

**DEVELOPMENT ASSESSMENT REPORT**  
**Shire of Augusta Margaret River**  
**27 July to 2 August 2023**

**APPLICATIONS RECEIVED**

<b>Date Rec'd</b>	<b>Reference No.</b>	<b>Address</b>	<b>Proposal</b>
<b>PLANNING</b>			
28/07/2023	P223462	9 (Lot 241) Antina Avenue, Witchcliffe	Single Dwelling
28/07/2023	P223463	10890 (Lot 5585) Bussell Highway, Forest Grove	Decking and Universal Access Ramp Additions
28/07/2023	P223464	Lot 5452 Nozzle Road, Bramley	Helicopter Flights (Margaret River Airstrip)
31/07/2023	P223466	Unit 2 (Lot 2) 5 Station Road, Margaret River	Holiday House Renewal
31/07/2023	P223470	31 (Lot 22) Stewart Smith Loop Cowaramup	Single Dwelling
31/07/2023	P223471	19 (Lot 59) Freycinet Way, Gnarabup	Holiday House Renewal
31/07/2023	P223472	69 (Lot 193) Marmaduke Point Drive, Gnarabup	Holiday House (Large) Renewal
01/08/2023	P223473	8 (Lot 12) Davies Street, East Augusta	Single House and Outbuilding (Shed)
01/08/2023	P223474	841 (Lot 204) Burnside Road, Burnside	Holiday House Renewal
01/08/2023	P223475	Unit 6/104 (Lot 6) Blackwood Avenue, Augusta	Holiday House Renewal
01/08/2023	P223476	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan Cottage Lots (Stage 3) (P221771) (Witchcliffe Eco Village)
02/08/2023	P223477	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Family Lots (Stage 3) (P221770) (Witchcliffe Eco Village)
02/08/2023	P223478	39 (Lot 134) Grunters Way, Gnarabup	Single Dwelling
02/08/2023	P223479	111 (Lot 202) Dalton Way, Molloy Island	Single House
02/08/2023	P223480	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Groupie Lots (Stage 3) (P221769) (Witchcliffe Eco Village)
02/08/2023	P223482	Lot 9001 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Short Stay Lots (Stage 3) (P221768) (Witchcliffe Eco Village)
02/08/2023	P223485	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Cottage Lots (Stage 4) - (Witchcliffe Eco Village) (P222411)
02/08/2023	P223487	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Family Lots Stage 4 - (Witchcliffe Eco Village) (P222412)
02/08/2023	P223488	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Groupie Lots (Stage 4) - (Witchcliffe Eco Village) (P222413)
02/08/2023	P223489	Lot 9003 Bussell Highway, Witchcliffe	Amendment to Local Development Plan - Short Stay Lots Stage 4 - (Witchcliffe Eco Village) (P222414)
02/08/2023	P223490	Unit 1/ 63 (Lot 171) Town View Terrace, Margaret River	Holiday House Renewal
<b>BUILDING</b>			
31/07/2023	223366	13 (Lot 9) Kyloring Drive, Witchcliffe	Single Dwelling, Carport, Verandah and Water Tanks
31/07/2023	223369	17 (Lot 40) Ewing Street, Augusta	Shed and Retaining Wall
31/07/2023	223370	21 (Lot 28) Brookside Boulevard Cowaramup	Swimming Pool
31/07/2023	223371	13 (Lot 300) Logging Road, Karridale	Single Dwelling, Pergola, Carport, Deck, Ancillary Dwelling, Shed, Rainwater Tank and Retaining Walls
31/07/2023	223372	23 (Lot 72) Concerto Drive Cowaramup	Single Dwelling, Garage and Patio
31/07/2023	223373	31 (Lot 22) Stewart Smith Loop, Cowaramup	Single Dwelling, Garage, Retaining Wall and Patio
01/08/2023	223374	251 (Lot 215) Horseford Road, Margaret River	Alterations and Additions to Existing Dwelling - Internal Works

