

DEVELOPMENT ASSESSMENT UNIT
Minutes of the Development Assessment Unit
Shire of Augusta Margaret River
On 13 August 2019

ATTENDANCE Chris Wenman, Clare Hamilton, Jason Heine, Angela Satre, Chris McAtee

PLANNING APPLICATIONS RECEIVED

Date Rec'd	Assess No.	Address	Proposal	DA No.
05/08/2019	A10523	67A (Lot 102) Turner Street, Augusta	Dwelling	P219452
05/08/2019	A9571	13 (Lot 331) Honeysuckle Glen, Cowaramup	Bed and Breakfast	P219453
06/08/2019	A7743 A4975	413 (Lot 12) Burnside Road, Margaret River	Amendment to Planning Approval P217764 - Winery, Brewery, Restaurant and Cellar Door	P219458
06/08/2019	A3721	60 (Lot 4) Squires Road, Redgate	Vegetation Clearing	P219462
06/08/2019	A3776	46 (Lot 27) Merchant Street, Margaret River	Bed and Breakfast (Renewal)	P219463
07/08/2019	A8984	31 (Lot 255) Callistemon Drive, Margaret River	Outbuilding (Shed)	P219467
07/08/2019	A10613	5 (Strata Lot 1 of Lot 49) Brennan Street, Augusta	Dwelling	P219469
07/08/2019	A6624	261A and 261B (Strata Lots 1 and 2 of Lot 2954) Fifty One Road and 168 (Lot 2953) Clews Road, Cowaramup	Section 40 (Wine Storage and Online Sales)	P219470
08/08/2019	A3841	435 (Lot 59) Kevill Road, Margaret River	Holiday House (Renewal)	P219473
09/08/2019	A724	98 (Lot 38) Albany Terrace, Augusta	Amendment to Planning Approval P218041 (Change to Patron Numbers from 108 to 120)	P219474

BUILDING LICENCE APPLICATIONS RECEIVED

Date Rec'd	Assess No.	Address	Proposal	BLDG No.
05/08/2019	A12680	25 Lot 702 Brockman Road, Cowaramup	Ancillary Accommodation	219293
05/08/2019	A1250	124 Lot 3 Bussell Highway, Margaret River	Toilet	219322
05/08/2019	A9578	20 Lot 338 Honeysuckle Glen, Cowaramup	Single Dwelling	219323
05/08/2019	A2648	Unit 4 4 Pinot Way, Margaret River	Single Dwelling	219324
06/08/2019	A11868 A11031 A4069	82 (Lot 101) West Road, Cowaramup	Chalet	219325
06/08/2019	A11798	10B 1 of Lot 41 Freycinet Way, Gnarabup	Swimming Pool	219326
06/08/2019	A12177	7 Brookside Boulevard, Cowaramup	Extend Building Permit 217334	219327
06/08/2019	A2157	36-38 Fearn Avenue, Margaret River	Demolition of all Structures	219328
06/08/2019	A5805	207 (Lot 135) Blackwood Avenue, Augusta	Single Dwelling	219329
07/08/2019	A11798	10b Freycinet Way, Gnarabup	Shed	219330
07/08/2019	A12175	2 Copse Way, Cowaramup	Shed	219332
08/08/2019	A7947	81 Lot 105 Baudin Drive, Gnarabup	Alterations to Existing Dwelling	219333
09/08/2019	A6266	Unit 1 16 Walton Way, Gracetown	Additions and Alterations to Existing Dwelling	219334
09/08/2019	A95	103 (Lot 205) Dalton Way, Molloy Island	Carport and Shed	219335

SUBDIVISIONS DETERMINED

Nil

LEVEL 1 APPLICATIONS determined under delegation

Date Rec'd	Officer	Address	Proposal	Outcome	DA No.
15/05/2019	Angela Satre	42 (Lot 13) Dallip Spring Road Burnside	Bed & Breakfast Renewal	Approved	P219314
29/05/2019	Clare Hamilton	6 (Lot 204) Flich Road Karridale	Single Dwelling	Cancelled	P219346
10/06/2019	Clare Hamilton	26 (Lot 26) Station Road Margaret River	Showroom Additions	Approved	P219362
16/07/2019	Clare Hamilton	18A (Strata Lot 1 of Lot 22) Georgette Drive, Margaret River	Home Business (Personal Training)	Approved	P219428

