

DEVELOPMENT ASSESSMENT REPORT
Shire of Augusta Margaret River
19 January to 25 January 2023

APPLICATIONS RECEIVED

Date Rec'd	Reference No.	Address	Proposal
PLANNING			
19/01/2023	P223040	12249 (Lot 51) Bussell Highway, Karridale	Change of Use Single Dwelling to Rural Workers Accommodation
19/01/2023	P223041	764 (Lot 1) Brockman Highway, Karridale	Section 40
19/01/2023	P223042	3 (Lot 365) Winton Street, Margaret River	Single Dwelling (Outbuilding)
20/01/2023	P223044	84 (Lot 105) Woodland Drive, Burnside	Bed and Breakfast Renewal
23/01/2023	P223046	Reserve 41545 Surfers Point Road, Prevelly	Amendment to Planning Approval P220129 - Public Event (WSL Surf Pro)
24/01/2023	P223049	3 (Lot 178) Fry Place Margaret, River	Bed and Breakfast
24/01/2023	P223050	Unit 2/20 (Strata Lot 2 of Lot 229) Riedle Drive, Gnarabup	Holiday House Renewal
24/01/2023	P223051	Reserve 41545 Corner of Surfers Point Road and Mitchell Drive, Prevelly	Surfing Event Signage and Overflow Parking
24/01/2023	P223053	27 (Lot 37) Jersey Street, Cowaramup	Change of Use to Winery
25/01/2023	P223059	11 Lesueur Place, Gnarabup	Holiday House
BUILDING			
20/01/2023	223020	33 (Lot 32) Riedle Drive, Gnarabup	Garage with Gym and Retaining Wall
20/01/2023	223021	10 (Lot 67) Cabernet Place, Margaret River	Carport Conversion to Studio, Shed and Carport Addition
20/01/2023	223022	22 (Lot 42) Tingle Wood Court, Cowaramup	Shed Extension
24/01/2023	223023	1 (Lot 14) Bettong Place Witchcliffe	Single Dwelling (main residence), Patio, Carport and Rainwater Tank
24/01/2023	223024	3 (Lot 411) Dunnart Close, Margaret River	Patio
24/01/2023	223025	557 (Lot 2186) Calgardup Road West, Forest Grove	Farm Shed
25/01/2023	223026	47 (Lot 100) Le Souef Street, Margaret River	Demolition of all structures on Site (Dwelling, Shed and Patio)
25/01/2023	223027	Lot 1004 Hawkesford Place (Lot 56 Verdot Way), Margaret River Lifestyle Village	Single Dwelling, Carport and Patio
25/01/2023	223028	12 (Lot 28) Cross Street, Augusta	Single Dwelling, Garage and Patio
25/01/2023	223029	11 (Lot 33) Waters Edge, Margaret River	Two Storey Dwelling, Garage, Verandah, Patio and Retaining Wall
Exploration Licenses for Comment			
Nil			

APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
PLANNING				
20/01/2022	P222040	Reserve 37811, 41047 and 27643 Ellis Street, Augusta	Recreation - Private - Operation of Blackwood River Houseboats from Ellis Street Jetty	Approved
05/10/2022	P222671	20 Lot (414) Dunnart Close, Margaret River	Development Outside of Building Envelope (Outbuilding)	Approved

14/10/2022	P222704	687 (Lot 722) Ellen Brook Road, Cowaramup	Amendment to Planning Approval P220824 (Rural Produce Sales (Cellar Door Outlet))	Approved
11/11/2022	P222789	58 (Lot 202) Marmaduke Point Drive, Gnarabup	Ancillary Dwelling	Approved
17/11/2022	P222803	16 (Lot 26) Treeside Lane, Margaret River	Bed and Breakfast	Approved
22/11/2022	P222806	123 (Lot 70) Blackwood Avenue, Augusta	Additions to Existing Bakery (Site works)	Approved
SUBDIVISIONS				
02/12/2022	P222846	15 (Lot 44) Ironstone Place, Margaret River	Subdivision	Supported subject to conditions
LOCAL LAW PERMITS				
24/01/2023	P223055	Portion of Reserve 41545, Rivermouth Road, Prevelly	Renewal of Local Law Permit to operate mobile food business P222874 River mouth carpark	Approved

LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
PLANNING				
04/08/2022	P222519	24 (Lot 4064) Hobson Road, Osmington	Holiday House Renewal (increase in guest numbers)	Approve subject to conditions
10/11/2022	P222787	9 (Lot 7) Station Road, Margaret River	6x Grouped Dwellings with Holiday House Use	Approve subject to conditions
17/11/2022	P222801	1 (Lot 16) Treeside Lane, Margaret River	Holiday House	Approve subject to conditions

DEVELOPMENT ASSESSMENT REPORTING PROCEDURE

Assessment of Development Applications (DAs)

For the purposes of this procedure there are three types of development applications:

Level 1

DA not advertised

Level 2

DA is advertised; and

- No submissions; or
- Submission received but meets one of the following:
 - Not related to the reason the DA was advertised.
 - The development is modified to comply or to remove the element of concern to the submitter.
 - Submission is either of support, conditional support or is 'indifferent'; or is from a non-affected person.

Level 3

A submission in opposition is received from an 'affected' person or special interest group in relation to the reason the DA is advertised or the development application is recommended for refusal.

Note: This procedure applies to development applications only. It does not apply to structure plans, scheme amendments or other types of planning proposals.



