

DEVELOPMENT ASSESSMENT REPORT
Shire of Augusta Margaret River
30 June to 6 July 2022

APPLICATIONS RECEIVED

Date Rec'd	Reference No.	Address	Proposal
PLANNING			
30/06/2022	P222443	12 (Lot 11) Honeytree Grove, Cowaramup	Single House (Gazebo)
30/06/2022	P222444	3 (Lot 101) Vita Court, Margaret River	Home Business (Naturopathy)
30/06/2022	P222445	2 (Lot 292) Jenkins Road, Cowaramup	Single House (Outbuilding)
30/06/2022	P222446	24 (Lot 31) Pierce Road, Margaret River	Single House (Building Envelope Variation & Single House)
30/06/2022	P222447	809 (Lot 209) Burnside Road, Margaret River	Holiday House
30/06/2022	P222448	27 (Lot 229) Riedle Drive, Gnarabup	Holiday House Renewal
30/06/2022	P222449	456 (Lot 721) Kevill Road Margaret River	Single House (Building Envelope Variation & Ancillary Dwelling)
30/06/2022	P222450	8 (Lot 85) Georgette Way, Prevelly	House Renewal
01/07/2022	P222452	38 (Lot 10) Merlot Place, Margaret River	Single House
01/07/2022	P222453	17 (Lot 339) McCormick Crescent, Margaret River	Single House (Car Port)
04/07/2022	P222454	10 (Lot 54) Mansfield Avenue, Margaret River	Single House (Pool and Patio)
04/07/2022	P222455	453 (Lot 883) Burnside Road, Burnside	Agriculture Extensive (Land Clearing)
04/07/2022	P222456	17 (Lot 207) Stewart Street, Margaret River	Ancillary Dwelling (Retrospective Ancillary Dwelling)
05/07/2022	P222457	610 (Lot 2927) Osmington Road, Bramley	Agriculture Intensive (Freestanding Sign Addition)
05/07/2022	P222459	108 (Lot 1001) Redgate Road, Witchcliffe	Entry Statement Signage & Wall
06/07/2022	P222460	36 (Lot 45) Jersey Street, Cowaramup	Non-Conforming Use (Caretaker's Residence) - Additions
06/07/2022	P222464	43 (Lot 2661) Tonkin Boulevard Margaret River	43 (Lot 2661) Tonkin Boulevard Margaret River
BUILDING			
30/06/2022	222375	25 (Lot 233) Lumber Crescent, Karridale	Shed
30/06/2022	222377	5 (Lot 256) Logging Road, Karridale	Single Dwelling, Garage, Patio x2 and Verandah
30/06/2022	222378	15 (Lot 50) Hillier Drive, Margaret River	Shed
30/06/2022	222379	6 (Lot 64) Settlers Retreat, Margaret River	Ancillary Dwelling, Carport and Patio
30/06/2022	222380	59 (Lot 312) Kevill Road East, Margaret River	Ancillary Dwelling and Patio
04/07/2022	222381	Lot 33 Sprigg Road, Witchcliffe	Single Dwelling, Carport, Deck, Patio and Rainwater Tank
04/07/2022	222383	44 (Lot 150) Waverley Road, Cowaramup	Shed
04/07/2022	222384	18 (Lot 487) Currawong Street, Cowaramup	Shed and Carport
04/07/2022	222385	14 (Lot 238) Sawmill Loop, Karridale	Single Dwelling, Garage, Rainwater Tank, Patio and Verandah x 2
05/07/2022	222386	Unit 5/6 (Lot 5) Westringia Loop, Margaret River	Carport
05/07/2022	222387	49 (Lot 1) Waverley Road, Cowaramup	Single Dwelling, Garage and Patio
06/07/2022	222388	Lot 1004 Hawkesford Place, Margaret River (Margaret River Lifestyle Village - Stage 3a)	Retaining Walls
06/07/2022	222389	58 (Lot 1) Pimelia Drive, Margaret River	Single Dwelling, Garage, Retaining and Patio
06/07/2022	222390	4 (Lot 523) Sedge Way, Margaret River	Single Dwelling, Carport and Patio
Exploration Licenses for Comment			
Nil			

APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
PLANNING				
21/02/2022	P222129	29 (Lot 406) Hasluck Street, Cowaramup	Tavern Signage Addition (1 x Freestanding Sign & 6 x Wall Signs)	Approved
14/04/2022	P222279	33 (Lot 336) Horseford Road, Margaret River	Single House (Outbuilding)	Approved
20/04/2022	P222287	14 (Lot 20) Stewart Smith Loop, Cowaramup	Single Dwelling (Retaining)	Approved
04/05/2022	P222314	Unit 2 / 6 (Lot 2 of Strata Lot 4) Mann Street, Margaret River	Bed and Breakfast	Approved
13/05/2022	P222341	98 (Lot 1) Tom Cullity Drive, Cowaramup	Section 40	Approved
16/05/2022	P222342	7981 Caves Road, Forest Grove	Built Strata (2 Lots)	Approved
19/05/2022	P222353	16 Illawarra Avenue, Margaret River	Holiday House	Approved
01/06/2022	P222381	35 (Lot 440) Daisy Rise, Cowaramup	Single Dwelling	Cancelled
08/06/2022	P222390	Shop 2 & 3 / 145 (Lot 28) Bussell Hwy, Margaret River	Shops (Alterations and Additions)	Approved
21/06/2022	P222421	27 (Lot 24) Bussell Highway, Margaret River	Cancellation of Planning Approval P220623 (Holiday House)	Approved
SUBDIVISIONS				
Nil				
LOCAL LAW PERMITS				
Nil				

LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
PLANNING				
06/05/2022	P222321	91 (Lot 36) Rainbow Cave Road Margaret River	Holiday House Renewal (Large)	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 Development Services
Proposed Holiday House Renewal (Large) at 91 (Lot 36) Rainbow Cave Road, Margaret River

(Level 3) objections received

P222321; PTY/4577

REPORTING OFFICER : Lina O'Halloran
 DISCLOSURE OF INTEREST : Nil

General Information	
Lot Area	3.4ha
Zone	Rural Residential
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 application also proposes to increase the guest capacity to 12 guests, with an upgrade to the existing septic system. The holiday house was previously approved to accommodate up to eight (8) guests. All other aspects of the proposal remain unchanged. The proponent advises that the holiday house manager also resides on Rainbow Cave Road. The duration of the approval sought in this case is three (3) years.
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	6 May 2022
Date of Report	5 July 2022



Planning History	A 12 month approval (P220654) was issued on 13 May 2021 for a Holiday House (Large) for 8 guests.
Is the application same as previous?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Guest numbers are proposed to increase from 8 to 12, subject to septic system upgrades. Environmental Health Comments:

	<ul style="list-style-type: none"> The existing system only has capacity for 8 guests. This has been conveyed to the applicant previously by Environmental Health. No effluent application has been received since then. There is concern that if approval is issued to increase guest numbers subject to septic system upgrades, the guest numbers will be increased without the septic upgrades being done. This has occurred previously at the site when guest numbers were increased to 12 people despite planning approval conditions and inadequate septic capacity. The proposal of extending to 2 x 15m leach drains will be adequate for 12 guests. A 3rd septic tank is required. <p>Whilst Environmental Health concerns are noted, the Shire has not historically required septic upgrades to be carried out before issuing approvals to increase guest numbers.</p> <p>Where an increase to guest numbers is requested and septic upgrades are required, the following condition would be recommended to any approval that may be granted:</p> <p><i>The short stay use of the dwelling shall not be occupied by more than eight (8) people at any one time. This number may be increased to 12 if it can be demonstrated to the satisfaction of the Shire that the on-site wastewater management system is of suitable design to cope with the higher number of people.</i></p>
Have there been any objections?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 3 x objections detailed below.
Have there been any complaints over the recent period of approval?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Complaint received 19 March 2022: <ul style="list-style-type: none"> Illegal clearing illegal helipad with helicopters to and from the site noise from large groups more than 8 guests most nights <p>Two compliance files have been created for this property:</p> <p>P222289: Breach of Holiday House Approval Conditions commenced April 2022 in response to the above complaint. The applicant has since reduced the guest capacity back to eight in all marketing material and advised this will remain the case until approval is obtained to increase the guest capacity to 12. This compliance matter is resolved.</p> <p>P221133: Illegal vegetation clearing to create helicopter pad commenced in February 2021 before the original holiday house use was approved, after it was brought to the Shire's attention there were multiple helicopter landings at the site. The applicant is still working with the Shire's compliance officer to revegetate this area.</p>
Have there been any substantial changes to the LPS1 or Policy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Officer comments:	A photo of the Manager's sign has been provided.
Comments Received	
Nature of Submission	Applicant Response
3 x Objections: <ul style="list-style-type: none"> Strongly object to the increased guest capacity. The holiday house advert has been reduced to advertise an occupancy of 8, but it has been advertised for up to 12 guests in the past. The room marked as a theatre room is used as a bedroom. 	The applicant's response to the issues raised is summarised as follows: <ul style="list-style-type: none"> There is no reasoning or explanation to this statement. The house was always intended to accommodate up to 12 guests. The Shire has advised the septic upgrade was the only factor limiting us from increasing guest numbers. It is unclear why the neighbours would make this statement as they were not involved with this matter. This has been resolved already. The holiday home advertisement is currently at 8 guests. The 'old' theatre room as shown on the building plans is used as a kid's room. The theatre room is in the office.

