

DEVELOPMENT ASSESSMENT REPORT
Shire of Augusta Margaret River
31 October to 6 November 2024

APPLICATIONS RECEIVED

Date Rec'd	Reference No.	Address	Proposal
PLANNING			
31/10/2024	P224788	36 (Lot 122) Georgette Road, Gracetown	Outbuilding (Shed)
31/10/2024	P224789	Lot 500 Wurring Road, Cowaramup	Earthworks
31/10/2024	P224791	125 (Lot 89) Ashton Street, Margaret River	Extensions to Existing Shed and Ancillary Dwelling
31/10/2024	P224792	23 (Lot 361) Wooredah Crescent, Prevelly	Holiday House
31/10/2024	P224793	6 (Lot 8) Dobbins Place, Witchcliffe	Holiday House
01/11/2024	P224795	20 Unit 4 (Lot 4) Riedle Drive, Gnarabup	Holiday House
01/11/2024	P224797	30 (Lot 1) Elva Street, Margaret River	Holiday House Renewal
05/11/2024	P224802	545 (Lot 102) Redgate Road, Redgate	Chalets x6
05/11/2024	P224803	22 (Lot 46) Freycinet Way, Gnarabup	Holiday House Renewal
06/11/2024	P224805	Unit 1/15 (Lot 1) Station Road, Margaret River	Holiday House Renewal
06/11/2024	P224808	401 (Lot 12) Twenty Four Road, Karridale	Dam
BUILDING			
31/10/2024	224649	745 (Lot 1) Osmington Road, Bramley	Alterations and Additions to Existing Dwelling
31/10/2024	224650	12 (Lot 35) Secluded View, Cowaramup	Single Dwelling, Carport, Patio and Shed
31/10/2024	224651	5 (Lot 110) Ryans Road, Margaret River	Swimming Pool
31/10/2024	224652	6 (Lot 328) Ibis Court, Karridale	Rainwater Tank
01/11/2024	224653	4 (Lot 149) Georgette Road, Gracetown	Alterations and Additions to Existing Dwelling - Balcony, Recladding and New Windows
01/11/2024	224654	21 (Lot 6) Wambenga Retreat, Witchcliffe	Single Dwelling, Attic, Verandah and Patio
04/11/2024	224655	140 (Lot 50) Blackwood Avenue, Augusta	Alterations and Additions to Existing Dwelling - Two Storey Addition and Balcony
04/11/2024	224656	48 (Lot 26) Karri Loop, Margaret River	Swimming Pool
04/11/2024	224657	173 (Lot 4570) Clayton Road, Treeton	Farm Shed
04/11/2024	224658	11 (Lot 180) Nepean Street, Margaret River	Single dwelling, garage, patio and retaining wall
05/11/2024	224659	Lot 420 (RES11759) Wallcliffe Road, Margaret River (Margaret River Golf Club)	Alterations and Additions to Existing Building - Office and Lunchroom
05/11/2024	224660	7 (Lot 240) Dunham Loop, Margaret River	Single dwelling, garage and alfresco
05/11/2024	224661	2 (Lot 6) Honeytree Grove, Cowaramup	Shed
05/11/2024	224662	11 (Lot 800) Irwin Street, Augusta	Alterations and Additions to Existing Dwelling
05/11/2024	224663	120 (Lot 148) Brookfield Avenue, Margaret River	Single Dwelling, Garage and Patio
05/11/2024	224664	27 (Lot 34) Moondyne Ridge, Kudardup	Single dwelling, garage, patio and watertank
05/11/2024	224665	5 (Lot 239) Meadows View, Cowaramup	Earthworks Only
06/11/2024	224666	11 (Lot 397) Maclaren Crescent, Margaret River	Single Dwelling, Garage and Patio
06/11/2024	224667	75 (Lot 7) Karrack Crescent, Witchcliffe	Carport
06/11/2024	224668	61 (Lot 336) Firetail Rise, Karridale	Shed and carport
06/11/2024	224669	21 (Lot 429) Maclaren Crescent, Margaret River	Single Dwelling, Patio and Verandah
06/11/2024	224670	Lot 120 Mentelle Road, Burnside	Shed
06/11/2024	224671	17 (Lot 121) Walkington Avenue, Margaret River	Grouped Dwelling - (2 Single Dwellings, Carport, Patio and Deck)
Exploration Licenses for Comment			
Nil			

APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
PLANNING				
27/06/2022	P222429	10412 (Lot 4) Bussell Highway, Witchcliffe	Amendment to Planning Approval P221962	Cancelled
18/10/2022	P222707	365 (Lot 101) Brockman Highway, Karridale	Winery Additions	Cancelled
31/07/2024	P224496	52 (Lot 1) Le Souef Street, Margaret River	x6 Grouped Dwellings	Approved
31/07/2024	P224499	1610 (Lot 22) Brockman Highway, Karridale	x2 Chalets	Approved
09/08/2024	P224514	15 (Lot 241) Birdhaven Entrance, Cowaramup	Single House	Approved
22/08/2024	P224551	Unit 23, 20 (Lot 23) Riedle Drive, Gnarabup	Holiday House Renewal	Approved
29/08/2024	P224568	32 (Lot 630) Truffle Circuit, Cowaramup	Outbuilding (Shed)	Approved
24/09/2024	P224665	10 (Lot 44) Coronation Street, Margaret River	Bed & Breakfast	Cancelled
22/10/2024	P224751	10 (Lot 120) Lesueur Place, Gnarabup	Fence	Approved
24/10/2024	P224762	Unit 1, 35 (Lot 1) Marmaduke Point Drive Gnarabup	Garage	Approved
SUBDIVISIONS				
19/09/2024	P224671	27 (Lot 11) Allnut Terrace, Augusta and 29 (Lot 150) Allnut Terrace, Augusta	Subdivision	Support with Conditions
19/09/2024	P224673	173 (Lot 972) Horseford Road, Burnside	Subdivision	Support with Conditions
LOCAL LAW PERMITS				
26/08/2024	P224594	Surfers Point, Cowaramup and Gracetown Main Beach within Reserves 41545, 22636 and 27618	Local Law Permit - Hungry Brown Cow	Approved
06/09/2024	P224604	Surfers Point within Reserve 41545	Local Law Permit - Hooked up Fish and Chips (Amended)	Approved
11/09/2024	P224659	Gnarabup Beach, portion of Reserve 41545 Gnarabup	Local Law Permit to operate Margaret River SLSC Nippers - 10 November to 16 December 2024 and 8 February to 4 April 2025	Approved
30/10/2024	P224785	Surfers Point, Rotary Park and Gracetown Main Beach	Amendment to Permit P224601 - Mobile Food Business - MR Smash	Approved
30/10/2024	P224786	Surfers Point, Reserve 41545	Amendment to Permit P224598 - Mobile Food Business - Bella Napoli	Approved
30/10/2024	P224787	Surfers Point, Reserve 41545	Amendment to Permit P224596 - Mobile Food Business - Berry Bliss	Approved

LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
PLANNING				
23/01/2024	P224064	13189 (Lot 22) Bussell Highway, Kudardup	Change of Use - (Landscaping Supplies)	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	Grace Graham
Disclosure of Interest	Nil
Assessment Level	Major Level 3

Application Details

Address	13189 Bussell Hwy, Kudardup			
Proposed Development	Change of Use – Landscaping Supplies			
Zoning	Priority Agriculture			
Lot Area	19,236sqm			
Use Class and Permissibility	'A' – Advertising			
Heritage/Aboriginal Sites	None			
Other Considerations	Visual Management Area	<input checked="" type="checkbox"/>	Sewerage Sensitive Area	<input type="checkbox"/>
	Special Control Area	<input type="checkbox"/>	Watercourses/Rivers	<input type="checkbox"/>
	Bushfire Prone Area	<input checked="" type="checkbox"/>	Environmentally Sensitive Areas	<input type="checkbox"/>
Structure Plans/LDP's	None			
Easements/Encumbrances	None			
Why is Development Approval Required?	Discretionary use – requires advertising & proposes variations to Local Planning Scheme No.1 schedule 9 regarding side and front setbacks to Bussell Highway.			