DEVELOPMENT APPLICATION ASSESSMENT
Report to Manager Planning and Regulatory Services

Proposed Holiday House Renewal (increase in guest numbers)
24 (Lot 4064) Hobson Road Osmington

Level 3

P222519; PTY/2957

REPORTING OFFICER : **Sophie Moscardini**
DISCLOSURE OF INTEREST : **Nil.**

General Information	
Lot Area	41.645ha
Zone	General Agriculture (Special Control Area 1 – Ten Mile Brook Priority Catchment)
Existing Development	<input checked="" type="checkbox"/> Single House <input type="checkbox"/> Grouped Dwelling
Nature of application	Holiday House (renewal)
Proposed use	A planning application has been received for the renewal of the Holiday House. The existing dwelling is proposed to be used to accommodate up to 12 short stay guests at any one time, and increase from 6 which is previously approved. The existing management arrangements are to be retained and the duration of the approval sought in this case is 12 months.
Permissible Use Class	'A' – discretionary use
Advertising Required	Yes - completed
Reason not exempted from planning approval?	Discretionary uses are not permitted unless the Shire exercises its discretion by granting development approval.
Heritage/Aboriginal Sites	N/A
Encumbrance	N/A
Date Received	04/08/2022
Date of Report	25/08/2022



Figure 1: Location Map

Planning History	<ul style="list-style-type: none"> • 2007 approval for Guesthouse (ref P27151) • 2010 approval for Outbuilding (shed) (ref P28488) • 2021 approval Holiday House for 6 people due to one-site waste water management system limitations (ref P221393)
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Figure 2: Aerial map showing existing development on the site.

<p>Is the application same as previous?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>The renewal seeks to increase the number of guests from 6 to 12 people. Evidence has been provided of a sign of site with the application.</p>
<p>Have there been any objections?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Have there been any complaints over the recent period of approval?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>There are a number of complaints relating to the use of the site for events and camping without Shire approval. Complaints also relate to the use of the round house for more than the approved 6 – guests.</p>
<p>Have there been any substantial changes to the LPS1 or Policy?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

Comments Received

Nature of Submission	Officer Comments
<p>Objection –</p> <ol style="list-style-type: none"> The owners have a history of illegal use during the previous 6 guest occupancy period including additional short stay glamping tents and over occupancy of the roundhouse being frequently advertised beyond the current maximum 6 guests. Advertised camping on the property with no toilets provided and fires lit causing concern for us about the safety of our property If this were to become larger scale. Unapproved paid events and meetings with tickets being held at the Shambala site with occupancy likely far beyond 6 guests; for example, music event held on 20 December 2021. <p>We would like to maintain the peace and safety of the area as well as the harmonious relationship with our neighbours. In order to increase the guests, we would think it would be first reasonable to show compliance with the current restrictions and zoning.</p> <p>Objection –</p> <ul style="list-style-type: none"> The conditions and requirements for short term leasing activities under the previous licence issued to the previous owner for a 6-bed Holiday House was roundly exploited by the current owners (together with other planning breaches) causing compliance set out in correspondence to the Shire, most particularly in April/May 2022 regarding activities since October 2021. Despite the Shire’s advice of May 2022 to the owners of the facility required infrastructure 	<p>The comments of the submitters are noted.</p> <p>The Shire is aware of the unapproved events that have taken place at the subject site and has initiated compliance action on these matters. The Shire has met with the property owners to discuss the approvals in place over the site, and it is apparent that there was a misunderstanding on their part as to what existing approvals allowed for.</p> <p>The owners have shown a genuine desire to bring the property into compliance, have met with adjoining property owners to discuss the uses to address their concerns and are in the process of making appropriate applications for other activities they would like to hold on the site.</p> <p><u>Wastewater treatment</u> The current effluent disposal system for the round house has the ability to support up to 6 guests. The Shire’s Environmental Health Officers met with the applicant to discuss the wastewater options and requirements for further guests to be approved on the site. The applicants have engaged a consultant who has been liaising with Environmental Health regarding system upgrades. An application is yet to be lodged for this required upgrade. Therefore the number of guests will need to be limited to 6 until such a time that the wastewater system is upgraded and approved by the Shire.</p> <p><u>Length of approval</u> It is noted that some of the Neighbours are willing to support a one-year approval in order for the applicant to demonstrate adequate compliance with the relevant planning matters over the site. A one-year approval is recommended for 6 guests with the ability for 12 guests to be approved subject to providing details of the upgraded waste water treatment system at the site. A lodging house</p>