01/08/2023	223375	10412 (Lot 4) Bussell Highway, Witchcliffe	Wine Bar and Tasting Building (Tavern)
01/08/2023	223376	165 (Lot 36) Terry Drive, Margaret River	Alterations and Additions to Existing Dwelling - Lift, Enclosure of Verandah and Workshop Addition
01/08/2023	223377	8588 (Lot 103) Bussell Highway, Cowaramup	Swimming Pool and Barrier Fence
01/08/2023	223378	114 Bussell Hwy Margaret River (Settlers Tavern)	Temporary Marquee
01/08/2023	223379	Units 2 & 3/90 (Lot 6) Bussell Highway, Cowaramup	Occupancy Permit for BLD219524 - Units 2 and 3
02/08/2023	223380	26 (Lot 117) Georgette Road, Gracetown	Retaining Walls and Rainwater Tank
02/08/2023	223381	Unit 2/90 (Lot 6) Bussell Highway, Cowaramup	Commercial Fit Out - Unit 2 Physio
02/08/2023	223382	1610 (Lot 22) Brockman Highway, Karridale	Farm Shed
02/08/2023	223383	18 (Lot 21) Trinder Drive, Margaret River	Demolition of Existing Shed and Reconstruction of a New Shed and Ancillary Dwelling
<b>Exploration Licenses for Comment</b>			
Nil			

#### APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
<b>PLANNING</b>				
10/05/2023	P223292	269/293 (Lot 1) Arthur Road, Rosa Brook	Outbuilding (Farm Building)	Approved
30/05/2023	P223329	102 (Lot 375) Brookfield Avenue, Margaret River	Single Dwelling	Approved
08/06/2023	P223347	43 (Lot 19) Georgette Way, Prevelly	Retrospective Change of Use (Shed to Ancillary Dwelling), Outbuilding and Dwelling Additions	Approved
12/06/2023	P223357	Unit 23 / 20 (Lot 23) Riedle Drive, Gnarabup	Holiday House	Approved
<b>SUBDIVISIONS</b>				
Nil				
<b>LOCAL LAW PERMITS</b>				
Nil				

#### LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
<b>PLANNING</b>				
31/05/2023	P223331	849 (Lot 202) Burnside Road, Burnside	Holiday House	Approve subject to conditions
20/09/2022	P222635	3 (Lot 608) Niblett Retreat Margaret River	Single House (Dwelling, Outbuilding and Water Tank)	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 - 849 (Lot 202) Burnside Road, Burnside

**Level 3 – 1 x objection**

**P223331; PTY/12751**

REPORTING OFFICER : Tessa Ashworth  
 DISCLOSURE OF INTEREST : Nil

General Information	
Lot Area	10,272m <sup>2</sup>
Zone	RR
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 proposed to be used to accommodate up to four (4) short stay guests at any one time. The management arrangements are to be Simon Hepburn, Woodard Avenue, Margaret River and House Down South when required.
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	31/05/2023
Date of Report	03/08/2023



Have there been any objections?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Nature of Submissions		Applicant Comments
1 x Objection from neighbouring property		
Summary of issues raised:		
<ul style="list-style-type: none"> <li>No previous consultation from the owner regarding the intentions for short stay.</li> </ul>		<ul style="list-style-type: none"> <li>Owner has provided management details for House Down South if he is away.</li> </ul>

<ul style="list-style-type: none"> <li>Concern as to how the Holiday House will be managed. As far as aware, the property owner works away and has rarely been at the property in the last 6 months. Will they be engaging a business to manage it on their behalf?</li> <li>Concerns regarding added risk of bushfire. Property owner seems to ignore Shire Guidelines for bushfire management (general maintenance / fire breaks / slashing/ mowing). Photos submitted to show property condition.</li> <li>Likelihood of serious fire incidents (especially on vulnerable properties) increases as guests are not generally familiar with bushfire management / restricted burn periods, BBQs and fire pits.</li> <li>Potential for noise disturbance and unsavoury behaviour. Previous incidents have occurred at nearby short stay properties where the Property Manager had to call for police attendance, this is not something we want to experience.</li> <li>There are three short stay properties within a 500m radius and we are regularly disturbed, both day and night, by guests looking for their accommodation. This is a frustrating inconvenience and invasion of privacy.</li> <li>From a visual amenity perspective, the property owner has not been active in managing and maintaining their property, how do the owners intend to manage short stay? Only this week, an actively managed short stay property nearby had bins blown over and rubbish strewn over the road for days.</li> </ul>	<ul style="list-style-type: none"> <li>Property maintenance is controlled under the Shire's Firebreak notice requirements and subject to annual inspection.</li> <li>House rules have been provided, and include: <ul style="list-style-type: none"> <li>No open fires</li> <li>No loud music after 9pm (this will also be standard condition for after 10pm)</li> <li>Respect privacy and peace of the neighbours</li> </ul> </li> </ul>
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**Officer Comments**

The holiday house is limited to 4 guests, a relatively small number. In instances where the proposal is yet to operate, owners are ordinarily given the opportunity to carry out the use to demonstrate that the operation/management of the holiday house is adequate. The proposal is consistent with the policy requirements accordingly 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.

