaining wall which has now been reduced in length to be contained within the building envelope. An overshadowing diagram has been provided (drawing A-10) which shows overshadowing at 12pm on June 21 (winter solstice) which demonstrates that all over-shadowing is contained on site and does not affect neighbouring access to sunlight and ventilation.

Planning Officer Comment: Issue addressed through overshadowing diagram provided by applicant showing all overshadowing being contained within the lot boundaries.

Applicant's Response: The only portion of the building encroaching the setback is the low retaining wall for the driveway. We have proposed to shorten this wall so that it sits within the setback and ensures the proposal is compliant. The house has been carefully designed to blend into its site and context amongst the trees and have minimal visual impact to the surrounding properties. We feel good quality sustainable architecture which considers these factors and has been purposefully designed at a very modest scale will add value to the surrounding area rather than compromise it.

Planning officer comment: Property value is not a matter that can be considered in accordance with clause 67 when making a planning decision.

Applicant's Response: We have worked closely with our bushfire consultant throughout the entire design process and we are compliant with all setbacks required in order to comply with bushfire requirements. The location of the building does not compromise emergency access to the site or surrounding properties in any way.

Planning officer comment: A BAL Report has been provided with the application resulting in a determined BAL rating of BAL-12.5 for the dwelling and BAL-29 for the ancillary dwelling. Both ratings are considered acceptable BAL ratings for habitable structures and their siting on the lot does not require any vegetation modification on site.

Applicant's Response: The house is located within compliant setback boundaries and therefore we don't believe this impacts community character in anyway. The building is at its lowest height (70.008) where it is closest to neighbouring properties in order to minimise visual impact and ensure it does not overshadow, dominate or crowd neighbouring buildings. The building will also be clad in timber which will be allowed to weather naturally, blending it into the surrounding mature trees (All of which are being retained in order to further reduce built visual impact and maintain as much of the existing natural site features as possible).

Planning officer comment: The development meets the setback requirements of the scheme, with the exception of the excavation proposed, which is discussed further below.

- Cutting in, earthworks and ramp extending into the 10m lot boundary setback

- the extensive cutting in, earthworks and ramp extending into the 10m lot boundary setback which should not be encroached upon.

Applicant's Response: Please see drawing A-13, where we have cut some site sections to show how we are proposing the rock battering retaining to be. We have aimed for this to be as visually unobstructive as possible and will be a soft landscaped solution rather than hard concrete retaining walls which are at odds with the context and natural features of the site. The rock battering is intended to slope/ramp gently towards the driveway and we have proposed new vegetation screening in order to further conceal this from neighbouring views. Please see some example precedent images of the proposed aesthetic which we feel tie in well with the site and do not create visual obstruction. The driveway has also been designed to run along the contours of the site and work with the natural ground as much as possible. The ramp down to accommodate this is a 7% grade (Main Roads Western Australia recommend a maximum grade of 5-8% so this is within range). Please see example image below of what we are proposing for the driveway.



AN EXAMPLE OF BATTERED ROCK RETAINING (IMAGE EXAMPLE ONLY: DOES NOT NECESSARILY REFLECT ROCK SIZE AND COLOUR TO BE USED)

Planning officer comment:

In response to the issues raised in the submissions received the applicant has reduced the length of the retaining wall protruding 2.5m outside of the allocated building envelope, to ensure it is now contained within the building envelope and compliant with the 10m rural residential development setback.

The applicant has advised that the earthworks located outside of the building envelope to facilitate a driveway for vehicular access to the garage will remain unchanged. The batter wall starts 3.5m from the eastern property boundary and slopes gradually to stabilise 1.9m of cut.

The cut minimises the need for retaining and excessive fill on the sloped site to facilitate the construction of a two storey dwelling.

The applicant has advised that the batter wall and cut will need to remain in place and located outside of the building envelope as the dwelling and garage have been strategically located in this position to avoid removal of any trees on the site. If the dwelling and garage are moved further away from the eastern boundary as this will result in the removal of existing trees and/or the disturbance of their root zones. The applicant has proposed to apply vegetation screening to the southern portion of the eastern boundary to screen the development and cut from the eastern neighbours.

Late submission received: Further comments were received by private submitter 1 after the advertising had closed raising concerns around the dwelling being placed in an area of the site which reflects BAL-FZ on the BAL contour plan included in the subdivisional BMP, and not located within the lower BAL contour area. The submitter

Officer's Response to late submission received: The BAL contour map shows the BAL zones pre subdivision and development.