<p>upgrades in order reapply for a license for more beds, the house continued and continues to be rented to 12 guests at a time.</p> <ul style="list-style-type: none"> - I understand that upgrades necessary to achieve compliance prior to making this application for 12 beds have not been undertaken. - I am aware the Shire has been in discussions regarding a separate application for use of the land as a managed Reception Centre that will be advertised for comment. Such a licence could be provided for up to 4 managed events a year with specified numbers of person in attendance. <p>I am aware the owners are now cognisant of the relevant planning conditions and processes required of them having met with them on two occasions for social discussions. We all agreed to seek a harmonious, neighbourly relationship noting that full compliance with matters having an effect on each others peace and quiet and enjoyment of the rural place is necessary.</p> <p>To that end and in view of the past practises, a clear demonstration period to show intent to comply with the conditions of a licence and other planning matters is essential.</p> <p>On that basis, I will support a license for a Holiday House to be granted following a satisfactory compliance assessment, for a period on one year only for review thereafter.</p>	<p>approval will also be required under the Environmental Health Regulations which the owner is aware of.</p> <p>A 12-month approval will allow the Shire to ensure that the use is being appropriately managed before a longer term approval is issued.</p> <p>The Shire will also inform the owner that should verified issues arise over the 12 month approval term that a further renewal is unlikely to be supported.</p>
<p>Objection –</p> <p>I have been affected by the disruptive nature of activities undertaken at the property known as Shambala in the past year that has caused me the loss of enjoyment of my place as well as concern for privacy and safety in my property that is directly adjacent to the Osmington Road.</p> <p>I have already met with the owners to discuss my concerns. I expressed my desire for them to be more mindful of the effects of their activities on the neighbours and I hoped to maintain good neighbourly relations going forward.</p> <p>At this time, I would agree to the issue of licence for a Holiday House for the same number of guests as previously granted by the shire for a period of one year only.</p>	
<p>Recommended period of approval</p>	<p><input checked="" type="checkbox"/> 12 months <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years</p>

OFFICER RECOMMENDATION

That the Coordinator Planning Services GRANT Planning Consent under Delegated Authority Instrument No. 34 pursuant to clause 68 (2) of the Deemed Provisions of Local Planning Scheme No. 1 for a Holiday House at 24 Hobson Road, Osmington subject to compliance with the following conditions:

CONDITIONS

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

<p>Plans and Specifications</p>	<p>P1 to P2 received by the Shire on November 2008</p>
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1. The Holiday House use is permitted for a period of **1 year** from **<end of previous period of approval>** to **<end of period of approval>**. (Refer to advice note ‘a’)

2. The approved Bushfire Emergency Evacuation Plan and Bushfire Management Plan shall be displayed in a conspicuous location within the dwelling at all times.
3. A Manager or a contactable employee of the Manager that permanently resides no greater than a 35 minute drive from the site shall be nominated for the Holiday House and this person shall attend to any callout within 35 minutes of a reported incident. The Manager or contactable employee is to be retained at all times during the use of the site as a Holiday House. (Refer to advice note 'b').
4. At all times the Holiday House use is in operation, the 24-hour contact details of the **Manager** of the Holiday House shall be displayed on a sign that is clearly visible from the nearest street frontage. The sign is limited to a maximum size of 0.2 metres square and not exceeding 1.5 metres in height from ground level. The sign shall be erected within the property frontage and must be visible from the street front. (Refer to advice note 'c')
5. All vehicles & boats connected with the premises shall be parked within the boundaries of the property.
6. The short stay use of the dwelling shall not be occupied by more than **6 people** at any one time. Until such a time that the Shire is provided with evidence of an upgraded waste water treatment system the guest numbers may then be increased to 12 people.
7. Amplified music shall not be played outside of the Holiday House between the hours of 10pm and 10am.
8. Any marketing material for this Holiday House shall include display of the planning approval reference number for this approval. (Refer to advice note 'g')

ADVICE NOTES

- a) A new planning application seeking approval should be submitted 90 days before the expiry of this approval, along with the appropriate planning fee.
- b) If at any time there is not an appointed manager or a contactable employee of the manager for the site, the use must cease until such time as a manager is appointed.
- c) Evidence of installation of the sign will be required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged.
- d) This approval does not affect the entitlement to use the dwelling for permanent residential purposes.
- e) You are advised of the need to comply with the requirements of the following other legislation:
 - (i) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises.
 - (i) The *WA Building Regulations 2012* (r.59) requires that the owner of a dwelling (as defined in the Building Code of Australia) must not make the dwelling available for hire unless hard wired, battery backup smoke alarms are installed, complying with the Building Code of Australia and AS3786.
- f) Evidence of the display of the planning approval reference number within the marketing of the Holiday House is required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged. Applicants are advised to include a screenshot of the website to show that the planning approval reference number is being displayed.
- g) Please note that the Shire does not notify landowners in writing of the expiry of a Holiday House planning approval. It is the owner's responsibility to monitor and ensure that the planning approval remains valid while the use is being undertaken.
- h) The applicant is advised that receipt of substantiated complaints regarding the operation of the Holiday House over the approval term will likely result in a future renewal application being refused.



DEVELOPMENT APPLICATION ASSESSMENT
Report to Manager Planning and Development Services
Proposed 6x Grouped Dwellings with Holiday House Use - 9 (Lot 7) Station Road Margaret River

Level 3

P222787; PTY/375

REPORTING OFFICER : **Sophie Moscardini**
DISCLOSURE OF INTEREST : **Nil.**

General Information	
Lot Area	2130m ²
Zone	Residential (R30/40)
Proposed Development	Development approval is sought for six grouped dwellings at the subject site. <ul style="list-style-type: none">Proposed grouped dwellings include 3 bedrooms x 2 bathrooms with access via a common property driveway.Holiday House use approval is also sought for all dwellings upon completion for up to 6 guests.A variation is sought to the internal side setbacks and visitor parking bay requirements of the R-Codes. Development approval is required under the Shires <i>Local Planning Scheme No. 1</i> for the proposed uses.
Permissible Use Class	'D' - Grouped Dwellings, 'A' Holiday House
Heritage/Aboriginal Sites	Not an Aboriginal Heritage Site.
Encumbrance	Nil.
Date Received	10/11/2022