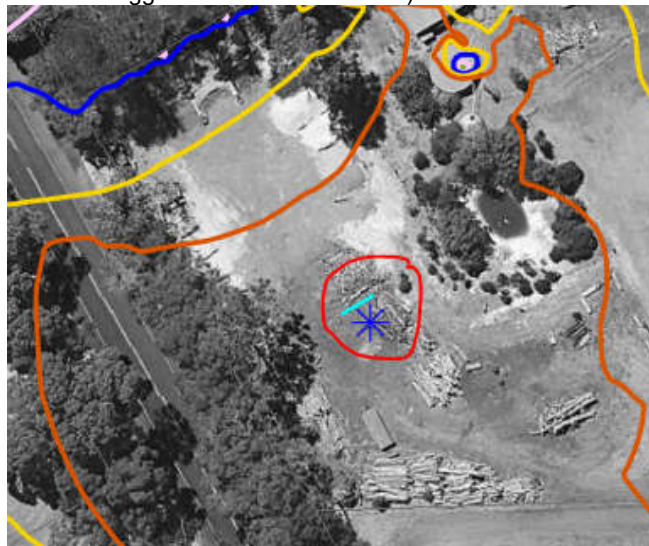
Site Image



Assessment

Referrals	Yes	No
Adjoining Neighbours/Property Owners / 2km Radius (Non Rural use in Rural Zone) – 62 Submissions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Government Agencies - DWER & Main Roads	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Internal Shire Departments – Infrastructure, Environmental Health & Waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Where any objections received?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Where any issues raised through the referrals process?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Internal Department Comments		
Department	Department Comments	Officer Comments
Infrastructure Department	<p>Access is proposed to be from Bussell Hwy, the application is required to be referred to Main Roads (MRWA) as the road authority for their comments and conditions of access.</p> <p>Works in a road reserve, including any pruning or clearing of vegetation, are prohibited without first obtaining written approval of the Shire.</p> <p>The proponent will be required to submit and implement a Traffic Management Plan (TMP) for all works in a road reserve. The TMP is required to be prepared by a licenced Traffic Manager in accordance with MRWA Traffic Management Code of Practice and Australian Standards AS1742.3-2002 for any works on or within the road reserve (including road)".</p>	<p>Noted and completed – see below main roads comments.</p> <p>Conditions applied and advice note for TMP for any works in the road reserve.</p>
Environmental Health Department	<p>Environmental Noise Assessment was completed by Lloyd George Acoustics in 2024. The acoustic assessment demonstrates that most noise levels from the operation will be compliant with the <i>Environmental Protection (Noise) Regulations 1997</i>, including:</p> <ul style="list-style-type: none"> Log splitting in the nominated firewood area Operation of the posi-track loader near the storage bins; and Customer vehicles, and light truck idling in the loading area <p>This is assuming that hours of operation are 7am to 7pm, Monday to Saturday. 9am to 3pm on Sundays to load customer orders only.</p> <p>Chainsaw activities using the nominated chainsaw exceed the assigned levels in the noise regulations by up to 7 decibels. The acoustic report suggests two options to achieve compliance, including:</p> <ul style="list-style-type: none"> Switching to a quieter chainsaw, such as the Stihl 034 Erecting a 2m x 6m solid barrier within 3m of the chain sawing (see light blue line in image below for suggested location of barrier) 	<p>Noted. Conditions to be Adopted.</p> <ul style="list-style-type: none"> Use to be carried out in accordance with Noise management plan Applicant has confirmed a wall will be implemented as per recommendations in the report Operation to be in accordance with submitted Dust Management Plan, prepared by Accendo, August 2024. Operating hours to be conditioned for use



Chain sawing will not comply with the noise regulations on a Sunday so any operational/ management plan will need to stipulate that chain sawing will not occur on Sundays or Public Holidays.

The noise assessment assumed site layouts below for the assessment:



DUST MANAGEMENT PLAN

The dust management plan is adequate for the proposal. It includes the following mitigation methods:

- 2000L water truck used for dust suppression
- Sprinklers used on product bays and product moistened prior to movement, when required
- Transport of dust-prone material via covered trucks
- Restriction of vehicle speeds around site
- Visual monitoring
- Staff training
- Complaints response procedure
- Contingency arrangements – wind fencing and surface stabilisation during construction period.

Notes for planning

The proposal does not comply with the *Environmental Protection (Noise) Regulations 1997* with regards to the chain saw component. The proponent will need to either switch to a smaller and quieter chainsaw or erect a solid buffer which will act as a noise barrier. Perhaps this information needs to be submitted to the Shire prior to approval.

Waste Department

I would expect there to be very little waste generated as a result of development.

Noted. Condition Adopted for Waste Management Plan.

	<p>The lot appears to be zoned residential currently and therefore has access to a rural waste transfer station, across the road on Poole Road. Following development the residential dwelling will maintain access to the rural waste transfer station, but the business will require its own waste disposal or collection service. The lot is not on the kerbside collection route, so they would need to engage the services of a commercial waste collection and disposal company for the disposal of their waste.</p> <p>For this reason a waste management plan condition is recommended.</p>	
External Agency Comments		
Department	Department Comments	Officer Comments
Main Roads	<p>Main Roads have provided advice that they have no objection in principle to the proposed development/ use subject to the following comments and requirements</p> <ul style="list-style-type: none"> • Access to the highway can be supported subject to access being designed and constructed to the satisfaction of Main Roads. • It is noted that the proponent has undertaken some vegetation clearing in the highway road verge and driveway/ crossover works without approval of Main Roads. • The unauthorised driveway/crossover works undertaken by the proponent are not considered adequate for the proposed use/ development • The proposed development is a commercial use which will generate increased traffic demands and turning movements which could increase the potential for vehicle conflicts and detract from the function and safety of the highway. • The internal access arrangements for the proposed development to be modified to endure that all vehicles can exist the property in forward gear. 	<p>Conditions to be adopted are as follows:</p> <ul style="list-style-type: none"> • The proposed driveway/ crossover to Bussell Highway to be upgraded, designed and constructed to the specifications and satisfaction of Main Roads to accommodate semi-trailer movements and including bitumen sealing the first 20 metres back from Bussell Highway and revegetation of the road verge as necessary. • The internal access arrangements for the proposed development to be modified to ensure that all vehicles can exit the property in forward gear. • Any gates or fencing over the driveway/ access to be recessed/setback a minimum of 25 metres (depending on design vehicles to access the site) from the property boundary. • Prior to commencement proponent to submit an application to Main Roads for Minor Works within the road verge to be approved by Main Roads prior to any works being undertaken.
Department of Water & Environment (DWER)	<p>The DA is lacking in detail; however it is clear from the information provided that a number of impacts to local amenity will need to be addressed by the Shire. Particularly, the Department notes the cover letter provided by the Applicant, which states that: "During operational hours, we anticipate the use of chainsaws, log splitters, tree loppers, and mulchers as necessary for the processing of landscape materials". The Applicant also describes the product range as "a comprehensive range of products, including mulches, manures, sands, gravels, grit, blue metal, drainage materials, and other landscaping supplies". The letter then notes the Applicant's commitment "To address concerns about dust, we are committed to implementing effective dust extraction or suppression measures". The Department has identified issues associated with noise, stormwater and dust management, as well as water supply. Further information will need to be provided regarding:</p>	<p>Following DWERS initial comments the planning officer requested further information from the applicant to produce a Dust Management Plan, Noise Assessment and Management Plan, Stormwater management plan and associated water supply.</p> <p>These reports and plans were sent back to DWERS for comment.</p> <p>The following comments were made.</p>

