

DEVELOPMENT ASSESSMENT UNIT
Minutes of the Development Assessment Unit
Shire of Augusta Margaret River
On 19 November 2019

ATTENDANCE

Lucy Gouws, Chris Wenman, Jason Heine, Chris McAtee

PLANNING APPLICATIONS RECEIVED

Date Rec'd	Assess No.	Address	Proposal	DA No.
11/11/2019	A2055	15 (Lot 77) Georgette Road, Gracetown	Holiday House (Large)	P219680
12/11/2019	A5500	19 (Lot 11) St Alouarn Place, Margaret River	Holiday House (Large)	P219682
12/11/2019	A11377	Lots 102, 103 and 104 Bussell Highway, Karridale	Local Development Plan	P219683
12/11/2019	A6263	179 (Lot 11) Sebbes Road, Forest Grove	Holiday House	P219684
13/11/2019	A1247	4 (Lot 375) Storm Bay Road, Augusta	Holiday House (Renewal)	P219688
13/11/2019	A11533	2A (Strata Lot 1 of Lot 148) Georgette Road, Gracetown	Holiday House (Large)	P219689
13/11/2019	A12115	30 (Strata Lot 15 of Lot 320) Formosa Street, Margaret River	Grouped Dwelling Addition	P219690
13/11/2019	A4571	271 (Lot 17) Yates Road, Margaret River	Holiday House	P219693
14/11/2019	A3193	Lot 94 Caves Road, Burnside	Agriculture Intensive (Vineyard) and Dam	P219694
15/11/2019	A1613	14 (Lot 101) Wishart Road, Augusta	Holiday House (Large)	P219695
15/11/2019	A12110	20 (Lot 10) Formosa Street Margaret River	Holiday House (Renewal)	P219696
15/11/2019	A12452	9 (Lot 300) Mahoney Street, Margaret River	Dwelling Additions (Outbuilding)	P219697
15/11/2019	A11592	53C (Lot 434) Ironstone Place, Margaret River	Holiday House (Renewal)	P219698
15/11/2019	A5653	10 (Lot 113) Waterside Rise, Augusta	Holiday House (Renewal)	P219699

BUILDING LICENCE APPLICATIONS RECEIVED

Date Rec'd	Assess No.	Address	Proposal	BLDG No.
11/11/2019	A124	39 (Lot 57) Town View Terrace, Margaret River	4 x Two Storey Units	219472
11/11/2019	A4047	Reserve 46745 Lot 3703 Chapman Road, Karridale	Additions to Existing Fire Station	219473
12/11/2019	A12820	9 (Lot 205) Walilya Way, Witchcliffe	Single Dwelling & Rainwater Tank	219474
12/11/2019	A10135	10 Lot 397 Coral Vine Cross, Cowaramup	Single Dwelling	219475
14/11/2019	A1279	130 (Lot 8) Blackwood Avenue, Augusta	Sea Container	219476
14/11/2019	A11898 A165	9906 (Lot 1007) Bussell Highway, Margaret River	Unauthorised Works - Dwelling	219477
14/11/2019	A10339	12 Daisy Rise, Cowaramup	Shed	219478
15/11/2019	A4088	2 (Lot 66) Settlers Retreat, Margaret River	Shed and Patio	219479
15/11/2019	A354	Lease Site 3, 423 Sebbes Road, Forest Grove	Workshop Verandah	219480

SUBDIVISIONS DETERMINED

Nil

LEVEL 1 APPLICATIONS determined under delegation

Date Rec'd	Officer	Address	Proposal	Outcome	DA No.
26/08/2019	Lucy Gouws	103 (Lot 1022) Heron Drive, Margaret River	Holiday House (Renewal)	Approved	P219513
27/08/2019	Lara Hoole	2 (Lot 2662) Nickol Street, Margaret River	Dwelling	Approved	P219517
16/10/2019	Lara Hoole	35 (Lot 30) Hermitage Drive, Margaret River	Bed & Breakfast	Approved	P219621
04/11/2019	Matt Slocomb	10 (Lot 11) Memorial Drive, Cowaramup	Private Recreation (Addition to Bowling Club)	Approved	P219658
08/11/2019	Devin Moltoni	6 (Lot 25) Irwin Street, Augusta	Dwelling Additions (Balcony)	Cancelled	P219673