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 20 – Sustainable Design (LPP20)</i>	
Officer Comment	<p>LPP20 Policy Measures:</p> <ol style="list-style-type: none"> Dwellings are to achieve a 6 +1 star energy efficiency rating as calculated in accordance with the Building Code of Australia; Dwellings are to be fitted with 'grey water ready' plumbing; An array of solar photovoltaic panels are to be installed on each dwelling; Water heating is to be by means of a solar (including heat pump) or gas system; Provision of rainwater tanks of at least 3,000 litres are to be provided and plumbed to dwellings to supplement the Scheme water supply; A landscaping plan should be prepared and submitted demonstrating a water wise garden through the use of local species and other low-water using plants. Landscaping should not impact upon solar passive design of dwelling(s). <p>The policy provisions have in part been reflected in the development proposal and are recommended to be reflected as conditions of approval. The proposal is considered capable of meeting the requirements of LPP20.</p>
Structure Plans and Local Development Plans (LDP's)	
Is the land in any Structure Plan Area or subject to a LDP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Planning History	
<i>Nil.</i>	
Advertising/Agency Referrals	
Has the application been referred to adjoining landowners/agency?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Has a submission been received by Council?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A No. received: 4 submissions received 3 in objection. 1 indifferent.
Details of Submission	
Officer Comment	
Objection	The comments of the submitter are noted.
Objection –	<u>Holiday House</u> Whilst the concerns of the neighbouring properties are noted an application for a holiday house must be considered on its merits. In this case the application satisfies the policy requirements of LPP7, and it is not expected to cause an adverse impact to neighbours if management arrangement in place is suitable. The Shire is unable refuse the subject application on the basis
<ul style="list-style-type: none"> - Neighbouring residents are owners and elderly and are likely to be upset by holiday rental tenants due to noise. - For No. 6 the living area will be overlooked by the nearest unit. - Not providing affordable accommodation. 	

<p>Objection –</p> <ul style="list-style-type: none"> - Neighbouring residents are predominantly elderly, and one is severely disabled requiring full time carers. - Concern with short stay accommodation with unacceptable noise and disruption to existing residents. - Depending on the orientation of the upstairs windows on the first floor, we are concerned that these will have overlooking impacts to our private courtyards, dining and living areas. - It is common knowledge that there is more than an ample supply of short term accommodation in the area and we understood that it was the policy of the council to limit the approval of this type of accommodation because of the extreme difficulty that local residents have in obtaining long term rental accommodation. 	<p>of potential future impacts, but rather needs to be satisfied suitable management arrangement are in place, which will be reviewed after a 12 month approval term. Given the dwellings are yet to be built the 12 months will commence upon completion of the dwellings.</p> <p>At the conclusion of the 12-month approval period, a holiday house renewal application would be required to continue the use. At this point, surrounding neighbours would have the opportunity to comment on the specific management of the holiday house in question and if it is determined that the use is being managed inappropriately, the continuation of the holiday house may not be approved.</p> <p>Given the dwellings will be under separate ownership this process will be required for each dwelling should the owner wish to continue the use.</p>		
<p>Objection –</p> <ul style="list-style-type: none"> - We already have a short stay accommodation unit adjacent to us and when that approval was sought we understood that further short stay accommodation in the area would not be supported by the Shire. - There are a number of elderly residents (ourselves included) as well as one severely disabled resident and short stay holiday residents are not considered suitable as close neighbours due to noise and constant comings/goings. - Whilst it is difficult to ascertain from the plans given it would seem that the upstairs windows on the planned units would have direct viewing into the backyards of the units in 7 Station Road as well as the common areas. 	<p>Overlooking</p> <p>The first-floor windows which face north are setback >6m which is consistent with the requirements of the Residential Design Codes. The proposed dwellings include majority of windows facing north in order to maximise northern sun into the dwelling. Living areas for the dwelling are on the ground floor and therefore there will be no overlooking from these areas.</p>		
<p>Indifferent –</p> <ul style="list-style-type: none"> - We are the buildings next door to the proposed development, and we are pleased they will face the Church grounds with their driveway on our side of the property and with (what would appear to be) a suitable fence between. - While we are also aware of the need for affordable housing in Margaret River, this is a private building proposal that does not address the affordable housing market (and is not required to do so). 			
<p>Internal Department Comments</p> <p>Infrastructure Department</p> <ul style="list-style-type: none"> - Standard conditions recommended. 	<p>Officer Comments</p> <p>Officer comments noted.</p>		
<p>Assessment of Application</p>			
<p>Is the land referred in the Heritage Inventory?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		
<p>Are there any Contributions applicable?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The subject site is identified within the following DCA areas:</p> <ul style="list-style-type: none"> • DCA1 • DCA2a • DCA2b • DCA2 		
<p>Are there any compliance issues in relation to existing development?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		
<p>R Codes</p>			
<p>Are R Codes applicable?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>Design Element</p>	<p>Policy / R Codes</p>	<p>Provided</p>	<p>Officer comment</p>
<p>Site area</p>	<p>R40: Minimum – 180m² Average – 220m²</p>	<p>Unit 1 – 288.7m² Unit 2 – 263.9m² Unit 3 – 263.9m² Unit 4 – 263.9m² Unit 5 – 263.9m² Unit 6 – 272.5m² Common Property – 355.4m²</p>	<p>Complies.</p>