<ul style="list-style-type: none"> • The owners have disregard for the rules and regulations attached to a holiday house use. • Noise is an issue and the increase to guest numbers will exacerbate this. The holiday house becomes a party house in summer. • The helipad has not been revegetated. 	<ul style="list-style-type: none"> • Unclear what rules and regulations are being referred to. As owners, we use the house for ourselves as if we would any other house and respect surrounding neighbours. To date, the property management has complied with the holiday home requirements and conditions. • We strongly disagree with this statement. We have never had a noise complaint, nor had the Ranger or Police attend the property. The neighbours have never raised concerns with us or our property manager regarding noise. The house is not and has never been a party house as we strictly do not allow parties or gatherings. Prior to check-in all guests are reminded of the house rules. Guests are aware that if the house rules are not followed, they will be evicted. We note that no guests have ever been evicted during their stay. • Unclear why the neighbours would make this statement as this matter has only been between the Shire and us. We also do not understand how or why this would influence our holiday home application particularly regarding the increased guest numbers. We have been keeping the Shire up to date regarding this matter. As always agreed, the helipad planting was to commence mid-year in the wetter months to ensure a higher rate of plant survival.
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Officer Comments:

The applicant has provided a response to the concerns raised however has not provided additional or sufficient details to demonstrate how the primary concerns of increased noise from more guests will be managed going forward.

The applicant lodged the first holiday house application with the Shire in October 2020. Since that time, the use has been associated with:

- Non-compliance with holiday house conditions of approval;
- A complaint from a surrounding owner; and
- Three objections to the subject application.

Regarding holiday house renewals, *Local Planning Policy 7 – Short Stay Accommodation* states that:

In determining an application for renewal, the Local Government will consider the nature of any comments made regarding the operation of the activity and any other information available relating to the adverse impact of the activity on the amenity of neighbors' and the surrounding area. Where complaints have been made, issues relating to impact on amenity have been verified or other non-compliance with the planning approval has occurred, approval to the renewal application is unlikely to be granted. Where the Local Government is satisfied that the holiday house or holiday house (large) has been appropriately managed, an approval of the renewal application for a period of up to three years may be granted followed by a further five year approval period for subsequent renewals.

The proponent has resolved noncompliance matters associated with guest numbers once raised, however, the historical management of the holiday house use raises significant concerns given objections have been received from multiple neighboring sites in addition to a complaint during the operating period. Further, the applicant has not provided practical measures to demonstrate how the concerns raised are addressed and how the use will be managed to not impact surrounding amenity.

It is also noted that the complaint regarding the unauthorised activities on site (excess guest numbers, noise and continued helipad operation) was received recently in 2022 while compliance investigations for the site commenced in early 2021. It is considered that compliance with planning requirements has not occurred over a sufficient period of time to demonstrate the suitability of the management measures.

In light of this, approval for a duration of three years with an increase to 12 guests is not supported. An approval for eight guests for another 12 month period is recommended, in order to provide an opportunity for the applicants to demonstrate that the use can be appropriately managed without nuisance. After this period, if it can be demonstrated that the holiday house is being appropriately managed, an approval for a longer time frame may be considered.

It is also noted that proposals to increase guest numbers are typically treated as a new application and would only be considered for approval for an initial 12 month period.

Recommended period of approval	<input checked="" type="checkbox"/> 12 months <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years
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OFFICER RECOMMENDATION

That the Statutory Planning Coordinator 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 (Large) Renewal at 91 (Lot 36) Rainbow Cave Road, Margaret River 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.

Plans and Specifications	P1 & P2 received by the Shire on 14 October 2020
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1. The Holiday House use is permitted for a period of **12 months** 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 **eight (8) people** at any one time.
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) 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 planning approval for the continuation of the use for a further three (3) years. Should approval for an increase in guest numbers be sought, any approval that may be granted would be for an initial approval period of twelve (12) months only. A new planning application seeking such 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) This approval does not affect the entitlement to use the dwelling for permanent residential purposes.
- d) 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.
- e) Evidence of the installation of the sign and 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.
- f) 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.