19/07/2019	Devin Moltoni	17 (Lot 116) McLeod Place, Margaret River	Bed and Breakfast	Approved	P219433
06/08/2019	Angela Satre	46 (Lot 27) Merchant Street, Margaret River	Bed and Breakfast (Renewal)	Approved	P219463

LEVEL 2 APPLICATIONS for determination

Date Rec'd	Officer	Address	Proposal	Outcome of DAU Meeting	DA No.
06/11/2018	Clare Hamilton	Unit 4, 35 (Strata Lot 4 of Lot 15) Stewart Street, Margaret River	Grouped Dwelling	Conditional Approval	P218604
29/03/2019	Clare Hamilton	25 (Strata Lot 1 of Lot 34) Riedle Drive, Gnarabup	Retrospective Grouped Dwelling Addition (Outbuilding)	Refusal	P219197

MANAGEMENT OF VEGETATION ON SHIRE RESERVES

Nil

LOCAL LAW PERMITS

Date Rec'd	Officer	Address	Proposal	Outcome	DA No.
09/08/2019	Emma Rogers	Reserve 41545, Prevelly	Local Law Permit - Mobile Food Business - Hooked Up Fish and Chips (Surfer's Point)	Approved	P219441
09/08/2019	Emma Rogers	Reserve 41545, Prevelly	Aquatik Pty Ltd - Amendment to Kirk's Kitchen Permit	Approved	P219455

OTHER APPLICATIONS determined under delegation

Nil

ELECTED MEMBERS ATTENTION

Date Rec'd	Officer	Address	Proposal	Outcome of DAU Meeting	DA No.
29/03/2019	Clare Hamilton	25 (Strata Lot 1 of Lot 34) Riedle Drive, Gnarabup	Retrospective Grouped Dwelling Addition (Outbuilding)	Refusal	P219197

CLOSURE OF MEETING



**APPLICATION ASSESSMENT (DAU)
DEVELOPMENT APPLICATION ASSESSMENT (DAU)
Report to Manager Planning and Development Services**

**Proposed Grouped Dwelling at Unit 4 35 (Strata Lot 4 of Lot 15) Stewart Street
Margaret River**

Major (Level 2)

P218604; PTY/12585

**REPORTING OFFICER : Clare Hamilton
DISCLOSURE OF INTEREST : Nil**

General Information	
Lot Area	389m ²
Zone	Future Development (R30/40 as per Structure Plan) (SPA16)
Proposed Development	Proposed 2-storey four (4) bedroom grouped dwelling
Permissible Use Class	'D' discretionary approval required
Heritage/Aboriginal Sites	Nil
Encumbrance	Interests on strata plan, notifications (not impacted).
Date Received	21/09/2018



Policy Requirements	
Is the land or proposal referred to in any Council Policy?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, state the Policy/Policies	<i>Local Planning Policy 4 – Boundary Fencing (LPP4)</i>
Officer Comment	The proposal presents a variation to the side boundary fence height guideline of 2.3m under the acceptable development standards of LPP4 as follows:

	<ul style="list-style-type: none"> The total combined maximum height of a 1.4m high retaining wall and 1.8m high fence on the side (west) boundary is 3.2m above natural ground level (ngl). The total combined maximum height of a 1.2m high retaining wall and 1.8m high fence on the side (east) boundary is 3m above ngl. <p>The proposed side boundary fence height variations meet the performance criteria of LPP4 as follows:</p> <ul style="list-style-type: none"> The proposed fencing height is required to provide adequate privacy for residents and adjoining neighbours. This is specifically to achieve visual privacy requirements of the RCodes (see assessment detail below) through prevention of overlooking in the cone of vision from the bedrooms 2 and 3 to the side (west) lot boundary. It also mitigates overlooking from on top of the retaining wall on the eastern elevation. The fencing height is of a scale in keeping with the existing built form in the area and does not obstruct sight lines between the road and vehicle access points. <p>Fencing on the remainder of the side lot boundaries is proposed at a height of 1.8m and will be stepped down in accordance with the slope of the site. This fencing achieves compliance with the maximum height requirements of LPP4.</p>
Structure Plans and Local Development Plans (DAP)	
Is the land in any Structure Plan Area or subject to a DAP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, state the Policy/Policies	<i>Structure Plan – Lot 481, 482 & 483 Stewart Street, Margaret River (the Structure Plan)</i>
Officer Comment	The lot is located in the Structure Plan in 'Cell 4' of the 'Waterside Precinct'. The objective of Cell 4 is for strata development with a focus on providing short stay accommodation. The Structure Plan also requires the development to be orientated to the dam and bushland behind. It is noted that building development can be located partially over the water's edge of the southern side of the existing dam subject to detailed design. The proposal is consistent with the relevant requirements of the Structure Plan.
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
<p>Has a submission been received by Council?</p> <p>The original proposal that was referred to neighbors involved variations to:</p> <ul style="list-style-type: none"> the side boundary fence height (as described above); side setback wall height variations; variations to the 500mm retaining wall height guideline; variations to visual privacy provisions of the Rcodes; and a wall height variation (7.2m wall height to the 7m wall height guideline) proposed for a portion of the dwelling. 	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Four submissions received – one comment of 'no objection' and three objections (two from the same property).</p>
<p>Submitter 1 – Objection</p> <p>The wall height is in excess of 7 metre from natural ground level, and not in accord with C6 of Part 5.1.6 of 'Deemed-to-Comply' provisions, and therefore compromises the solar access of the owners' proposed passive solar house.</p> <p>Retaining proposed exceeds the RCode design requirements and query on requirement for height of retaining proposed. By reducing the retaining wall heights, building heights can be reduced.</p> <p>Concern with regards the proposed development resulting in:</p>	<p>Clause 5.13 of <i>Local Planning Scheme No.1</i> (LPS1) sets the building height limits which are 7m wall and 8m roof. The plans when advertised to adjoining neighbors showed a small portion of the wall on the north-east corner of the proposed dwelling as having a 7.2m wall height. The proponent has since amended the design lowering the wall height to 7m, which achieves with the wall height limits under LPS1. The roof height is also compliant with the 8m limit under LPS1 with the highest point at 7.3m. The amended proposal responds to the concerns raised and demonstrates compliance with the Scheme provisions.</p> <p>The overall height of the building was reduced in response to the concerns raised and now meets the height limits under LPS1. Portions of retaining on the side boundaries also vary the 500mm height guideline under the Rcodes. In this case the variations meet the relevant design principles under the Rcodes given:</p> <ul style="list-style-type: none"> the retaining occupies up to 45% of the length of the side boundaries combined; it responds to the natural slope of the site; the development presents as a single storey dwelling effectively built at ground level to the street and therefore is not adverse to the streetscape; and retaining is consistent with the scale of development in the locality. <p>The proposal has been amended in response to the concerns raised. The amended proposal demonstrates compliance in</p>