Policy Element	Provision	Comment
<b>Location</b>	Coastal settlement	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Urban area located within Policy Plan 1?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Within 50m of Village Centre zone?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Located outside of Policy Plan 1 but comprise of an area not less than 1ha?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Design / Layout</b>	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
<b>Fire</b>	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 2008 subdivision FMP
	BAL rating at BAL-40 or FZ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Management</b>	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
<b>Recommended period of approval</b>	<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 849 Burnside Road, Burnside subject to compliance with the following conditions/for the following reasons:

### 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 on 31/05/2023
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- The Holiday House use permitted for a period of **1 year** 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 **four (4) 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.
- 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) The 'House Rules' document shall be consistent with key elements of the NSW Code for Holiday Houses (please refer to the attached document).
- g) 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.
- h) 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.
- i) Please note that approval as short stay accommodation will change the rating category applied to the property to Tourism and may 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](mailto:revenue@amrshire.wa.gov.au).
- j) Noise emissions resulting from development/use of premises for the approved purpose shall not exceed the assigned levels in the Environmental Protection (Noise) Regulations 1997, and shall not unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of any other premises.
- k) The development is to provide a potable water source in accordance with Shire of Augusta Margaret River Health Local Laws 1999.



**DEVELOPMENT APPLICATION ASSESSMENT**  
**Report to Manager Planning and Regulatory Services**

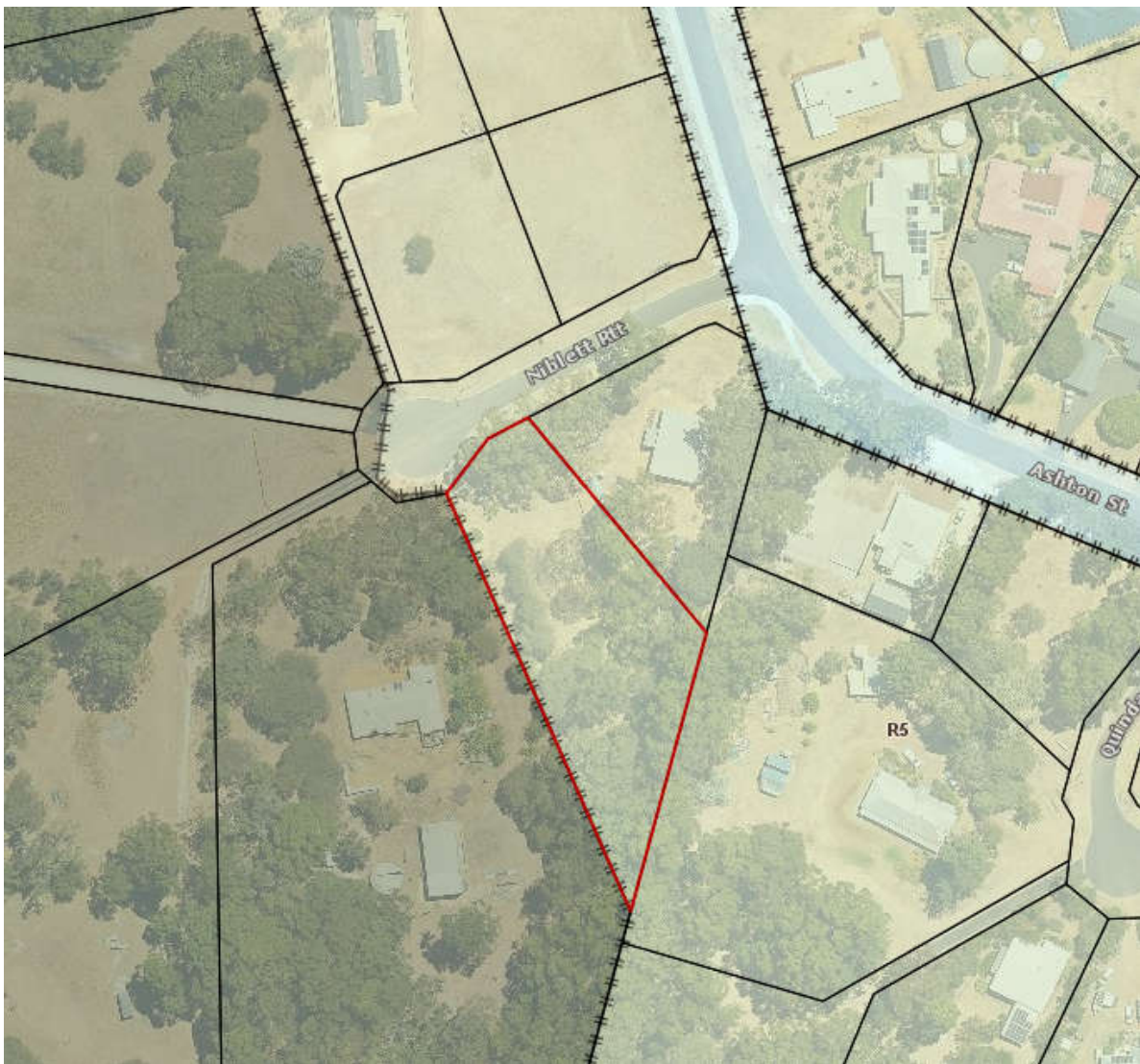
**Proposed Single House ( Dwelling, Outbuilding and Water Tank) at 3 (Lot 608) Niblett Retreat, Margaret River**

