



# Form

## Referral of a proposal under s. 38 of the EP Act

PART A: PROPONENT AND REFERRER INFORMATION AND PROPOSAL DESCRIPTION			
<b>Referrer information</b>			
Who is referring this proposal?		<input checked="" type="checkbox"/> Proponent <input type="checkbox"/> Decision-making authority <input type="checkbox"/> Community member/third party	
Name (print): James Tribe		Signature: 	
Position	Director	Organisation	Lex Group
Email	james.tribe@lexgroup.com.au	Phone	08 9446 2966
Address	677	Murray Street	
	West Perth	WA	6005
Date	26th September 2023		
Does the referrer request that the EPA treat any part of the proposal information in the referral as confidential? <i>Provide confidential information in a separate attachment.</i>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does the referrer confirm that they consent to receive correspondence electronically?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Referral declaration for proponent and Authorised representative: I, <b>James Tribe</b> declare that I am authorised to refer this proposal on behalf of Colchester Pty Ltd and further declare that the information contained in this form is true and not misleading.			
 Date: 26th September 2023			
<b>Proponent information</b>			
Name of the proponent/s <i>Include Trading Name if relevant</i>		Colchester Pty Ltd	
Australian Company Number(s)	<input type="checkbox"/>	78 651 055 873	
<b>OR</b>			
Australian Business Number(s)	<input checked="" type="checkbox"/>		
<b>Pre-referral discussions</b>			

<p><b>Have you had pre-referral discussions with the EPA (including the EPA Services of DWER)?</b></p> <p><i>If so, provide name, date, and overview of discussions.</i></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Teresa Bryant, 3 March 2023, preliminary discussion on proposed development and seek any feedback/recommendations on impacts and approval process.</p>
<p><b>Proposal information</b></p>	
<p><b>Proposal name</b></p>	<p><b>Clarke Road Large Format Retail and Hardware Development</b></p>
<p><b>What is the proposal? (Include general description in the <a href="#">Instructions and template: How to identify the content of a proposal</a>)</b></p>	<p>The Proposal is to construct a large format hardware and retail development within the Station Road commercial precinct located 900 m south of the Margaret River town site in the south west of Western Australia.</p> <p>The Proposal comprises:</p> <ul style="list-style-type: none"> <li>• One hardware showroom with incidental plant nursery and warehouse (Building 1).</li> <li>• Ten consolidated showrooms (Building 2).</li> <li>• Areas of hardstand, carparking and internal roads.</li> <li>• Landscape areas, including retained vegetation.</li> </ul>
<p><b>Have you provided electronic spatial data, maps, and figures in the appropriate format?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p><b>What type of proposal is being referred?</b></p> <p><i>For significant amendment or derived proposal, provide the associated existing Ministerial statement number/s</i></p> <p><i>For a proposal under an assessed planning scheme, provide the scheme number and name</i></p>	<p><input checked="" type="checkbox"/> significant proposal. <i>Choose which type of significant proposal</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> new proposal</li> <li><input type="checkbox"/> significant amendment (proposal only)</li> <li><input type="checkbox"/> significant amendment (conditions only)</li> <li><input type="checkbox"/> significant amendment (proposal and conditions)</li> <li><input type="checkbox"/> strategic proposal</li> <li><input type="checkbox"/> derived proposal</li> <li><input type="checkbox"/> proposals of a prescribed class</li> <li><input type="checkbox"/> proposal under an assessed planning scheme</li> </ul>
<p><b>Proposal content:</b> Complete the corresponding template (Proposal Content Document) from the <a href="#">Instructions and template: How to identify the content of a proposal</a> for the type of proposal identified above. The completed form <b>must be</b> submitted with the referral.</p>	