Storage	4m ²	>4.4m ² for all units.	Complies.
Front Setback (west)	Unit 1 - 4m	Unit 1 - 2.06m	Complies with C2.1iii
North Setback Unit 1	Ground Floor – 1m First Floor – 3m	North – 1.156m First Floor – 7.446m	Complies Clause 5.1.3
North Setback Unit's 2 – 5	Ground Floor – 1m (outdoor living area) - 1.5m (dwelling) First Floor – 3m	Ground Floor – 2.175m (outdoor living area) First Floor – 8.78m	Complies Clause 5.1.3
North Setback Unit 6	Ground Floor – 1m (outdoor living area) 1.5m dwelling First Floor – 3m	Ground Floor – 1.25m (outdoor living area) 2m dwelling First Floor – 8.163m	Complies Clause 5.1.3
South Setback Unit 1	Ground Floor – 1.5m First Floor – 3m	Ground Floor – 1.5m First Floor – 6.84m	Complies clause 5.1.3
South Setback Unit's 2 – 5	Ground Floor – 1.5m First Floor – 3m	Ground Floor – 1.5m First Floor – 6.89m	Complies clause 5.1.3
South Setback Unit 6	Ground Floor – 1.5m First Floor – 3m	Ground Floor – 6.1m First Floor – 10.52m	Complies Clause 5.1.3
East Setback Unit 1	Ground Floor – 1.5m First Floor - 3m	Ground Floor – 1.05m First Floor - 4.05m	Variation clause 5.1.3 Complies clause 5.1.3
East Setback Unit's 2 – 5	Ground Floor – 1.5m First Floor - 3m	Ground Floor - 1.005m First Floor – 1.935m	Variation clause 5.1.3
East Setback Unit 6	Ground Floor – 1.5m First Floor – 3.3	Ground Floor – 1.581m First Floor – 3.681m	Complies clause 5.1.3
West Setback Unit's 2 – 5	Ground Floor – Wall built to lot boundary behind street setback line where wall no higher than 3.5m with average of 3m for 2/3 length of lot boundary behind front setback, to one side only. First Floor – 3.3m	Ground Floor – Nil. (12.6m long) First Floor – 4.42m	Complies clause 5.1.3 C3.2 iii Complies clause 5.1.3
West Setback Unit 6	Ground Floor - Wall built to lot boundary behind street setback line where wall no higher than 3.5m with average of 3m for 2/3 length of lot boundary behind front setback, to one side only.	Ground Floor – Nil. First Floor - >6m	Complies clause 5.1.3 C3.2 iii Complies clause 5.1.3
Garage/Carport Setback	Nil	>1m all units	Complies clause 5.2.1 C1.3
Driveway Width	<9m	5m	Complies.
Garage Width	Unit 1: Units 2 – 5:	Unit 1: Units 2 – 5: 5.97m	Complies.

	Unit 6:	Unit 6:	
Outdoor Living Area	20m ²	All units include outdoor living area >48.4m ²	Complies.
Open Space Requirement	45%	All units include open space >45.3%	Complies.
Upgrade Landscaping	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required The proposal incorporates the applicable tree planting area as required by the R-Codes. A deciduous tree is selected which is supported in order to maximise winter sun into the dwelling.		
Overlooking	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Street surveillance	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Street Walls and Fences	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No Compliant.	
Overshadowing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Other Variations	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Officer's Comments against performance criteria	<p><u>Clause 5.1.3 Lot Boundary Setback</u></p> <p>A variation is sought to the internal side setbacks (east) of Units 1- 5 with a side setback of 1.005m in lieu of 1.5m proposed on the ground floor and 1.935m proposed in lieu of 3m for the first floor of Units 2-5.</p> <p>Where a proposal does not meet the deemed to comply requirements of the R-Codes the development can be assessed against the relevant design principles. The following design principles are applicable to the proposal:</p> <p><i>Building set back from lot boundaries or adjacent buildings on the same lot so as to:</i></p> <ul style="list-style-type: none"> • Reduce impacts of building bulk on adjoining properties; • Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • Minimise the extent of overlooking and resultant loss of privacy on adjoining properties. <p>The proposal is considered to meet the above design principles for the following reasons:</p> <ul style="list-style-type: none"> • All dwellings are designed to face north with majority of windows facing north and therefore there will be no overlooking impacts into adjoining properties as the reduced setback faces onto a nil setback of the adjacent dwelling. • All dwellings provide adequate ventilation and access to direct sun which is not impacted by the proposed reduced side setback. • There will be no privacy impacts as a result of the reduced side setback. 		
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 per dwelling	Car Bays Proposed - 2 per dwelling	
Dimensions	2.5m 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		
Disabled Bays	Disabled Bays – N/A	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply	
Officer Comment	<p>Clause 5.3.3 Parking C3.2 sets out the visitor parking requirements for grouped dwellings. Given the proposal includes 6 units, 2 visitor bays are required to be provided. The proposal incorporates only 1 visitor bay and therefore proposes a shortfall of 1 bay.</p> <p>In the initial discussions with the Shire, the applicant queried the number of visitor parking bays that would be required and was provided written advice that only one would be needed, which was accurate at the time. It is considered unreasonable in these circumstance to require a second bay as this would require a redesign of the lot layout and dwelling.</p> <p>In addition to the above, the visitor bays are only required for grouped dwelling (permeant occupation). The applicant has proposed short term use of the dwellings and the proposal is compliant with the parking requirements for that respective use.</p>		