**Level 3**

**P223635; PTY/12893**

**REPORTING OFFICER: Stephen Schreck**  
**DISCLOSURE OF INTEREST: Nil.**

General Information	
Lot Area	3324m <sup>2</sup>
Zone	<b>Residential 'R5'</b>
Proposed Development	<p>The application proposes a new single house, outbuilding and water tank. The proposed development will require land clearing to establish an Asset Protection Zone required to reduce the fire risk to Bushfire Attack Level of 29.</p> <p>The proposal seeks a variation to the required 5m setback for R5 properties. The proposal seeks a 4m setback in lieu of the required 5m.</p> <p>The proposal includes an 85.8m<sup>2</sup> outbuilding, which is a variation of 5.8m<sup>2</sup> on the maximum permitted floor area in LPP1. The proposal also includes retaining walls with a maximum height of 1.5m.</p>
Permissible Use Class	P - Permissible
Heritage/Aboriginal Sites	N/A
Encumbrance	None affecting the proposal
Date Received	20 September 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	Local Planning Scheme No.1 – Clause 4.21.2(d)
Officer Comment	<p><b>R2.5 and R5 code:</b>  <b>(d) side boundary setbacks shall be 5 metres unless the local government, following consultation with affected adjoining landowners, otherwise approves.</b></p>