LEVEL 2 APPLICATIONS for determination

Date Rec'd	Officer	Address	Proposal	Outcome of DAU Meeting	DA No.
14/06/2019	LG	23 (Lot 5) Fearn Av, Margaret River	Change in use from 4 x Serviced Apartments to Serviced Apartments / Multiple Dwellings	Approved	P219372

MANAGEMENT OF VEGETATION ON SHIRE RESERVES

Nil

LOCAL LAW PERMITS

Date Rec'd	Officer	Address	Proposal	Outcome	DA No.
05/11/2019	Emma Rogers	Reserve Mitchell Drive, Prevelly	Amendment to Local Law Permit P219332 Standup Surfing	Approved	P219661

OTHER APPLICATIONS determined under delegation

Nil

ELECTED MEMBERS ATTENTION

Nil

CLOSURE OF MEETING



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

Proposed Change in Use of 4 x Serviced Apartments to allow dual use of Serviced Apartments / Multiple Dwellings at 23 (Lot 5) Fearn Avenue, Margaret River

Minor (Level 1)

P219372; PTY/8737

REPORTING OFFICER : Lucy Gouws
DISCLOSURE OF INTEREST : Nil

General Information	
Lot Area	739.185sqm
Zone	Town Centre
Proposed Development	The Site has been developed with 4 x two (2) bedroomed Short Stay Apartments (Serviced Apartments) and 3 x Shops, 1 x Take Away Food Outlet, all developed in 2003 under previous planning approval (ref P23310). The application under assessment is to consider the change of use of the 4 x Serviced Apartments to allow dual use as both Multiple Dwellings (residential) and Serviced Apartments (Short Stay). The proposal is considered to presents a short fall of two (2) parking bays.
Permissible Use Class	'D' Discretionary for both Serviced Apartments and Multiple Dwellings, approval required
Heritage/Aboriginal Sites	n/a
Encumbrance	Survey strata with common property.
Date Received	14/06/2019



Policy Requirements	
Is the land or proposal referred to in any Council Policy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Structure Plans and Local Development Plans (DAP)	
Is the land in any Structure Plan Area or subject to a DAP?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Advertising/Agency Referrals	
Has the application been referred to adjoining landowners/agency? The application does not involve variations to Scheme standards that warrant referral to neighbours.	<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 3 x Support 1 x Objection
Summary of submission from The development has not been designed for permanent / long stay residencies. The change in use, is inconsistent with the nature and purpose of the development as designed and constructed, it is inappropriate to allow 4 commercial serviced apartments to be used as residential, this presents a conflict of uses. The current use is commercial, offices and retail, with the upper floor as commercial serviced apartments. Residential being located immediately above is not compatible with the ground floor use due to the design of the development and the manner in which it has been constructed. For residential and commercial mixed use development to function effectively for both commercial and residential occupiers, they need to be designed and constructed in a manner that will not cause disruption or interference with the uses by owners to their lots. The development does not include in its design or construction the measures that would be included in the development is it	The applicant has advised that the development of the Site, although originally for serviced apartments (short stay) the development is suitable to allow consideration of the proposed dual use to allow both multiple dwellings (residential use) and continuation of the serviced apartments (short stay). The proposed four (4) serviced apartments range in floor area from 132m ² up to 144m ² and have sole use of individual separate garages with storage area. Other than the car parking, the proposed multiple dwellings comply with all other provisions of the Residential Design Codes (R-Codes) in terms of design, providing over and above the required outdoor living areas and the provision of storage facilities. The Site is located within the area of the town centre zone. The Local Planning Scheme (the Scheme) allows for consideration of multiple dwellings within the town centre zone. The Scheme 'encourages' residential accommodation with the town centre, as specified under clause 4.2.5.1. Other developments in the locality such as the development of Lot 271 Fearn Avenue, was originally approved as 3 x Shops and 4 x Grouped Dwellings (ref P24272). Subsequent planning approval was granted, allowing the grouped dwellings to be used for dual use, allowing both residential and short stay. As with Lot 271 Fearn Avenue and the Site of the assessment of this application, both proposals are considered to be suitable given their location within the town centre zone, and the standard of construction is not different between that of a short stay to that of residential. This has been confirmed by the Shires Building Surveyor. It is difficult to specify how the use of the first floor accommodation as residential, would present a conflict to that of when the accommodation is currently being used for short stay. One of the main considerations in the assessment of the change of use, is ensuring that the day to day functions of the accommodation is of a suitable design fit for residential purpose. This can be established by assessment of the proposal in line with the R-Codes for Multiple Dwellings in relation to: i. Each unit will be provided with at least one balcony that is directly accessible from a habitable room with a minimum area of 10m ² .

were designed and constructed today as a mixed use development.