<p><b>Alternatives</b></p>	<p>Please refer to <b>Section 2.3</b> of the attached Supporting Document (<b>Attachment A</b>) for detail.</p> <p>The Proposal is located in an area that is specifically designated to accommodate showrooms and larger format retail operations. These are uses which form an appropriate interface between industrial areas and more sensitive land uses and are designed to ensure consumers can safely and easily access the retail and service businesses, with a key focus on commuter vehicle access given the bulky goods nature of the goods and services offered. The Proposal is located in an appropriately zoned area.</p> <p>In addition, the land on which the Proposal is located has also been sold by the State Government (DevelopmentWA) on the expectation it is developed for its intended commercial purpose, and if it is not, it could be reacquired by the State Government based on the existing ownership deed. This is to prevent land banking, and ensure economic development of Margaret River town is maximised in identified locations such as the commercial precinct the Proposal is located within.</p> <p>Alternative locations for the Proposal are restricted by the lack of appropriately zoned land. The <i>Shire of Augusta-Margaret River Local Planning Strategy</i> has identified that no other land is proposed to be re-zoned/supported for commercial or industrial development. Under the <i>Shire of Augusta-Margaret River Local Planning Scheme No.1</i>, the remaining area of undeveloped industrial land is further south of the Perimeter Road (approximately 4 km south-east of the Proposal area). This land is intended to be more for industrial land uses that require spatial separation from residential and commercial activities due to noise, odour and/or vibration impacts, as well as accommodating vehicles of a particular size and nature that would be constrained in a more commercial/town site area (as detailed within the provisions of the <i>Shire of Augusta-Margaret River Local Planning Scheme No.1</i>). This land needs to be maintained and available for specific industrial-type operations with separation requirements, which are important for the local economy in Margaret River. The Proposal would not be the best or most suitable use in this area. Furthermore, this land is also not available for immediate development, with land parcels not created, and the road network and servicing not constructed.</p>
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## PART B: ASSESSMENT OF ENVIRONMENTAL IMPACTS

### Environmental factors

What are the likely significant environmental factors for this proposal?	<input type="checkbox"/> Benthic Communities and Habitat <input type="checkbox"/> Coastal Processes <input type="checkbox"/> Marine Environmental Quality <input type="checkbox"/> Marine Fauna <input checked="" type="checkbox"/> Flora and Vegetation <input type="checkbox"/> Landforms <input type="checkbox"/> Subterranean Fauna <input type="checkbox"/> Terrestrial Environmental Quality <input checked="" type="checkbox"/> Terrestrial Fauna <input type="checkbox"/> Inland Waters <input type="checkbox"/> Air Quality <input type="checkbox"/> Greenhouse Gas Emissions <input type="checkbox"/> Social Surroundings <input type="checkbox"/> Human Health
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*For **each** of the environmental factors identified above, complete the following table, or provide the information in a supplementary report*

### Potential environmental impacts – for each environmental factor

1	<b>EPA policy and guidance</b>	Please see <b>Section 3</b> of the attached Supporting Document ( <b>Attachment A</b> ) for detail for each aspect.  The key environmental factors are Flora and Vegetation and Terrestrial Fauna. Overall, the Proponent has designed the project to retain 0.13 ha of existing remnant vegetation and two habitat trees, and will implement a range of management measures to mitigate impacts during clearing and construction, with these able to be conditioned through the planning development approval process. Significant habitat is available in the broader area and is within land reserved for parks and recreation or national park.
2	<b>Receiving environment</b>	
3	<b>Likely environmental impacts</b>	
4	<b>Application of the mitigation hierarchy</b>	
5	<b>Assessment and significance of residual impacts</b>	
6	<b>Likely environmental outcomes</b>	

### Holistic impact assessment

Please see **Section 6** of the Supporting Document (**Attachment A**) for detail.

As identified in Section 3 of the Supporting Document (**Attachment A**), implementing the Proposal will result in the direct loss of 1.65 ha of native vegetation through clearing, and includes:

- 1.65 ha of habitat suitable for western ringtail possum, including 1.37 ha of marri forest habitat and 0.28 ha of peppermint forest habitat.
- 1.65 ha of foraging habitat suitable for Carnaby’s black cockatoo (1.37 ha primary and 0.28 ha secondary) and 26 potential breeding trees (none with suitable hollows).
- 1.37 ha of foraging habitat suitable for Baudin’s and forest red-tailed black cockatoos and 28 potential breeding trees (none with suitable hollows).

This vegetation has been disturbed historically (since at least 1954, based on available historic aerial photography), with large portions of the Proposal area subject to clearing with vegetation in the site representing regrowth. None of the vegetation has been identified to contain threatened or priority flora, or threatened or priority ecological communities.

The Proponent recognises the connections and interactions between the preliminary key environmental factors (Flora and Vegetation and Terrestrial Fauna) and has considered these interrelationships when applying the mitigation hierarchy (avoid, minimise, rehabilitate) and developing the management measures for the Proposal. There may be inherent connections and interactions between the environmental factors, however each factor can be managed individually, and therefore do not pose a significant risk through their interconnectivity.