	<p>The single house proposed a three (3) metre setback to the eastern boundary (adjoining 1 Niblett Retreat). The proposal has been advertised in accordance with the above LPS1 Clause. The neighbours comments objected to the proposal. The applicant has provided amended plans, modifying the side setback to four (4) metres. More detail of the objection and assessment of the of the amended plans are provided below.</p>		
<p>Is the land or proposal referred to in any Council Policy?      <input checked="" type="checkbox"/> Yes      <input type="checkbox"/> No</p>			
<p>If yes, state the Policy/Policies</p>		<p>Local Planning Policy No.1 - Outbuildings</p>	
<p><b>Officer Comment</b></p>		<p>The proposed Outbuilding presents variations to the Shire's LPP1, by way of wall height and floor area. The proposed variations were previously considered and considered acceptable based on the justification below:</p> <p><b>AD1.2: Maximum wall height of 3.1m</b>  The western wall of the proposed outbuilding measures 3.6m from natural ground level. The site is sloping from east to west and in order to create a flat pad for the outbuilding to be constructed a 1.1m retaining wall and site fill is required on its western edge. The outbuilding proposes a wall height of 2.5m and will present as a compliant shed from the newly established finished floor area. The proposed outbuilding is setback 5.4m from the western boundary and provides adequate separation between the neighbouring dwelling. The impact on the neighbouring dwelling will be negligible, however a vegetation screen along the western boundary has been included as a condition of development approval to soften the overall bulk and scale. The proposed variation is in response to the natural slope of the site and is considered acceptable.</p> <p><b>AD1.3: Outbuildings do not exceed 80m<sup>2</sup> on R5 coded lots</b>  The proposed outbuilding proposes a 5.8m<sup>2</sup> variation with a floor area of 85.8m<sup>2</sup>. The proposed outbuilding is setback 5.4m from the adjoining lot boundary and will not impact on the ability for the neighbouring lot to access northern sunlight. The western boundary runs on an angle, while the proposed outbuilding runs square to the street, resulting in an increase setback to the boundary the further back along the block.</p>	
<p><b>Structure Plans and Local Development Plans (LDP's)</b></p>			
<p>Is the land in any Structure Plan Area or subject to a LDP?      <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p>			
<p><b>Planning History</b></p>			
<p>P223635 – Single House (Dwelling, Outbuilding and Water Tank)</p> <p>The above application was previously considered and determined under delegation. Neighbours raised concerns with the proximity of the proposal to the neighbouring boundary (1 Niblett Retreat). Upon further investigation it was determined that the proposed setback variation had not been advertised in accordance with Clause 4.21.2(d) of Local Planning Scheme No.1. To ensure that the full assessment requirements are fulfilled, the application has now been advertised, with the applicant providing amended plans in response to the concerns raised. Assessment of the amended proposal is provided below.</p>			
<p><b>Advertising/Agency Referrals</b></p>			
<p>Has the application been referred to adjoining landowners/agency?</p>		<p><input checked="" type="checkbox"/> Yes      <input type="checkbox"/> No      <input type="checkbox"/> N/A</p>	
<p>Has a submission been received by Council?</p>		<p><input checked="" type="checkbox"/> Yes      <input type="checkbox"/> No      <input type="checkbox"/> N/A  No. received: <b>2</b></p>	
<p><b>Details of Submission</b></p>		<p><b>Officer Comment</b></p>	
<p>Object to the proposed setback variation.</p> <p>The plans indicate that the requirement for a 27 metre Asset Protection Zone emanates from the south and moving the building to the west will not affect the buildings BAL rating. The building can be made compliant the setback. The proposed will have a high level of impact on amenity. The plans should be amended or the application rejected.</p> <p>There appears to be no reason why the house plans cannot be amended to adjust the overall footprint whilst achieving the same outcome of a reasonable dwelling on such a large lot.</p> <p>The R5 area provides a different kind of amenity than is typically experienced in other residential areas in the Shire (due to the 5m setback requirement). The location includes views looking west ward over the valley and over a creek line system that feeds into the Margaret River. Dwellings have been oriented to take advantage of the scenic</p>		<p>The objection is noted.</p> <p>The applicant has provided an updated BAL report which demonstrates that the dwelling is able to remain compliant with a BAL-29 rating. An amended plan has been submitted for a 4m setback and a BAL 29 rating has been achieved.</p> <p>The location of the dwelling has been chosen to facilitate vehicle access, access to northern sunlight and respond to the site features. While the lot is relatively large, it is of an irregular shape with a narrow frontage and a large portion of the block to the rear unable to achieve a bushfire rating of BAL 29 or less. Assessment of the setback variation is detailed below.</p> <p>It is acknowledged that the R5 area presents a different character to higher density residential areas. It should be noted that regardless of the setback requirement, variations can and are routinely considered by the local government on their merits, the 5m setback has been varied on numerous occasions and is not considered to detract from</p>	