<ul style="list-style-type: none"> • overlooking; • blocking natural light and causing shading of home affecting ability to build a solar passive home; and • blocking breeze/ventilation. <p>Concern about the 1m set back on the west elevation that should be 4.8m.</p> <p>The building is setback 1m from the road not 4.3m standard, which should match into all the other residents on the road.</p> <p>Proposal compromises the visual privacy of the adjoining owners. The windows to the bedrooms 1, 2 and 3 and the living room, which are defined as <i>major openings</i> at clause 5.4.1 of the RCodes breach the deemed to comply requirements of the RCodes as they are not setback 4.5m (for bedrooms) and 6m (for other habitable rooms) from the lot, and breach the associated design principles.</p> <p>Proposal compromises solar access and visual privacy due to:</p> <ul style="list-style-type: none"> • The ground floor deck, dining and store do not have the required setbacks as stipulated by C3.1 and Tables 2a and 2b of Part 5.1.3 'Deemed-to-Comply' provisions of the RCodes, thereby breaching Part 5.3.7 Design Principles P1.1, P1.2 and P2.1 of the R-Codes. • The first floor deck and retreat do not have the required setbacks as stipulated by C3.1 and Tables 2a and 2b of Part 5.1.3 'Deemed-to-Comply' provisions of the R-Codes, thereby breaching Part 5.3.7 Design Principles P1.1, P1.2 and P2.1 of the R-Codes. <p>Confirmation sought if the privacy screen proposed at dry court is fit-for-purpose and adequately performs the screening functions as required by Part 5.4.1 of the R-Codes?</p>	<p>relation to visual privacy, overshadowing and provision of solar access to the neighbouring sites as discussed in assessment comments below.</p> <p>The amended proposal demonstrates a reduction in building height and as such the minimum setback required to 4.5m. This has reduced the proposed variation. The variation to the setback is considered acceptable in this case given the proposed articulation in built form reduces building bulk impacts, there is no unreasonable adverse impact to sunlight and ventilation to the building and open spaces on the adjoining site and there is no loss of privacy arising from the proposal. The variation meets the relevant design principles of the Rcodes.</p> <p>The primary access to the lot is from a right of way. The deemed to comply provisions of the Rcodes at clause 5.1.2 C2.1 (iv) provide for a grouped dwelling with its main frontage to a right of way to have a street setback of 2.5m. The proposal achieves compliance with the minimum standard.</p> <p>The proposal achieves compliance with the deemed to comply provisions of the Rcodes at clause 5.4.1 in relation to privacy and overlooking. It is noted that the screening provided on the rear of the dwelling in relation to bedroom 1 and the living room has been extended as an outcome of the advertising period to ensure no overlooking to the rear of the neighbouring dwelling including the portion of the site that extends into the waterway. The amended proposal ensures restriction of views in the respective cones of vision to the west and east lot boundary. Full assessment details are provided below.</p> <p>As an outcome of the advertising period, the extent of the setback variation was reduced due to the reduction in proposed wall height.</p> <p>The ground floor store, dining and roofed deck of the amended proposal is setback 1.3m to the lot side east boundary in lieu of the 3.6m deemed to comply guideline under the RCodes clause 5.1.3 C3.1.</p> <p>The 1st storey retreat and roofed deck is setback 1.7m in lieu of the 4.1m deemed to comply guideline of the RCodes.</p> <p>While the proposal does involve variations to the deemed to comply setback standards under the RCodes, no objection to the variation was received from the owner of the affect property. Furthermore, these variations have been assessed and are found to meet the relevant design principles under the RCodes.</p> <p>The screening proposed complies with the deemed to comply requirements of clause 5.4.1 of the RCodes. A standard condition is recommended to be included in any planning approval granted to require screening to meet these standards, be installed prior to occupation and maintained thereafter.</p>
<p>Submitters 2 & 3– Objection</p> <p>The proposal is pushing boundaries upwards, outwards, westwards and eastwards and is not in-keeping with legal requirements.</p> <p>Confirmation sought if the proposal is a dwelling or hotel.</p> <p>We are all retirees in the immediate area and they obviously have no compassion for us or the environment.</p> <p>Object to a large dwelling.</p>	<p>The proposal complies with maximum height limitations of LPS1. The proposed RCode variations have been assessed and meet the relevant design principles. The extent and nature of variations proposed is not out of keeping with development on adjoining sites particularly given the relatively high-density code applicable to the area.</p> <p>The proposal is for a grouped dwelling for residential purposes.</p> <p>The proposal is for a dwelling on a cleared residential zoned lot, there is no adverse impact to the environment or demographic of the area presented by this proposal, which is for the ordinary residential use of the land.</p> <p>The proposed dwelling is of a size consistent with the existing built form in the area.</p>