#### **Cumulative environmental impact assessment**

Please see **Section 7** of the Supporting Document (Attachment A) for detail.

The clearing of 1.65 ha of vegetation within the Development Envelope would increase the cumulative potential clearing of native vegetation within 1 km from 0.34% (0.43 ha) to 1.62% (2.08 ha) of the existing native vegetation; while within 12 km it would increase from 1.54% (271.83 ha) to 1.55 % (273.83 ha). This is based on considering land zoned for more intensive development (residential, commercial, industrial, based on regional land supply data). This is not unexpected given the extensive areas within the Shire of Augusta Margaret River that are reserved as parks and recreation, national park and/or state forest, where large areas of native vegetation are protected and are in proximity to the Development Envelope.

Within the broader 12 km area, not all vegetation would be preferred habitat for the key conservation significant species (western ringtail possum and the three black cockatoo species). However, as part of the fauna assessment, a review of remnant native vegetation within 1 km of the Proposal was completed, and identified the majority of remnant native vegetation as suitable, with approximately 126 ha within parks and recreation reserve. As outlined, within 1 km of the Proposal area, the cumulative clearing of native vegetation could be 1.62% (2.08 ha) of the remaining 144.68 ha. The implementation of the Proposal would not significantly alter the extent of vegetation and fauna habitat available for the survival of species.

The outcomes of the cumulative impact assessment indicate that the clearing of the Proposal in combination with the potential clearing based on developable land in the broader area is unlikely to lead to a significant residual impact, meeting the precautionary and intergenerational equity principles under the EP Act.

### Consultation

Please see **Section 8** of the Supporting Document (**Attachment A**) for detail.

Stakeholder consultation is to be chiefly undertaken through the development application public advertising process, where the application information will be made available to the various stakeholders in accordance with the *Planning and Development Act 2005* (and associated regulations). Consultation completed to date has included:

- Local government (Shire of Augusta Margaret River)
- Environmental Protection Authority Services Unit

### Supporting documents

Attachment A - Section 38 Referral Supporting Document

Attachment B – Site Plan

Attachment C – Detailed Flora and Vegetation Assessment

Attachment D – Basic and Targeted Fauna Assessment

Has the referrer provided survey information according to the [Instructions and Form: IBSA Data Packages](#) and/or the [Instructions and form: IMSA Data Packages](#)

Yes

No

## Conclusion

Do you consider the proposal may have a significant effect on the environment?

Please see **Section 9** of the Supporting Document (**Attachment A**) for detail.

Based on the detailed survey work and assessment completed for the Proposal, no significant residual impact on the environment is predicted.

The mitigation hierarchy of 'avoid, minimise and rehabilitate' has been considered in the assessment of this Proposal. The Proposal was re-designed to accommodate 0.19 ha of landscaped areas, with 0.13 ha of this retained native vegetation, including the peppermint tree which contained western ringtail possum dreys.

The potential impacts to flora and vegetation and terrestrial fauna have been considered in detail, and while 1.65 ha of vegetation will be removed, in the context of the likely cumulative impacts of the Proposal, approximately 126 ha of similar/equivalent (or better) vegetation is reserved and protected within 1 km (with the vegetation removal associated with the Proposal 1.68 % of the remaining 144.68 ha of vegetation).

The Proposal, based on the management measures that will be implemented (such as protecting vegetation within the Proposal, fauna trapping and relocation, use of a fauna spotter during clearing, weed and plant pathogen hygiene protocols, wooden fences to support connections to existing vegetation, stormwater management in accordance with the *Better Urban Water Management framework*, management of sedimentation and erosion) and consideration of the future clearing within 1 km and 12 km, will not have significant residual impacts and as such, is considered environmentally acceptable if implemented in accordance with the management measures proposed in this document.

The Proposal will be subject to a development approval pursuant to the *Planning and Development Act 2005*, and the range of management measures committed to by the Proponent as part of this referral can be conditioned through this process (and typically are).