<p>lookout to the west. As a result, the proposed dwelling is within open view of the dwelling, particularly the main living area, deck and master bedroom. The appearance of the proposed dwelling and its orientation, setback, scale etc, will impact on adjoining properties amenity.</p> <p>The proposed decreased setback means that the dwelling and associated activity will be closer to us including an outdoor deck to the front of the living area which is for the most part not screened. This means that social activity on the subject lot is closer than what has been anticipated and there is a level of impact as a result.</p> <p>Under Scheme Clause 4.21.2 (c), development should be consistent with the standard prevailing in the locality and shall be in keeping with the low-density residential character and amenity of the area and the side boundary setbacks shall be 5m unless the local government, in local consultation with affected owners, otherwise approves. A reduced setback is not consistent with the standard prevailing in the locality, with the surrounding properties demonstrating compliance with the 5m setback.</p> <p>Further, variations to site and development standards should only be exercised by the Shire if considered appropriate having regard for the criteria in Clause 67 if the deemed provision and the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.</p> <p>Given the extent of the building (28.2m in length with some major openings) presenting a 3m setback to the boundary, the proposal will have an adverse impact. Further, the veranda decking space off the main living area will have an additional impact on amenity, given it is unscreened and closer to the boundary than typically permitted.</p> <p>The lesser setback also provides lesser opportunity for meaningful landscaping to establish and provide screening. It is noted that the length of the dwelling (28.2m) is long when compared with typical dwellings and therefore the length of this wall and its lack of architectural interest, again, compromises amenity.</p> <p>The proposal demonstrates concerns with the compliance with Clause 67 of the Deemed provisions, in particular (M) and (N). The proposed dwelling and deck will be in the field of view and will have more impact visually and socially.</p> <p>The building bulk and loss of privacy are relevant and the reduced setback to 3m increases impacts on amenity. These variations would not meet the design principles of the R-Codes if they were applicable.</p> <p>The dwelling could easily comply with the 5m setback without any significant modification or major planning consideration. Why should a variation be permitted when it has an impact and compliance is achievable.</p>	<p>the overall character of an area. Views are not able to be considered through the planning assessment and loss or impact on views cannot be considered as an amenity impact. If the development wasn't proposing a setback variation, the scale, deck location and master bedroom location would remain the same (albeit setback slightly from the boundary) and therefore it is unreasonable to assume that these matters would be resolved with a 5m setback.</p> <p>The applicant has amended the plans to propose a 4m setback and a condition has been included to require landscaping along this elevation.</p> <p>It is acknowledged that the majority of lots within the proximity have achieved the 5m setback, however the provision stated does not explicitly require the 5m setback to be adhered to in order to maintain the prevailing standard. The proposed dwelling is of consistent scale and style to the surrounding area and maintains the low-density residential character. Furthermore, surrounding lots are more regular in shape and provide more opportunity for larger side boundary setbacks. Given the irregularity of the lot shape the proposed dwelling utilises the site appropriately and does not detract from the low-density residential character.</p> <p>The application has been considered in relation to Clause 67 of the Deemed Provisions and has been determined that the proposed 4m setback and use of the property would not be unreasonable for the locality/ zone. The reduced setback is not considered to present a significant loss of amenity or create an adverse impact for the inhabitants of the locality or the future of the locality.</p> <p>As above, the applicant has amended the plans to increase the setback to 4m and a condition has been imposed to require the landscaping of this area.</p> <p>Refer to previous comments regarding impacts on views. Ordinarily the R5 zone is characterized by lower or open style fencing which means dwellings are visible from adjoining sites.</p> <p>Assessment of the variation is provided further below.</p> <p>As outlined previously, reduction to the 5m side setback requirement can be considered on its merits.</p>
<p>No objection to the outbuilding size and scale. In order to soften the impact a vegetation screen is requested to the western elevation of the proposed outbuilding.</p> <p>In addition, a peppermint tree to the rear of the proposed building area is shown to be removed on one plan and retained on another. It would be preferred if this tree was maintained.</p>	<p>The applicant has agreed to add landscape screening and retain the peppermint tree to the rear of the building envelope.</p> <p>The approved plans have been marked up to reflect these and a condition has been added to the development approval recommendation.</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	Policy / R Codes	Provided	Officer comment
Front Setback	12m	14m	Complies.
Sides Setback	Dwelling: 5m  Outbuilding: Table 2a	Dwelling: East: 4m West: 6.9m	Variation. See officer comment below.
Rear Setback	6m	>6m	Complies
Driveway Width	Not more than 9m in aggregate	4.5m	Complies.
Open Space Requirement	70%	>70%	Complies.
Site Works	Retaining walls: 1.5m height = 2m setback	3.2m setback	Complies.
Upgrade Landscaping	<input type="checkbox"/> Required	<input checked="" type="checkbox"/> Not Required	
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Overshadowing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Other Variations	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Officer's Comments against performance criteria	<p><b>Side setback variation:</b></p> <p>The proposal is seeking a variation to the 5m setback required by LPS1. The proposed setback is 4m to the eastern boundary.</p> <p>The subject site has a relatively narrow frontage for the size and R5 coding. Furthermore, the narrow frontage is north facing meaning that exposure to northern sunlight is limited to this narrow section of the block. The proposed dwelling seeks to maximise access to northern sunlight to the dwellings living areas. In addition, the dwelling has been positioned to enable access to an outbuilding for vehicle parking towards the rear of the site. The required width and setback of a driveway has meant that the dwelling is unable to move further to the west. The vehicle access and provision of northern sunlight to living areas has resulted in a setback variation of 1m to the eastern boundary.</p> <p>The neighbouring dwelling is setback approximately 14m from the boundary, meaning that there will be a total of approximately 18m between dwellings. The Neighbouring property is also situated higher due to the slope between sites. The proposed dwelling is slightly cut into the eastern slope of the site reducing building bulk along this wall. Given the orientation of the lots, the proposed setback variation will not impede on the ability for the neighbouring dwelling to access natural light and ventilation. It is acknowledged that the setback variation exists for a 28m length of wall, however limited windows are proposed within this wall and no windows to the living area are proposed on the eastern wall. The proposed 4m setback allows for the planting of vegetation screening which will assist in reducing any building impact in the longer term.</p> <p>The proposed setback variation of 4m in lieu of the required 5m, facilitates access to northern sunlight, ventilation and vehicle access to the site. The proposed setback will not impact neighbouring properties access to northern sunlight or ventilation.</p> <p>The proposed setback variation is considered acceptable and can be justified through a design principle assessment and landscaping conditions. Support is recommended for the proposal.</p>		
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	2.5m 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		
Officer Comment	Proposed car parking is compliant with the R-Codes.		