A BAL contour plan as part of the subdivisional BMP does not depict the building envelope or location of future

<p>is under the impression that the BAL contour map represents the building envelope for the site.</p>	<p>dwellings on the site. The BAL report submitted with the planning application presents a current assessment of the potential fire risk of the dwelling and ancillary dwelling in the chosen location on the lot. The BAL report reflects a BAL rating of 12.5 for the dwelling and BAL 29 for the ancillary dwelling. BAL ratings of BAL-29 and below are considered acceptable for residential development without needing a referral to DFES.</p> <p>Clause 4.22.2 of LPS1 (e) specifies that where a building envelope has not been specified for a lot all buildings are to be located within a 2,000m2 envelope to be located no closer to the boundaries than that specified in Schedule 9 development setbacks for the zone.</p> <p>In this instance all buildings are located within the proposed building envelope that complies with the Schedule 9 setbacks for the rural residential zone. However, through this application the applicant is seeking planning approval for development outside of the envelope in the form of earthworks, batter and the driveway.</p> <p><i>This is a variation to Clause 5.10.1 "... all development shall be contained within the prescribed building envelope."</i></p> <p>This is discussed further in the LPS1 assessment section of this report.</p>
<p>Internal Department Comments</p>	<p>Officer Comments</p>
<p>Environmental Health Department - Single dwelling on property not connected to reticulated water or sewer. - Effluent disposal approval issued on 9 November 2023. -No issues</p> <p>Environment Department -No issues</p>	<p>Noted.</p>
<p>Assessment of Application</p>	
<p>Is the land referred in the Heritage Inventory?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Are there any Contributions applicable?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Are there any compliance issues in relation to existing development?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>R Codes</p>	
<p>Are R Codes applicable?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Local Planning Scheme No. 1 (LPS1)</p>	
<p>Are the development Standards (Schedule 9) applicable?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

Development Standards (Schedule 9)	Schedule 9 Development Setbacks below:			
	Rural Residential Setbacks	Required	Proposed	Comment
	Front	N/A battle axe lot	N/A battle axe lot	N/A
	Side (east)	10m	3.5m to start of battered retaining wall	Variation
	Side (north)	10m	10m	Complies
	Side (south)	10m	10m	Complies
	Rear (west)	30m as per ODP	61m	Complies
	<p>The application proposes a variation to the 10m eastern lot boundary setback. All buildings (dwelling, ancillary dwelling, water tanks, pool) are located within the building envelope which is also compliant with the rural residential setbacks. Earthworks (cut), a rock batter retaining wall and driveway are proposed to be located outside of the building envelope and protrude 6.5m outside of the building envelope and into the 10m side setback.</p> <p>The earthworks (cut), a battered rock wall for retaining and driveway located outside of the building envelope are necessary to facilitate vehicular access to the garage which is located within the building envelope. The closest point of the batter is located 3.5m from the eastern lot boundary in lieu of the standard 10m rural residential side boundary setback.</p> <p>As mentioned previously, the applicant has shortened the retaining wall in the south eastern corner so that it can be contained within the building envelope. The only variation that remains is the earthworks, rock batter wall and driveway that the applicant wishes to proceed with and seek planning permission for.</p> <p>The applicant has advised that due to the steep slope of the lot the earthworks and rock batter wall are necessary to ensure the development is stepped and sits into the slope of the land rather than bringing in fill which would increase the overall height of the two storey dwelling. Cutting in reduces the bulk and scale of the development which in turn reduces the affect of the development on the amenity of the locality and surrounding neighbours. The architect has carefully located the buildings so that no tree removal is required. It was discussed that moving the dwelling west down the slope of the lot will allow for the driveway and battered retaining to be located within the building envelope, however this would bring the development too close to some of the existing mature trees on site, which could impact the root zone and have a negative affect on the health of the tree and safety of the development. These trees have intentionally been retained on the lot, and development sited so that they can be retained as well as achieving a suitable BAL rating for the development.</p> <p>The cut will not be seen by the eastern neighbours as it is below the natural ground level and as a result has reduced the height, bulk and scale of the two storey development on the amenity of the surrounding land owners. Additionally, the owner has agreed to screening a southern portion of the eastern boundary with native vegetation to screen the development from view of the eastern land owners. The proposed development outside of the building envelope is considered minor and necessary to ensure the dwelling sits into the landscape and blends in with the surrounding environment as much as possible.</p>			
5.10 – Building Envelopes	All development shall be contained within the prescribed building envelope. Where no building envelope has been prescribed for the lot the applicant may propose one in a suitable location and no closer than the setbacks specified for that zone. A variation to the building envelope can be considered through a planning application.			
4.22.2 – Development in the Rural Residential Zone – Building Envelopes	<p>All development shall be confined within the limits of the building envelope unless otherwise approved by the local government through a planning application. The local government may approve a variation to the building envelope in accordance with Clause 5.10 above. Where a building envelope has not been specified for the lot a maximum 2000m2 envelope can be proposed to the local government.</p> <p>This application is for a 1,922m2 envelope to be allocated to the lot which is compliant with the rural residential setbacks prescribed in Schedule 9 of LPS1. The applicant is seeking minor development outside of the envelope to facilitate vehicular access to the garage of the dwelling which incorporates a earthworks (cut), a batter wall and driveway. The proposed buildings (dwelling and ancillary dwelling) are contained wholly within the allocated envelope. This development outside of the envelope is considered acceptable by the Shire to achieve good design outcomes for the dwelling, to avoid excessive fill and additional building height of the dwelling.</p>			
Car Parking				
LPS1 / R Codes Requirement	Car Bays Required - <3> 2 bays for the dwelling and 1 bay for ancillary dwelling	Car Bays Proposed - <3>		
Dimensions	2.5m x 5.5m	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply		
Building Height				
Scheme Requirement	Wall - 7m	Roof - 8m		
State the proposed building height	Dwelling	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply		