	<ul style="list-style-type: none"> • Noise Management Plan / Acoustic Assessment <ul style="list-style-type: none"> ○ It is understood that in addition to the current use of the site for “firewood splitting”, there will be a need to consider the issue of noise from the proposed expanded operations. Local governments are positioned to use the ‘Environmental Noise Regulations 1997’, which refer to several Australian Standards, to deal with domestic, commercial and general industry noise. • Stormwater Management Plan <ul style="list-style-type: none"> ○ It is noted from photographs supplied by the Applicant that the area of operations lacks hardstand, and overall, the management of stormwater may be problematic. Particularly, manures and soil amendment materials should be stored on impermeable surfaces that are weatherproof and exclude stormwater runoff emanating from other areas. Runoff can increase the potential for contaminant transport, soil, sediment and nutrients, and must be managed • Dust Management Plan <ul style="list-style-type: none"> ○ The Applicant has identified dust as an issue requiring management. The document ‘<i>A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities, DEC 2011</i>’, contains information that requires consideration and provides guidance on preparing a plan for the management of dust. Link: https://www.wa.gov.au/system/files/2023-03/Guideline-for-managing-impacts-of-dust.pdf • Water Supply - Potential subsequent water supply licencing or additional permits in relation to dust management. <ol style="list-style-type: none"> 1. In terms of dust management and potentially other water supply requirements, it is understood that the site is not serviced by a reticulated water supply. The subject property is located within the Lower Blackwood River Surface Water Area, and Blackwood Groundwater Area, as proclaimed under the ‘Rights in Water and Irrigation Act 1914’ (RIWI). 2. Any taking or diversion of surface water in this proclaimed area (whether by direct pumping, construction of a dam, or excavation) can be subject to licensing by the Department. 3. Any groundwater abstraction in this proclaimed area is subject to licensing by the Department, other than supply from the shallow watertable (superficial aquifer) for domestic and non-intensive stock watering purposes. 	<p>Dust Management Plan and associated water supply</p> <p>Conditions to be adopted for operations to run according to management plan and ensure that approvals have been obtained to complete requirements for water supply.</p> <p>Noise Assessment and Management Plan</p> <p>Conditions to be adopted to restrict operating hours and implement recommendation to mitigate non compliance items.</p> <p>Stormwater management plan</p> <p>The plan supplied is high-level in nature. DWER recommended that surface water runoff produced within the operation area from the two (2) hour 10 year average return interval storm event should be contained within the pit. A detailed design is required to be submitted to the shire to demonstrate compliance with this.</p> <p>A condition is recommended to reflect this.</p> <p>Condition has also been recommended to show compliance with the stormwater management plan regarding implementation of hardstand as described.</p>
Community Engagement		
Submitter	Submitter Comments	Officer Comments
Submissions of Support	<p>The Shire received 61 submissions of support during the advertising period.</p> <p>A summary of the comments is as follows: summary of comments are as follows;</p> <ul style="list-style-type: none"> • The business of Landscaping Supplies in general received a lot of support from locals residing in the Augusta and Kudardup areas. Noting that the next closet landscape supplies business is located in Maragret River. The proposed business and locality would provide convenience to locals. • A handful of submissions mentioned the setback requirement of 60m and were in support of having this reduced • One submitter who was in support of the landscaping business did point out some significant impacts of dust 	Noted.