Proposed dwelling height adversely affects everyone's outlook and access to winter sunlight.	Impacts of a proposal to views enjoyed from adjoining lots is not a relevant planning consideration. Notwithstanding, the proposal achieves compliance with the maximum building heights under LPS1. The higher first floor portion of the proposed dwelling is concentrated on the northern side of the site to respond to natural topography and the lower ground level on the northern portion of the lot. The proposal also presents as a single story design from the street elevation. The proposal achieves compliance with the deemed to comply requirements of the RCodes at clause 5.4.2 in relation to overshadowing and provision of solar access to neighbouring sites.		
Submitter 4 - No Objection	Noted.		
No objections or concerns regarding the proposal			
Have agency or authority comments been received?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
WaterCorp The sewer within the lot is not a WaterCorp asset and is an internal plumbing system the responsibility of the strata corporate body.	Noted – as a separate matter the Shire will notify the corporate body of the proposal. It is the owner's responsibility to comply with the requirements of the corporate body in respect of the sewer connection and development in the vicinity.		
Has the application been referred to internal departments?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		
Assessment of Application			
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
R Codes			
Are R Codes applicable?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Design Element	R Codes Req	Provided	Officer comment
Front Setback - Dwelling	2.5m	Dwelling 7m	Complies clause 5.1.2.C2.1
Front Setback Carport	Nil	1.5m	Complies clause 5.2.1 C1.3
Sides Setback (Heights are above NGL)	<u>West Elevation</u> Ground storey Bed 2 & 3 (balance) Major opening, 23m length, 4m height = 4.5m <u>East Elevation</u> Ground storey store, dining & roofed deck Major opening 20m length 4m height = 3.6m 1st storey retreat, internal stairs & roofed deck Major opening 13m length 7m height = 4.1m	1m to bed 2 en-suite wall & 1.5m to remainder of wall 1.3m 1.7m	Variation - clause 5.1.3 Variation clause 5.1.3 C3.1 Variation clause 5.1.3 C3.1
Rear Setback	n/a rear boundary abuts a dam		
Driveway Width	Min 3m / Max 6m	6m	Complies
	No less than 0.5m from side boundary or street pole	0.6m	Complies
Outdoor Living Area	24m ²	>24m ²	Complies
Open Space	45% = 175m ²	27% = 104m ²	No variation - open space includes common property of 1ha (10851m ²) as per clause 5.4.4 C4.
Retaining	0.5m max height within 1m of a boundary	7.3m of retaining on west lot boundary ranging from 0.5m to 1.2m high 9m of retaining on east lot boundary	Variation clause 5.3.8 C8.2 Variation clause 5.3.8 C8.2

		ranging from 0.5m to 1.4m high	
Upgrade Landscaping	<input type="checkbox"/> Required	<input checked="" type="checkbox"/> Not Required	
Overlooking	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	All screening proposed achieves compliance with the deemed provisions of clause 5.4.1 C1.1 (ii) of the RCodes.
Street surveillance	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Street Walls and Fences	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Overshadowing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	For R30 /40 sites shadow cast on an adjoining property must not exceed 35% of the site area. A shadow diagram is provided and identifies a maximum 28% of shadow cast onto the adjoining property to the west.
Energy efficiency/solar access	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Officer's Comments against performance criteria	<p>The proposal presents the following variations to the deemed-to-comply requirements of the RCodes and assessment against the relevant design principles is provided below.</p> <p><u>Lot Boundary Setback Clause 5.1.3</u> The proposal includes variations to the side setbacks requirements of clause 5.1.3 of the RCodes. The side setback variations meet the design principles as follows:</p> <ul style="list-style-type: none"> • The walls include minor articulation along the length broken up with minor openings which reduces perceived impacts of building bulk on adjoining properties. • It is noted that where the major openings occur in these walls, fencing or privacy screening is provided to restrict views to adjoining lots. • A shadow diagram provided by the proponent, demonstrates that the proposed dwelling does not exceed the 35% deemed to comply limit of the RCodes for the shadow cast on the adjoining property to the west. It is not considered that a reduced setback significantly affects the solar access of the adjoining affected lots as lots in the subdivisional area are oriented north/south therefore having opportunity to gain solar access from the northern aspect of the site that will not be affected by the proposed development. • Given that the lot is only 10m wide, space within the site is limited to achieve setbacks requirements for longer walls with major openings. There are similar setback variations to dwellings, which have been supported in the immediate area. <p><u>Retaining walls Clause 5.3.8</u> A 7.3m long area of retaining on the west lot boundary ranges from 0.5m to 1.2m high. Nine metres of retaining on the east lot boundary ranges from 0.5m to 1.4m high. Both present a variation to the maximum 0.5m height requirement of clause 5.3.8 of the RCodes, when located on a lot boundary.</p> <p>The proposal demonstrates compliance with the design principles as follows:</p> <ul style="list-style-type: none"> • The height of the retaining proposed is largely attributable to the variation in natural ground level across the site (approximately 2m over the length of the lot). The wall provides for improvement of the site and neighbouring development context to ensure the site where it slopes is retained. • Screening on top of the wall is provided by 1.8m high fencing where the walls adjoins the boundary, therefore mitigating any adverse impact on adjoining properties from overlooking. 		
Development Standards (Schedule 9)			
Are the development Standards applicable?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Car Parking			
LPS1 / R Codes Requirement	Car Bays Required - 2	Car Bays Proposed -2	
Dimensions	2.5 x 5.5m	<input checked="" type="checkbox"/> Complies	<input type="checkbox"/> Doesn't Comply
Turning Bay/Circles and vehicle manoeuvring	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply		
Building Height			
Scheme / Policy Requirement	Wall - 7m	Roof - 8m	
State the proposed building height	Wall – 7m (NE corner) Roof – 7.3m (NE corner)	<input checked="" type="checkbox"/> Complies	<input checked="" type="checkbox"/> Doesn't Comply
Clause 67			
A. 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.		
B. In the opinion of the officer:			