	The required number of bays for a holiday house use is 2 bays and therefore the dwellings that operate as holiday houses in the future will satisfy this requirement with the double garage for each dwelling. A requirement for holiday houses is that all cars associated with the use must be parked within the property boundaries. Therefore, any guests will only have access to two car bays. The visitor bay can then be allocated to the potential long-term use of the dwellings should they change in future.	
Building Height		
Scheme / Policy Requirement	Wall - 7m	Roof – 8m
State the proposed building height	Wall – 6.165m Roof – 6.165m	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply
Clause 67		
In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?		
Officer Comment	Yes.	
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?	The site is cleared of vegetation.	
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?	Conditions on approval will deal with noise impacts associated with the Holiday House use.	
v. Is the development likely to comply with AS3959 at the building permit stage?	Yes.	
Other Comments		
Any further comments in relation to the application?		
Officer Comment	Conditional Approval.	

OFFICER RECOMMENDATION

That the Coordinator Planning Services GRANT Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the proposed 6x Grouped Dwellings with Holiday House Use at 9 (Lot 7) Station Road 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 – P9 Received at the Shire on 10 th of November 2022.
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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.
- Prior to lodging a building permit application, a detailed Stormwater Management Engineering Plan shall be prepared to the satisfaction of the Shire and submitted to the Shire showing drainage details, stated storage capacity, lid levels, drainage pipe inverts, sump connections details, slow release details and calculations, offsite infrastructure connection details and a feature survey showing existing services, street trees, footpaths and furniture etc. The Shire's written acceptance of the Stormwater Management Plan must be provided with the building permit application. (Refer to advice note 'c').
- Prior to practical completion of the development, stormwater management systems on the subject site shall be constructed in accordance with the accepted Stormwater Management Engineering Plan referred to in abovementioned condition and shall thereafter be maintained.
- Prior to lodging a building permit application, a detailed Vehicle Parking Construction Engineering Plan shall be prepared in accordance with the Australian Standard AS 2890 to the satisfaction of the Shire and submitted to the Shire showing construction details including crossover details, pavement levels, thickness, cross fall, lighting proposal and drainage disposal method. The Shire's written acceptance of the Vehicle Parking Engineering Plan(s) must be provided with the building permit application (refer to advice note 'c').

6. Prior to occupation of the development, vehicle parking areas shall be designed, sealed, lit, drained and thereafter maintained in accordance with accepted Vehicle Parking Construction Plan(s), the Australian Standard AS 2890 and the Shire's Standards and Specifications.
7. Prior to lodging a building permit application, the proponent shall pay a \$7,500 development bond to the satisfaction of Local Government.
8. At all times, all stormwater and drainage run-off from the development shall be detained within the lot boundaries and where available disposed offsite by an approved connection to the Shire's drainage system. At all times stormwater shall be managed to predevelopment flow regimes.
9. Pedestrian paths shall remain continuous at vehicle crossovers and shall be reinforced with mesh.
10. The proponent will be required to submit and implement a Traffic Management Plan 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)".
11. Prior to lodging of a building permit application, the proponent shall pay the required developer contribution costs for providing community and / or common infrastructure as established through the Local Planning Scheme No.1 – Schedule 11 Community Infrastructure Development Contribution Plan for Development Contribution Areas. Please refer to advice note DCAN1 for the contribution cost that are required to be paid.

Holiday House Use

12. The Holiday House use permitted for a period of twelve (12) months which commences upon completion of the development. The Shire must be made aware of this date with reference to this approval number (Refer to advice note 'f')
13. The approved Bushfire Emergency Evacuation Plan shall be displayed in a conspicuous location within the dwelling at all times.
14. A Manager or a contactable employee of the Manager that permanently resides no greater than a 35 minute drive from the site shall be nominated for the Holiday House and this person shall attend to any callout within 35 minutes of a reported incident. The Manager or contactable employee is to be retained at all times during the use of the site as a Holiday House. (Refer advice note 'g')
15. At all times the Holiday House use is in operation, the 24-hour contact details of the Manager of the Holiday House shall be displayed on a sign that is clearly visible from the nearest street frontage. The sign is limited to a maximum size of 0.2 metres square and not exceeding 1.5 metres in height from the ground level. The sign shall be erected within the property frontage and must be visible from the front street. (Refer to advice note 'h')
16. All vehicles & boats connected with the premises shall be parked within the boundaries of the property.
17. The short stay use of each dwelling shall not be occupied by more than 6 guests at any one time.
18. Amplified music shall not be played outside of the holiday house between the hours of 10pm and 10am.
19. 'House Rules' shall be developed to the satisfaction of the Shire prior to the commencement of use. Thereafter the 'House Rules' shall be provided to all guests and shall be displayed within a prominent position within the Holiday House. (Refer to advice note 'k')
20. Any marketing material for this Holiday House shall include display of the planning approval reference number for this approval. (Refer to advice note 'l')

ADVICE NOTES (General)

- 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) Engineering plans are required to be developed and designed by a suitably qualified engineer and submitted to the Shire's Asset Services department (PH 9780 5274) The plans shall include a feature survey of the Shires Road reserve as part of the submission.
- c) Works in a road reserve, including any pruning or clearing of vegetation, are prohibited without first obtaining written approval of the Shire.
- d) The proponent will be required to submit and implement a Traffic Management Plan 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)".