	Wall: 7.69m Roof: 8m Ancillary Dwelling Wall: none - 5.61m Roof: 6.1m	
Officer Comment	<p>The proposal involves a wall height variation of 7.69m which relates to the western end of the dwelling. It is to be noted that this is not sought consistently across the site, but rather in association with the higher element of the skillion roof, and is largely attributable to the considerable variation in natural ground level across the site (fall of more than 3m over the length of the dwelling). For this reason a variation to the wall height requirements is capable of being considered pursuant to 5.13.3 of the Scheme. The proposed wall height variation is supported for the following reasons:</p> <ul style="list-style-type: none"> • The applicant has concentrated the height of the proposal to the centre of the site, meaning the lower elevation is orientated to neighbouring properties. • Designs that incorporate a flat, skillion or curved roof are more likely to require a greater wall height than a development that incorporates a more traditional pitched roof, but will have a lesser impact in terms of bulk; • The proposal is within the overall height limit of 8m. <p>For the reasons outlined above the wall height variation is supported.</p>	
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?		
Officer Comment	Yes	
In the opinion of the officer		
i. Are utility services available and adequate for the development?	The site is connected to reticulated water. Reticulated sewer is not available to the lot. An effluent disposal system has been shown on the site plan and will be assessed through the building application.	
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	Yes. No existing vegetation removal is required for the proposed development. All existing trees will be retained. Landscaping in native fire retardant species is proposed along the southern portion of the eastern lot boundary to screen the dwelling, rock batter and driveway from the eastern neighbours.	
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?	<p>The lot is within Visual Management Area A, identified through the Local Planning Strategy 2036. Reflective colours and materials are not permitted. A visual management condition restricting colour use has been added to the development approval.</p> <p>It is unlikely that the earthworks (cut), batter rock wall and driveway could be seen by surrounding landowners due to the slope of the land, therefore shall not have any affect on the amenity of surrounding land owners.</p>	
v. Is the development likely to comply with AS3959 at the building permit stage?	Yes. A BAL Report was provided with the planning application which reflects a BAL rating of BAL-12.5 for the dwelling, and BAL-29 for the Ancillary Dwelling location.	
Other Comments		
Any further comments in relation to the application?		
Officer Comment	Conditional Approval is recommended. This minor development outside of the envelope is considered acceptable by the Shire to achieve good design outcomes, to avoid excessive fill and additional building height of the dwelling on a steep sloped lot.	

OFFICER RECOMMENDATION

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 proposed Development Outside of Building Envelope at 104A (Lot 35) Ashton Street Margaret River subject to compliance with the following conditions:

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	P1 – P5 received by the Shire on 1 March 2024, P6 received 7 March 2024, P7 received 1 December 2023 and P8 received 25 October 2023.
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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 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.
5. The buildings shall not exceed 8 metres in height from natural ground level in accordance with the provisions of Local Planning Scheme No.1.
6. Landscaping along the southern portion of the eastern boundary of the property, as shown on approved plan 'P1', shall be installed prior to occupation of the development. The landscaping must not be impacted by construction works and shall at all times be maintained and replanted as required and to the satisfaction of the Shire.
7. 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) The location, name and mature heights of existing vegetation being retained, proposed trees, shrubs and ground covers on both the subject site and the adjoining street verge(s);
 - b) Any lawns and paved areas to be established;
 - c) Any natural landscaped areas to be retained; and
 - d) Those areas that are to be reticulated or irrigated are demonstrated to be designed using water sensitive principles.
 - e) Detail the timing of planting.
8. Landscaping shall be implemented, in accordance with the approved Landscape Plan, prior to occupation of the development and shall be maintained at all times.
9. 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 as verified by a suitably qualified arboriculturist.

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) In relation to condition 4, 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 4.