	and noise created by that business while being open prior to Shire approval	
Private Submitter 1 - Object	<p>A submission of objection was made and addressed multiple concerns, a summary of key concerns are as follows:</p> <ul style="list-style-type: none"> Due to the retrospective nature of the application the submitter was able to make comment on the adverse effects of the proposed business in the proposed layout when operating without approval, they are as follows: <ol style="list-style-type: none"> Immediate change and decline of lifestyle for occupants of residential neighbouring properties and ambience of our property Health, Safety and Welfare of occupier/s affected by dust and noise emissions Significantly devalued affected property and risk of loss to rental income due to conditions Absence of Compliance Fire Hazard – Storage of large quantities of wood logs Key concern was voiced around current/proposed location of the holding bays as indicated on the plan submitted in the application. 	<p>Noted.</p> <p>During the assessment the issues raised have been addressed via reports recommended by DWER, Shires Environmental Health Team and Main Roads conditions.</p> <p>The comments around absence of compliance when first commencing the use prior to lodging or receiving approval for the use. Compliance with the recommended conditions will need to be monitored to ensure the operation is within its approval.</p> <p>The locations of the holding bays are addressed in the plans and management reports and will need to be managed carefully to maintain operation within the recommended conditions. A 20m setback from the northern neighbour will be conditioned also to meet the minimum required setbacks as per LSP1.</p>

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

Policy Requirements

Local Planning Scheme No.1 – Schedule 9		
Standard	Required	Provided
Setback (Front)	60m	0m – Variation
Setback (Side – North)	20m	7.51m - Variation
Setback (Side - South)	20m	0m – Variation
Setback (Rear - East)	20m	>20m – Complies
Building Height		
Standard	Required	Provided
Wall	7m	2m high and 6m long – acoustic buffer for ancillary saw mill
Overall	8m	NA
Car Parking		
Standard	Required	Provided
Local Planning Scheme No.1 – Schedule 8	Use Type – Plant Nursery (retail or wholesale) Landscape Suppliers - 1 space per 50m ² nla – where nla refers to area used for plants.	No parking requirements as per schedule 8 due to the proposed operation not selling plants onsite.
Design	Forward entry into the Street/AS 2890.1 Parking Facilities: Off street car parking/AS 2890.6 Parking Facilities: Off street parking for people with disabilities	<p>Proposal was referred to Main Road due to existing and proposed access from the Bussell Hwy. Existing/proposed driveway does not meet requirements. Modifications to be made as per Main Roads advice in discussion below.</p> <p>Modifications include but are not limited to ensuring that crossover is compliant and</p>

		cars/trucks/trailers are able to exit the property in forward gear.
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Discussion

Planning Approval is sought for a Landscaping Supplies business on a priority agricultural lot fronting the Bussell Highway. The application is retrospective as the operator commenced operation prior to obtaining approval from the Shire. The operation was brought to the Shires attention through a compliance matter.

Summary of Business Operations (Landscape Supplies)

Retrospective Landscape Supply business and ancillary saw mill operation. The proposal is as per the following:

General Operations:

- Run by land owner/operator business – site operated by single person
- Hours of business operation: Monday to Friday 7am to 5.30pm, Saturdays 8am to 5pm and Sundays 9am-3pm.

Landscaping supplies:

- Thirteen (13) landscaping bays for storage of landscaping material and log products as per proposed layout plan
- The bays will store mulches, manures, sands, gravels, grit, blue metal, drainage materials and timber logs
- The bays will be constructed from large timber logs. Landscaping bays to be situated closest to the entry and timber to the south. Timber splitting to take place on southern end of property and have a 2m high and 6m in length barrier in place for noise mitigation
- Hardstand area is as per proposed layout plan

Definition of landscape supplies - means land and buildings used for the storage, display and sale of materials used for the development and maintenance of parks, gardens and other like spaces.

Proposed layout plan

Below is the plan submitted by the proponent showing the existing crossover location/access, proposed location of landscape bays and log product bays.