- e) In respect to condition 11, the contribution required for this property is \$20,497.35, however it is to be noted that this will be indexed annually. Please find attached from the Planning Department the contributions and bonds quote which will confirm the required fee and provide methods of payment. The fee applicable will be determined at the time of payment and may vary from the above figure. The fees is payable on the earliest of the following:
- the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of subdivision of the owner's land within the development contribution area (for practical purposes payable at the time of submitting clearance to the Shire);
 - the commencement of any development on the owner's land within the development contribution area (for practical purposes contributions are payable at Building Permit stage);
 - the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
 - the approval of a change or extension of use by the local government on the owner's land within the development contribution area.

ADVICE NOTES (Holiday House)

- f) Following satisfactory performance of the approved use, and in the absence of any substantiated complaints over the twelve (12) month approval period, the Shire may grant further planning approval for the continuation of the use for a further three (3) years depending on the status of the main dwelling on site. A new planning application seeking such approval should be submitted 90 days before the expiry of this approval, along with the appropriate planning fee.
- g) If at any time there is not an appointed manager or a contactable employee of the manager for the site, the use must cease until such time as a manager is appointed.
- h) Evidence of installation of the sign will be required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged.
- i) This approval does not affect the entitlement to use the dwelling for permanent residential purposes.
- j) You are advised of the need to comply with the requirements of the following other legislation:
- (i) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises.
 - (ii) The *WA Building Regulations 2012* (r.59) requires that the owner of a dwelling (as defined in the Building Code of Australia) must not make the dwelling available for hire unless hard wired, battery backup smoke alarms are installed, complying with the Building Code of Australia and AS3786.
- k) The 'House Rules' document shall be consistent with key elements of the NSW Code for Holiday Houses (please refer to the attached document).
- l) Evidence of the display of the planning approval reference number within the marketing of the Holiday House is required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged. Applicants are advised to include a screenshot of the website, to show that the planning approval reference number is being displayed.
- m) Please note that the Shire does not notify landowners in writing of the expiry of a Holiday House planning approval. It is the owners responsibility to monitor and ensure that the planning approval remains valid while the use is being undertaken.
- n) Please note that approval as short stay accommodation will change the rating category applied to the property to Tourism, and this will lead to an increase in rates levied for the site. For further information on these changes contact the Shires Revenue team on 9780 5234 or by email at revenue@amrshire.wa.gov.au.



DEVELOPMENT APPLICATION ASSESSMENT
Report to Manager Planning and Development Services

Proposed Holiday House, 1 (Lot 16) Treeside Lane Margaret River

Level 3

P222801; PTY/12982

REPORTING OFFICER : **Tessa Ashworth**
DISCLOSURE OF INTEREST : **Nil**

General Information	
Lot Area	1108m ²
Zone	R20
Existing Development	<input checked="" type="checkbox"/> Single House <input type="checkbox"/> Grouped Dwelling
Proposed use	A planning application has been received for a Holiday House use. The existing dwelling is to be used to accommodate up to 6 short stay guests at any one time. The management arrangements are to be Dee Majier from Swell Stays
Permissible Use Class	'A' – discretionary use
Advertising Required	Yes – completed
Reason not exempted from planning approval?	Discretionary uses are not permitted unless the Shire exercises its discretion by granting development approval.
Heritage/Aboriginal Sites	N/A
Encumbrance	N/A
Date Received	17/11/2022
Date of Report	10/01/2022



Have there been any objections?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Nature of Submissions	Applicant comments
<p>1 x support (from same owner) 8 x objections (3 x objections were not from direct neighbours)</p> <p>Summary of issues raised</p> <ul style="list-style-type: none"> • Sound carrying from alfresco/balcony facing the valley will impact neighbours in this area • 6 guests can turn into a party house. Much lower impact from 2 or 4 guests 	<p>The applicant has provided the following response to the concerns raised:</p> <ul style="list-style-type: none"> • Applicant to state in house rules to be respectful to neighbours and be inside property by 10pm. Will have copy of rules displayed in the property and a reminder to be displayed on outside table. • Applicant has a no party policy. Guests will be asked to leave if any issues. Are open to reducing numbers at the renewal stage if there are issues.

<ul style="list-style-type: none"> • Complaints regarding noise from your existing holiday house on the corner • The cumulative impacts of noise, traffic, rubbish, and anti-social behaviour from several holiday homes in the street • No long term rentals available for residents • Loss of community from several short stay rentals in the area 	<ul style="list-style-type: none"> • Have only received one official complaint from their existing holiday house 'Greenview'. The issue was not communicated to them at the time. Noting that they or the manager need to be informed to have the chance to rectify the issue. • Applicant has confirmed that will have sign out the front for which to contact the manager. Further new development and construction in the area has the inevitable consequence of increased traffic down Stuart Street. • Proposal is located within a predefined policy area to maintain supply of long-term rentals. • The development of Stewart Street and Treeside Lane was developed to include the use of permissible short term let purposes. The applicant invested in this area because it was permissible in this location.
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Officer Comments

The structure plan applicable to this site provides for the use of short-term accommodation in the development area. This is supported by the permissible policy area under *Local Planning Policy 7 - Short Stay Accommodation* (LPP7). Concerns regarding the impact of Holiday Homes in the general Stuart Street area are noted, and it is a key objective of LPP7 that short stay accommodation does not inappropriately impact the amenity of surrounding areas.