<b>Building Height – Dwelling</b>		
Scheme / Policy Requirement	Wall – 7m	Roof - 8m
State the proposed building height	Wall – 3.9m Roof - 6m	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply
<b>Officer Comment</b>	The proposal is compliant with the LPS1.	
<b>Building Height - Outbuilding</b>		
Scheme / Policy Requirement	Wall – 3.1m	Roof – 4.2m
State the proposed building height	Wall – 3.5m Roof – 5.5m	<input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply
<b>Officer Comment</b>	<p>The proposal presents a variation to the wall height requirement in LPP1 and the ridge height in the R-codes.</p> <p>The proposed variation was considered as part of the original assessment of the application. The neighbouring property to the west was consulted and agreed to the proposed variations provided that vegetation screening was included. A condition has been added to the recommendation section.</p> <p>The assessment of the ridge height outlined below.</p> <p><b>R-Codes – Max ridge height of 4.2m</b> The proposed outbuilding ridge height measures 5.5m and is a variation to the R-Codes. The proposed variation is in response to the sloping site characteristics and has been minimised where possible. The proposed design of the outbuilding is consistent with the main dwelling and therefore presents in a consistent manner to the streetscape and setback behind the front of the dwelling. The proposed ridge is setback 8m from the boundary and will not have a negative impact on the neighbouring property. The proposed variation is considered acceptable.</p>	
<b>Clause 67</b>		
In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?		
<b>Officer Comment</b>	Yes	
<b>In the opinion of the officer</b>		
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?	Land clearing was required to facilitate a dwelling and associated structures. Vegetation to the south has been retained outside of the building envelope.	
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. see assessment of side setback variation above.	
v. Is the development likely to comply with AS3959 at the building permit stage?	Yes. The dwelling can achieve a BAL rating of BAL-29 or less.	
<b>Other Comments</b>		
Any further comments in relation to the application?		
<b>Officer Comment</b>	Conditional approval is recommended.	

#### 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 Single House (Dwelling, Outbuilding and Water Tank) at 3 (Lot 280) Niblett Retreat, 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 1 August 2023.
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2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
3. The outbuilding(s) shall be used solely for purposes incidental and ancillary to the authorised use of the land.
4. The outbuilding shall not be used for human habitation.
5. At all times, all stormwater and drainage run-off from the development shall be detained within the lot boundaries and managed to predevelopment flow regimes and/or disposed offsite by an approved connection to the Shire's drainage system in accordance with the Shire of Augusta Margaret River's Standards & Specifications.
6. Prior to lodging of a building permit application, a Landscape Plan shall be prepared for the eastern and western boundary of the property, as shown on approved plan 'P1', to the satisfaction of the Shire. The Landscape Plan shall be drawn to scale and show the following:
  - a) The location, name and mature heights of existing vegetation being retained, proposed trees, shrubs and ground covers;
  - b) Any natural landscaped areas to be retained; and
  - c) Detail the timing of planting.
7. Landscaping shall be implemented, and maintained in accordance with the approved Landscape Plan.

#### **ADVICE NOTES**

- a) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) This is not a Building Permit. A Building Permit must be issued by the relevant Permit Authority before any work commences on site as per the *Building Act 2011*;
  - (ii) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises; and
  - (iii) The *Bush Fires Act 1954* as amended, Section 33(3), Annual Bush Fires Notice applies to this property.