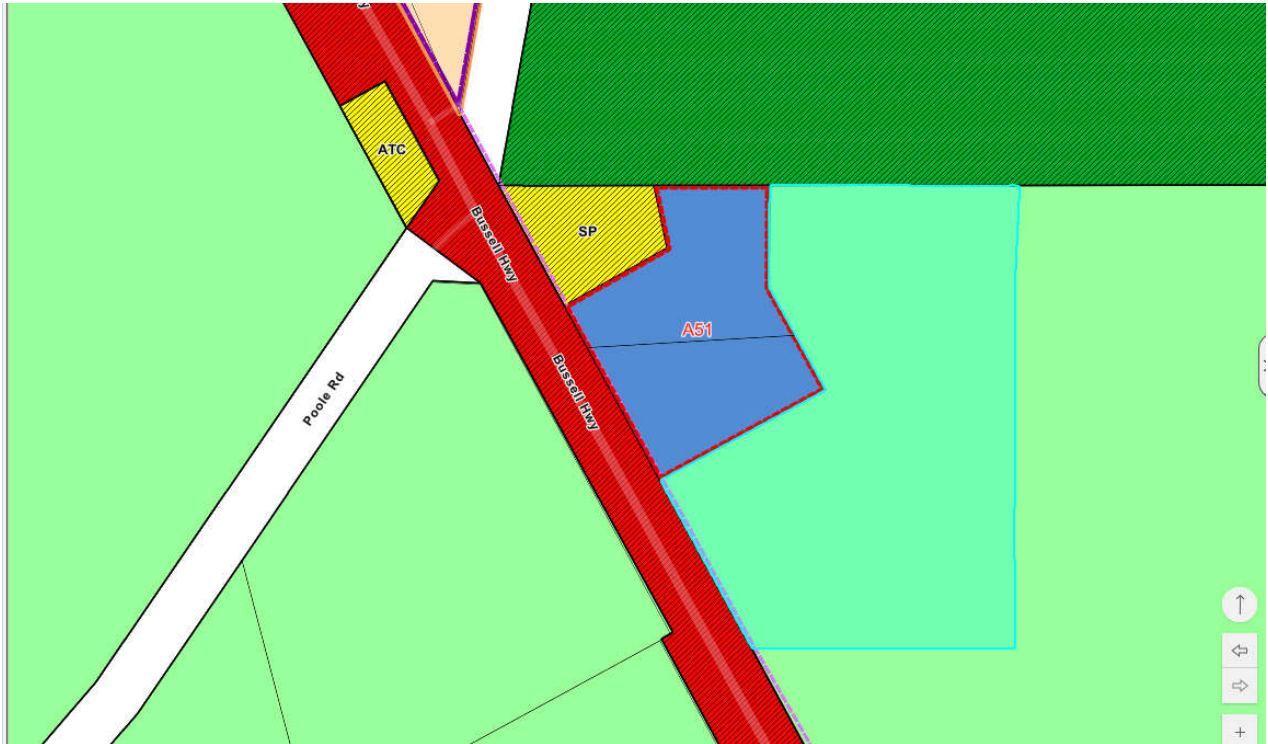
Advertising/Consultation

Landscape supplies use is an A use under the Local Planning Scheme 1 and is also a non rural use on a rural property. Advertising was undertaken following receipt of the application to a 2km radius of the property. It was clear from the advertising with 61 letters of support that the business is a wanted operation in the local community with the closest landscaping supplies store being in Margaret River. The proposed development will cater for residents South of Margaret River to Augusta with many new houses being constructed in surrounding townships and residential subdivisions.

There was one (1) objection by a neighbouring property that was affected during the time that the landscape supplies business was operating illegally before lodging the application.

Locality

The subject site is located next to land zoned village centre in the Kudardup township.



Front Setback Variation to Bussell Highway

The proposed layout of development for the landscape supplies operation sought to vary the 60m front setback to main road being the Bussell Highway. The variation is assessed against section 4.33 of the LPS1. See below extract

4.33 Development adjoining Highways, Main Roads and Travel Route Corridors

4.33.2 The 60 metre development setback specified in Schedule 9 for development adjacent to Highways, Main Roads and Travel Route Corridors will be imposed when considering planning applications and their compliance with clause 4.33.1. However, the local government may consider a reduction in the 60 metre setback where, in the opinion of the local government, a lesser setback:

- a) is deemed to be absolutely necessary to facilitate the proposed development;
- and
- b) would not result in a greater environmental, landscape or visual impact

When assessed against the above the front setback is consistent with development on neighbouring properties to the North. As seen on the locality plan/zoning map the subject site (zoned priority agriculture) abuts the Kudardup townsite being zoned Village Centre (shown in Blue).

The proposed setback to the highway is a continuity of the development pattern in this area and will read as an extension to the townsite, as opposed to a standard alone rural lot in an undeveloped area where this standard is most applicable.

Additionally, there is no proposed environmental impacts to vegetation as no clearing is required. Visual impact is limited due to scale of landscape supplies operation and mature vegetation lining the Bussell highway in the road reserve. The variation to the front setback is generally support based on the above.

Side Setback Variation

The proposed layout of development for the landscape supplies operation sought to vary the 20m side setback as per schedule 9 of LSP1. The variation is assessed against section 5.5 of the Local Planning Scheme 1 – Variations to site and development standards and requirements. See below excerpts from LSP1 of relevant clauses for the variation to be assessed against.

5.5.2 In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to:

- a) consult the affected owners and occupiers by following one or more of the provisions for advertising uses under clause 64 of the Deemed Provisions; and
- b) have regard to any expressed views prior to making its determination to grant the variation.

When considering an application under this clause the variation is required to be assessed as to whether it is likely to affect any owners or occupiers in the general locality or adjoining sites that are subject to the variation. In this case the

20m side setback requirements as per schedule 9 of the LPS1 is looking to be varied and consideration is taken on how the setback affects the adjoining land owner to the North.

The adjoining landowner to the North was the only objector of the proposal and submitted a lengthy objection. The operation of the landscape supplies and ancillary saw mill is retrospective and as such the objector made comment on how the impacts of the operation prior to being approved affected the owners/occupiers from a dust and noise perspective, noting that no mitigation methods were used during the period on non-compliance. It was a particular focus of the assessment that the applicant addressed these concerns by implementing mitigation methods and management plans during the proposed operation. The acoustic and dust concerns are discussed below.

5.5.3 *The power conferred by this clause may only be exercised if the local government is satisfied that:*

- a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the Deemed Provisions; and*
- b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.*

As per section 5.5.3 the local government may only exercise support if they are satisfied that the approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the deemed provisions. Additionally, if there is non-compliance with the approval and conditions that the operation will not have an adverse effect upon the occupiers of users of the development.