i. Are utility services available and adequate for the development?	Yes. Reticulated water and sewerage is provided to the site.
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	N/A
iii. Has adequate provision been made for access for the development or facilities by disabled persons?	N/A
iv. Is development likely to cause detriment to the existing and likely future amenity of the neighbourhood?	No.
v. Is the development likely to comply with AS3959 at the building permit stage?	Given that the site is less than 1100m ² in area SPP3.7 does not apply in this case however, compliance with AS3959 will need to be demonstrated at the building permit stage.
Other Comments	
Any further comments in relation to the application?	
Officer Comment	Recommend conditional planning approval.

OFFICER RECOMMENDATION

That the Statutory Planning Coordinator GRANTS Planning Consent under Delegated Authority Instrument No. 16 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for a Grouped Dwelling at Unit 4 35 (Strata Lot 4 of Lot 15) Stewart Street 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 - P5 received by the Shire on 7 August 2019
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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.
- Privacy screening shall be applied to address overlooking to the adjoining western and eastern properties, as shown on attached approved Plan 'P1'. Screening shall meet the deemed to comply requirements of the *Residential Design Codes* at clause 5.4.1. Details shall be submitted with the building permit. Screening shall be installed prior to occupation of the dwelling and maintained thereafter.
- Boundary fencing to a height of 1.8m shall be applied to the dwelling to address overlooking to the adjoining western and eastern properties, as shown on attached approved Plan 'P1'. Fencing shall be installed prior to occupation of the dwelling and maintained thereafter.

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.



**DEVELOPMENT APPLICATION ASSESSMENT (DAU)
Report to Manager Planning and Development Services**

Retrospective Dwelling Addition (Existing Outbuilding) at Unit 1 25 (Strata Lot 1 of Lot 34) Riedle Drive Gnarabup

Major (Level 2)

P219197; PTY/6638

REPORTING OFFICER : Clare Hamilton
DISCLOSURE OF INTEREST : Nil

General Information	
Lot Area	1,045m ²
Zone	Residential R17.5 (Special Control Area 3 – Gnarabup)
Proposed Development	Retrospective planning approval is sought for an outbuilding located within the front setback area. The outbuilding is: <ul style="list-style-type: none"> • 9.61m² (3.1m x 3.1m) • 2.8m roof height • 2.4m wall height • Roller door on west elevation • Colorbond – dark green in colour • Storage purposes
Permissible Use Class	Additions to a Grouped Dwelling – ‘D’ discretionary The lot is located in Special Control Area 3 – Gnarabup
Heritage/Aboriginal Sites	Nil
Encumbrance	Notification – strata common property - not impacted
Date Received	29/03/2019