The site meets the locational requirements for a holiday house under LPP7. LPP7 does not provide a cap on the maximum number of holiday houses that may be considered in the area. The impact to amenity from multiple surrounding holiday homes in the area, as observed in the objections received, is concerning. However, this falls outside of the scope of this individual planning application to address. Each application for a holiday house must be considered on its own merits. In this case, the application satisfies the policy requirements of LPP7 and for the reasons given by the applicant above, is not expected to cause an adverse impact to neighbours. It would not be fair to penalise the subject applicant based on cumulative negative impacts caused by other holiday houses. If issues are occurring with other Holiday Houses in the vicinity this would need to be reevaluated through the renewal process for those dwellings.

Approval for an initial 12-month period is recommended.

At the conclusion of the 12-month approval period, a holiday house renewal application would be required to continue the use. At this point, surrounding neighbours would have the opportunity to comment on the specific management of the holiday house and if it is determined that the use is causing undue impact, the continuation of the holiday house use may be amended or not approved.

Furthermore, submitters mentioned the difficulty they had in understanding the Shire's process on how best to report issues with holiday homes. A response will be sent to the relevant submitters confirming how to report compliance issues with any Holiday Homes in the area.

Policy Requirements

Policy Element	Provision	Comment
Location	Coastal settlement	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Urban area located within Policy Plan 1?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Within 50m of Village Centre zone?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Located outside of Policy Plan 1 but comprise of an area not less than 1ha?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Design / Layout	One parking bay per bedroom, Or two bays for grouped dwellings	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Reticulated water supply, or minimum 120,000 (plus firefighting provision) rainwater tank?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Existing or proposed one site effluent disposal system sized accordingly to number of guests?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Decks and balconies located away from the bedrooms of neighbouring dwellings?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

	Decks and balconies located close to the living and dining areas of neighbouring dwellings, provided with suitable screening?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Each bedroom accommodates a maximum of two persons?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fire	If within bushfire prone area a BAL provided?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	For sites with a BAL above Low, a BMP prepared by accredited consultant and where required referred to DFES for comments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	BAL rating at BAL-40 or FZ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Management	Management Plan submitted?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	BEEP provided	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Manager, or employee permanently resides 35m drive from Site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	House Rules?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Amplified music may not be played outside between the hours of 10pm to 10am	Require as a condition
	Display the manager's 24hr contact details	Require as a condition
Recommended period of approval	<input checked="" type="checkbox"/> 12 months <input type="checkbox"/> 3 years	

OFFICER RECOMMENDATION

That the Coordinator Planning Services GRANTS Planning Consent under Delegated Authority Instrument No. 34 pursuant to clause 68 (2) of the Deemed Provisions of Local Planning Scheme No. 1 for a Holiday House at 1 (lot 16) Treeside Lane, 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	Plans 1 – 3 received by the Shire 18 November 2022
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- The Holiday House use permitted for a period of **12 months** from **<date of this approval>** to **<end of date of approval>**. (Refer to advice note 'a')
- The approved Bushfire Emergency Evacuation Plan and Bushfire Management Plan shall be displayed in a conspicuous location within the dwelling at all times.
- A Manager or a contactable employee of the Manager that permanently resides no greater than a 35 minute drive from the site shall be nominated for the Holiday House and this person shall attend to any callout within 35 minutes of a reported incident. The Manager or contactable employee is to be retained at all times during the use of the site as a Holiday House. (Refer advice note 'b')
- At all times the Holiday House use is in operation, the 24-hour contact details of the **Manager** of the Holiday House shall be displayed on a sign that is clearly visible from the nearest street frontage. The sign is limited to a maximum size of 0.2 metres square and not exceeding 1.5 metres in height from the ground level. The sign shall be erected within the property frontage and must be visible from the front street. (Refer to advice note 'c')
- All vehicles & boats connected with the premises shall be parked within the boundaries of the property.
- The short stay use of the dwelling shall not be occupied by more than **6 people** at any one time.
- Amplified music shall not be played outside of the holiday house between the hours of 10pm and 10am.
- 'House Rules' shall be developed to the satisfaction of the Shire prior to the commencement of use. Thereafter the 'House Rules' shall be provided to all guests and shall be displayed within a prominent position within the Holiday House. (Refer to advice note 'f')
- Any marketing material for this Holiday House shall include display of the planning approval reference number for this approval. (Refer to advice note 'g')

ADVICE NOTES

- Following satisfactory performance of the approved use, and in the absence of any substantiated complaints over the twelve (12) month approval period, the Shire may grant further planning approval for the continuation of the use for a further three (3) years. A new planning application seeking such approval should be submitted 90 days before the expiry of this approval, along with the appropriate planning fee.
- If at any time there is not an appointed manager or a contactable employee of the manager for the site, the use must cease until such time as a manager is appointed.

- c) Evidence of installation of the sign will be required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged.
- d) This approval does not affect the entitlement to use the dwelling for permanent residential purposes.
- e) You are advised of the need to comply with the requirements of the following other legislation:
 - (iii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises.
 - (iv) The *WA Building Regulations 2012* (r.59) requires that the owner of a dwelling (as defined in the Building Code of Australia) must not make the dwelling available for hire unless hard wired, battery backup smoke alarms are installed, complying with the Building Code of Australia and AS3786.
- f) The 'House Rules' document shall be consistent with key elements of the NSW Code for Holiday Houses (please refer to the attached document).
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