See below an assessment of matters of consideration that are relevant in clause 67 of the deemed provisions.

Clause 67 – Matters of Consideration of application by local government	Officer Comment / Assessment
<p>(m) the compatibility of the development with its setting, including —</p> <ul style="list-style-type: none"> i) the compatibility of the development with the desired future character of its setting; and ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; <p>(n) the amenity of the locality including the following —</p> <ul style="list-style-type: none"> i) environmental impacts of the development; ii) the character of the locality; iii) social impacts of the development; 	<p>The locality/zoning plan above shows the proximity of the subject site to the Kudardup townsite.</p> <p>The general character and form of development in the locality is undeveloped modest village centre structures with an intent to create a village centre amenity for local residents of Kudardup.</p> <p>As a landscape supplies operation isn't a contemplated use around a village centre zoning however it does lend itself to be near townships for ease of access to local residents.</p> <p>The location is considered to be compatible within its setting. Amenity impacts are discussed further below.</p>
<p>(s) the adequacy of —</p> <ul style="list-style-type: none"> i) the proposed means of access to and egress from the site; and ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles; 	<p>As per the referral to main roads the proposed development is generally supported conditionally. These conditions require additional room for vehicle manoeuvring onsite and allowing for vehicles to exit the site in forward gear.</p>

In summary there is not enough evidence to support the proposed use being within the 20m setback, particularly when consultation with the affected neighbour to the North is unresolved following advertising. Due to the retrospective nature of the application and impacts that have been demonstrated through previous non-compliance, the variation can not be supported. A condition has been adopted for recommendation for the 20m setback to be adhered to including notations on the proposed plans.

Dust & Acoustic Reports

There are a total of three (3) sensitive premises located in proximity to the site. The nearest dwelling is located to the north. The owners of this property provided a lengthy letter of objection see above table. The application was referred to DWER and it was recommended that a noise and dust assessment/management plan be created before determination to address the issues raised by the objector. The issues are not speculative as the operation ran as proposed prior to gaining planning approval.

During the assessment the applicant undertook the noise and dust assessment/management plans. The assessments once received were reviewed by the Shire's Environmental Health Team. The findings and outcomes are as follows for each plan.

The Environmental Noise Assessment was completed by Lloyd George Acoustics in August 2024. The acoustic assessment as per comments from the Environmental Health team demonstrates that most noise levels from the proposed operation will be compliant with the *Environmental Protection (Noise) Regulations 1997*.

As noted in the comments from the Shire's Environmental Health Team above the chainsaw activities using the nominated chainsaw exceed the assigned levels in the noise regulations by up to 7 decibels. The acoustic report suggested two options to achieve compliance, with the applicant choosing to proceed with the option of erecting a 2m x 6m solid barrier within 3m of the chain sawing. Chain sawing will not comply with the noise regulations on a Sunday so any operational/ management plan will need to stipulate that chain sawing will not occur on Sundays or Public Holidays. Conditions have been recommended to limit the types of activities that take place onsite, their locations, implementation of chosen mitigation methods and hours of operation.

The Environmental Dust Management Plan was completed by Accendo Australia in August 2024. The Shire's Environmental Health team reviewed the plan and deemed it adequate for the proposal. The following mitigation methods will be required to be followed as per the plan.

- 2000L water truck used for dust suppression
- Sprinklers used on product bays and product moistened prior to movement, when required
- Transport of dust-prone material via covered trucks
- Restriction of vehicle speeds around site
- Visual monitoring
- Staff training
- Complaints response procedure
- Contingency arrangements – wind fencing and surface stabilisation during construction period

Conditions have been recommended for operations to be carried out as per the Dust management plan and prior to commencement of the use, dust management measures, including irrigation installation and securing suitable water supplies shall be demonstrated to the specification and satisfaction of the Shire.

Stormwater Management

The stormwater management plan submitted is high level in nature and DWERs feedback was received to condition that a detailed design is required to demonstrate that the capacity of the retention pond has the ability to hold surface water runoff produce by a two (2) hour 10 year average interval storm event.

DWER expressed concerns for lack of hardstand in their comments. The Stormwater Management Plan addresses this by specifying an unpaved hardstand construction. A condition has been recommended to ensure implementation of the hardstand as per the plan.