Policy Requirements	
Is the land or proposal referred to in any Council Policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, state the Policy/Policies <i>Local Planning Policy 1 – Outbuildings, Farm Buildings and Swimming Pools (LPP1)</i>	
Officer Comment	<p>The proposed outbuilding is less than 10m² which under LPP1 is considered below the threshold of 'development' and so is exempt from the need for planning approval.</p> <p>It is noted that the <i>Local Planning Scheme No. 1</i> (the Scheme) prevails over local planning policy which does not negate the requirement to adhere to specific Scheme provisions. In this case, the area is specifically classified as Special Control Area 3. Pursuant to Scheme clause 6.1.3, all development in a Special Control Area requires the prior development consent of the local authority. The addition is also to an existing Grouped Dwelling which is a 'D' discretionary land use in the zone. All development associated with a Grouped Dwelling including additions therefore requires prior planning approval. Furthermore, the development involves a variation to the acceptable development standards under the <i>Residential Design Codes</i> (RCodes). Pursuant to Part 2 of the RCodes planning approval is required where a variation to the deemed to comply provisions is sought. Therefore, notwithstanding the provisions of LPP1, prior development approval for the outbuilding is required.</p>
Structure Plans and Local Development Plans (DAP)	
Is the land in any Structure Plan Area or subject to a DAP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, state the Policy/Policies <i>Gnarabup Beach Structure Plan (2006)</i>	
Officer Comment	Sets residential density code.
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 Two submissions in objection received from the same property
Submission Received	Officer Comment
2 x Objection <ul style="list-style-type: none"> Visually obtrusive – detracts from the current streetscape and does not fit in to surrounding development. A tin shed is for the backyard not the front of the property for all to see. Does not comply with <i>State Planning Policy 3.1 Residential Design Codes</i>. 	<p>The shed is located within the Primary Street Setback Area therefore presenting a variation to clause 5.4.3 C3 (vi) of the RCodes.</p> <p>Following assessment, the shed does not demonstrate compliance with the design principle '<i>Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties</i>'. Further detail is provided in the assessment below' The proposal is not supported and application is recommended to be refused. Should the recommendation be upheld, compliance action will be taken to require the removal of the shed.</p>
<ul style="list-style-type: none"> The shed has automatic sensor lights that turn on every time a car drives past, shining into driver's eyes. 	<p>The Shire's <i>Environment and Nuisance Local Law 2013 (Local Government Act 1995)</i> sets the acceptable standards for lighting. Determination as</p>

<ul style="list-style-type: none"> Devalues other properties nearby due to the cheap look of the shed. Submitter notes they were also recently required to remove a transportable sea container by the Shire's Planning Services due to it not conforming to planning standards. Why should a permanent structure equally as visually unattractive be permitted in front of the property. 	<p>to whether the light is considered a nuisance is a separate matter to the subject application. Should the recommendation to refuse be upheld, the shed and therefore the light will be required to be removed.</p> <p>Resale value is not a valid planning objection and cannot evidentially be linked to the location of the proposed development.</p> <p>It is noted that the Shire has taken a consistent approach in the locality where outbuildings are located in the primary street setback area, similar compliance action for the removal of such development has previously occurred in the locality. This is a contributing factor to the Shire's recommendation for the current application.</p>		
Have agency or authority comments been received?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		
Has the application been referred to internal departments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
<p>Building Services</p> <p>Outbuildings less than 10m², no higher than 2.4m are exempt from requiring building permit applications. The outbuilding subject to this planning application exceeds the 2.4m height limit and will therefore require an application for a building approval certificate.</p> <p>The proponent will require the services of a building surveyor contractor to assist in the preparation of documents required to accompany the application.</p>	<p>Noted. Following planning assessment the proposal is recommended for refusal due to the reasons outlined below. The requirement for a building permit for the structure will be progressed subject to the outcome of this application.</p>		
Assessment of Application			
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
R Codes			
Are R Codes applicable?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Design Element	RCodes Req	Provided	Officer comment
Outbuilding	Not attached to the dwelling	Not attached	Complies
Not within the Primary Street Setback Area	6m	0.2m	Variation clause 5.4.3 C3(vi)
Outbuilding Floor Area	60m ²	9.61m ²	Complies
Roof Height	4.2m	2.8m	Complies
Side East Setback (to common property boundary)	3.1m length, 2.4m high = 1m	1m	Complies
Overshadowing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<p>Officer's Comments against performance criteria</p>	<p>The shed is located within the Primary Street Setback Area therefore presenting a variation to clause 5.4.3 C3 (vi) of the RCodes.</p> <p>The shed does not demonstrate compliance with the design principle:</p> <p><i>'Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.'</i></p> <p>The shed is located 0.2m from the front lot boundary and is in full view of the street and street corner, making it visually prominent and detracting from the streetscape.</p> <p>There is limited opportunity to screen the shed from the street through landscape planting. This arises due to the proximity of the shed to the front lot boundary and the presence of a retaining wall immediately adjacent to the shed wall on the front lot boundary.</p> <p>There is potential to locate the shed outside the front setback area elsewhere on the property to achieve compliance with policy standards. The owner has however, chosen to continue with the application on the existing site.</p> <p>The proposal was advertised to affected adjoining owners and 2 submissions were received in objection based on visual obstruction and incompatibility with existing built form.</p>		
Development Standards (Schedule 9)			
Are the development Standards applicable?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Car Parking			
n/a			