**PART B: ASSESSMENT OF ENVIRONMENTAL IMPACTS FOR SIGNIFICANT AMENDMENTS ONLY**

<b>Type of significant amendment</b>	<input type="checkbox"/> significant amendment to the approved proposal <input type="checkbox"/> significant amendment to the implementation conditions <input type="checkbox"/> significant amendment to both the proposal and the implementation conditions
<b>Information of the approved proposal</b>	
<b>Combined effects of the approved proposal and significant amendment</b>	
<b>Analysis of existing implementation conditions</b>	
<b>Previous changes to the Proposal and or implementation conditions</b>	
<b>Compliance</b>	
<b>Environmental Performance</b>	
<b>Control of implementation of significant amendment</b>	

**PART B: ASSESSMENT OF ENVIRONMENTAL IMPACTS FOR A PROPOSAL UNDER AN ASSESSED SCHEME ONLY**

What new environmental issues are raised by the proposal that were not assessed during the assessment of the planning scheme?	Not applicable
How does the proposal not comply with the assessed scheme and/or the environmental conditions in the assessed planning scheme?	Not applicable

**PART B: ASSESSMENT OF ENVIRONMENTAL IMPACTS FOR DERIVED PROPOSALS ONLY**

Demonstrate how the proposal will meet the environmental outcomes defined through the assessment of the strategic proposal	Not applicable.
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Provide an analysis of the existing implementation conditions of the related strategic proposal in relation to the derived proposal	Not applicable.
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PART C: OTHER APPROVALS AND REGULATION	
<b>Decision-making authorities and their approvals</b>	
Provide a table list of the decision-making authorities, associated legislation or agreement regulating the activity and the specific approval required. (Example table at the end of form)	Please refer to <b>Section 1.3.3</b> of the Supporting Document ( <b>Attachment A</b> ) for detail.
Provide a summary of the statutory decision-making processes you consider can mitigate the potential impacts of the proposal on the environment. (Note: this should be a summary of the information provided in Part B section 2.4).	Please refer to <b>Section 1.3.3</b> of the Supporting Document ( <b>Attachment A</b> ) for detail.
<b>Tenure and Local Government approvals</b>	
Location of proposal: a) street address, lot number, suburb, and nearest road intersection; or b) if remote, the nearest town and distance and direction from that town to the proposal site.	Lot 100 (no. 34) and Lot 256 (no. 44) Clarke Road, Margaret River.
Name of the Local Government Authority in which the proposal is located.	Shire of Augusta Margaret River
Is rezoning of any land required before the proposal can be implemented? If yes, please provide details.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
What is the current land use on the property, and the extent (area in hectares) of the property?	None. The Proposal historically contained a number of buildings (most likely residential), from the mid 1950's, with the buildings removed around 2017.  The property extent is 2.84 ha, with the Proposal extent being 2.86 ha (including the crossovers within Clarke Road reserve).
Does the proponent have the legal access required for the implementation of all aspects of the proposal? <i>If yes, provide details of legal access authorisations / agreements / tenure.</i> <i>If no, what authorisations / agreements / tenure is required and from whom?</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  The landholding is held in freehold tenure by the Proponent and has legal control to implement the Proposal. Access to Clarke Road reserve will be enabled as part of the development approval under the <i>Planning and Development Act 2005</i> .

Commonwealth Government approvals	
Does the proposal involve an action that may be or is a controlled action under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the proposed action been referred? If yes, when was it referred and what is the reference number (EPBC No.)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No A referral is being prepared and will be submitted concurrently to this referral. Date: _____ EPBC No.: _____
If referred, has a decision been made on whether the proposed action is a controlled action? If 'yes', check the appropriate box and provide the decision in an attachment.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decision – controlled action <input type="checkbox"/> Decision – not a controlled action
If the proposal is determined to be a controlled action, do you request that this proposal be assessed under a Bilateral Agreement or as an accredited assessment?	<input type="checkbox"/> Yes - Bilateral <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - Accredited
Is approval required from other Commonwealth Government/s for any part of the proposal? <i>If yes, describe.</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Approval:
Decision-making authority referrals <u>ONLY</u>	
What approval/s, under your authority, are required for this proposal? <i>Please provide details.</i>	

**Example Table:** Other approvals

Decision-making authority	Legislation or Agreement regulating the activity	Approval required (and specify which proposal element the approval is related to)	Whether and how statutory decision-making process can mitigate impacts on the environment? (Yes/No and summary of reasons. Include a separate line item for each relevant impact, and discuss how the EPA's factor objective will be met)