Determination

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 Change of Use - Land Supplies Business at 13189 Bussell Hwy, Kudardup subject to compliance with the following conditions:

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

Plans and Specifications	Plan P1 received by the Shire on the 23/1/2024 – Notations by Officer marked in Red Stormwater Management Plan – Dated 6/8/2024 - Burnett Landscaping_SWMP_rev00_1-1.pdf Noise Management Plan – Dated 21/8/2024 - 24059026-01_1-1.pdf Dust Management Plan – Dated August 2024 - 2485_13189 (Lot 22) Bussell Hwy DMP_V1 reduced_1-2.pdf
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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.
4. Landscape supplies bays shall be to setback 20m from the northern side boundary.
5. Existing landscape supplies bays shall be removed from the 20m northern side boundary setback area within 60 days to the satisfaction of the Shire.
6. The Landscape Supplies & Ancillary Sawmill hereby permitted is restricted to trading hours of Monday to Friday 7am to 5.30pm, Saturdays 8am to 5pm and Sundays 9am-3pm.
7. Chainsaw operations are prohibited on Sundays and public holidays.
8. The sale of plants from the site is prohibited.
9. Composting, manufacturing, screening and/or crushing are not permitted on the premises.
10. At all times bulk materials associated with the Landscape Supply operation shall be stored in allocated bays, as

per P1.

11. Prior to the commencement of the use, the proposed driveway/ crossover to Bussell Highway to be upgraded, designed and constructed to the specifications and satisfaction of the Shire in consultation with Main Roads to accommodate semi-trailer movements, including bitumen sealing vehicle access areas within 20 metres of the Bussell Highway boundary.
12. Prior to the commencement of the use, a revegetation plan for the Bussell Highway Road verge shall be submitted to the Shire for approval in consultation with Main Roads, and implemented thereafter.
13. The internal access arrangements for the proposed development to be modified to ensure that all vehicles can exist the property in forward gear. Internal access arrangements to be within notated subject site on P1.
14. Any gates or fencing over the driveway/ access to be recessed/setback a minimum of 25 metres from the Bussell Highway property boundary.
15. The development or use of the land shall not cause or permit to cause the escape of dust, smoke, fumes, offensive matter or foul odours in such quantity or of such nature as to unreasonably impact on the amenity of the locality.
16. All activities to comply and be carried out as per Section 5 Recommendations of Environmental Noise Assessment dated 21/8/2024.
17. Prior to the commencement of the use, details of the physical noise barrier specified in the approved Environmental Noise Assessment recommendations, signed off by a qualified acoustic engineer shall be provided to the Shire.
18. The landscape supplies hereby approved shall operate in accordance with the approved dust management plan dated August 2024.
19. Prior to commencement of the use, dust management measures, including irrigation installation and securing suitable water supplies shall be demonstrated to the specification and satisfaction of the Shire.
20. Prior to commencement of use a detailed design completed by a suitably qualified engineer to be submitted to Shire demonstrating retention ponds capacity and its ability for surface water runoff produced within the operation area from a two (2) hour 10 year average return interval storm event can be contained onsite.
21. Prior to commencement of use, the site is to be constructed to the details as per the stormwater management plan dated 6/8/2024. Details are to be provided demonstrating installation of hard stand and stormwater retention pond as per the specifications outlined in the Stormwater Management Plan and subsequent detailed design as required in condition 21.
22. The landscape supplies hereby approved shall operate in accordance with the approved Stormwater management plan dated August 2024.
23. Prior to commencement of the development, a Waste Management Plan must be submitted to and approved by the Shire for the intended use. The Waste Management Plan must then be implemented to the satisfaction of the Shire, and have due regard to the following:
 - a. Ownership, maintenance and management of waste receptacles;
 - b. Provider of waste collection services;
 - c. Categories (landfill, recycling, FOGO, etc.) and volumes of waste expected to be produced;
 - d. Bin storage area and types of receptacles – showing quantity and placement of bins in storage area;
 - e. Method of collection and disposal of waste including access, circulation and collection times for the servicing of waste bins/receptacles;
 - f. Hygiene and noise, odour and vermin control;
 - g. Health, safety and environmental considerations, particularly focussed around manual handling, and prevention of accidental spills and releases; and,
 - h. Waste avoidance and staff education on avoiding waste.
 - i. Any opportunities for management of waste on site, like composting food waste, etc.

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) Works in a road reserve, including any pruning or clearing of vegetation, are prohibited without first obtaining written approval of the Shire. The proponent will be required to submit and implement a Traffic Management Plan (TMP)

for all works in a road reserve. The TMP is required to be prepared by a licenced Traffic Manager in accordance with MRWA Traffic Management Code of Practice and Australian Standards AS1742.3-2002 for any works on or within the road reserve (including road)".

- c) The storage, handling and sale of garden soil associated with the use of the premises is required to comply with the Health (Garden Soil) Regulations 1998.
- d) Noise emissions resulting from the development or use of the land shall not exceed the assigned levels in the Environmental Protection (Noise) Regulations 1997, and shall not unreasonably interfere with the health, welfare and amenity of an occupier of another premises.
- e) Prior to commencement of the use, proponent to submit an application to Main Roads for Minor Works within the road verge to be approved by Main Roads prior to any works being undertaken.
- f) Prior to commencement of use of existing soak for dust management, the applicant is to obtain a water licence from the relevant government agency and a copy of the approved licenses shall be submitted to the Shire. The applicant is advised to contact the Department of Environment and Regulation's water licencing staff for further information on 9781 0188.