Building Height	
Scheme / Policy Requirement	Wall - 7m Roof - 8m
State the proposed building height	Wall – 2.4m Roof – 2.8m
	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply
Clause 67	
A. 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	No. Clause 4.21.1 of the Scheme requires that ' <i>except as otherwise provided in this Scheme. All development within the Residential Zone shall comply with the relevant provisions of the Residential Design Codes</i> '. Assessment of the proposal against the RCodes has found the development to be in conflict with the relevant design principles.
B. In the opinion of the officer:	
i. Are utility services available and adequate for the development?	Yes
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	No. See comments above.
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
v. Is the development likely to comply with AS3959 at the building permit stage?	N/A – non habitable
Other Comments	
Any further comments in relation to the application?	
Officer Comment	Recommendation of refusal.

OFFICER RECOMMENDATION

That the Statutory Planning Coordinator REFUSE TO GRANT Planning Consent under Delegated Authority Instrument No. 16 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for Retrospective Dwelling Addition (Existing Shed) at Unit 1, 25 (Strata Lot 1 of Lot 34) Riedle Drive, Gnarabup for the following reasons:

1. The proposal is inconsistent with the objective of the Residential zone, as set out at clause 4.2.4.1 of *Local Planning Scheme No. 1*, to conserve and enhance the amenity and sense of place of residential areas, due to the unreasonable adverse impact the development will have to adjoining properties and to the streetscape.
2. The proposal is in conflict with the objective of the Gnarabup Special Control Area, as set out at clause 6.4.3.1 of *Local Planning Scheme No. 1*. The outbuilding in the front setback area is incompatible with the natural qualities of the vegetated and undeveloped front street setback areas on adjoining and surrounding land.
3. The proposal is inconsistent with the Deemed Provisions of *Local Planning Scheme No. 1*, Matters to be considered, at clause 67 with specific regard to the following subclauses:
 - (a) The proposal is inconsistent with the aims and provisions of *Local Planning Scheme No. 1* namely the purpose of the Residential Zone.
 - (b) The proposal is inconsistent with the orderly and proper planning of the Scheme area by virtue of the unreasonable adverse impact it will have to neighbouring properties and the streetscape as determined under *State Planning Policy 7.3 Residential Design Codes*.
 - (c) The proposal does not meet the design principles under *State Planning Policy 7.3 Residential Design Codes* and is unacceptable in this regard.
 - (m) The proposal is incompatible with development in the locality including the relationship of the development to residences on adjoining land and on other land in the locality due to its position in the front setback area.
 - (n) The proposal is considered to have an adverse impact to the amenity and character of the locality.
 - (y) The proposal is unacceptable when considered with regard to the submission(s) of objection received during the notification period.
 - (zb) The proposal is unacceptable in relation to the potential pattern of development that may arise if permitted and the likelihood of future applications for outbuildings in the front setback area in the locality.
4. The proposal does not meet the design principles of *State of Planning Policy 7.3 Residential Design Codes* at specific Clause 5.4.3 due the adverse impact the Outbuilding has in its location within the street setback area on the streetscape, and with regard to the adverse visual impact arising from the development to residents and neighbouring properties.