- ii. A storage area within the individual garages is to be provided with an internal area of 4m².

In response to the above,

Given that the building is existing and not proposed, all other components of the R-Codes are not required to be assessed for the proposed change of use.

As stated previously, the Building Surveyor has advised that the construction of the building would not have been any different if the original proposal was for residential use. Both short stay as serviced apartments or as multiple dwellings for the purpose of residential are the same classification of building under the Building Codes.

If to consider the development in terms of building design, against the State Planning Policy SPP5.4 *Road and Rail Noise Guidelines 2019* Quiet House Requirements. The construction of the building includes a number of noise cancelling attributes. The building has been positioned alongside Fearn Avenue, with a side on orientation. The building is constructed of cavity filled double brick, up to 230mm thickness as that required to meet Quiet House A package of SPP5.4. Also all the outdoor living areas are located 'side' on to Fearn Avenue, another requirement of Quiet House package A. Double glazing windows have been installed to apartment 1 located on the side (western) elevation, located alongside Fearn Avenue. It is apparent, that if the building was to be constructed today, not a lot of the building design would be required to be changed.

Concerns about the increase in risk to the remaining commercial lot owners (ground floor) that residents on the upper floor are disturbed by the commercial operations. In circumstances where the development is a commercial complex, commercial lot owners cannot have their businesses prejudiced by the change in use which would permit the first floor to be used as residences. For example a food operator on the ground floor trading at night (when the other commercial / office lots are closed) that the operator should not be at risk of an odours complaint by the resident who now lives on the first floor.

To address this concern it is recommend that a notification is to be placed on the titles notifying landowners of the apartments that the units may be used for short stay purposes which may have an impact on the amenity. The notice should also include that the units adjoins commercial uses which may have a similar negative impact on amenity.

The location at the southern end of Fearn Avenue there is little if any residential accommodation in the immediate vicinity. It is not within a residential area, it is not appropriate to allow the change of use.

As explained above, there are a number of mixed use developments within the area along Fearn Avenue and with the town centre.

The shortfall of 2 bays compounds the existing parking problems in respect of the development. Residents will require more bays than the current, therefore increasing parking issue on the development.

The applicant undertook a car parking survey reviewing the use of the 45 car parking bays that are located immediate adjacent to the Site. It was found that between the 11/9/19 to the 17/9/19 occupancy of the 45 car parking spaces from the hours of 9am - 3pm ranged from as little as 5 of the 45 bays used, up to a maximum of 24 of the 45 bays being used. It equated to an average of 38% of the 45 car parking bays being used. The highest of

This will reduce available space for the current tenants and their customers and increase pressure on the use of the existing bays and on-street parking.

	<p>occupancy was around 12 noon, with a total of 43% of the bays being in use.</p> <p>It is noted, that presently owners of the first floor apartments use the garage as storage for linen and cleaning products to service the accommodation. As way of ensuring this does not continue and that the garages are available for parking as to ensure the short fall of 2 bays is not further exasperated, a condition of the planning approval will limit use of the garage for parking only.</p>		
Have agency or authority comments been received?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Has the application been referred to internal departments?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
Assessment of Application			
Is the land referred in the Heritage Inventory?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Are there any Contributions applicable? The site exists in	<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 Assessment against		
Design Element	Policy / R Codes Req	Provided	Officer comment
Parking	2 bays per unit, plus 1 visitor = 9	4 x garages that serve the units are provided, but a shortfall of 2 bays is proposed.	
Outdoor living area	10m ² - accessible from habitable room	All 4 units have 2 balconies on both north and south elevations. Both are accessible from habitable rooms (living and bedrooms). The northern balconies range in size from 10 – 14m ² in floor area. The southern balconies are all 10m ² in floor area.	
Utilities and facilities	Enclosed, lockable storage area min 1.5m ² internal area of at least 4m ² .	4m ² of storage to be provided within the garages.	
Other Variations	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
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 - 9	Car Bays Proposed - 7	
Dimensions	2.5 x 5.5m	<input checked="" type="checkbox"/> Complies	<input type="checkbox"/> Doesn't Comply
Turning Bay/Circles and vehicle manoeuvring	<input checked="" type="checkbox"/> Complies	<input type="checkbox"/> Doesn't Comply	
Disabled Bays	Disabled Bays – n/a	<input type="checkbox"/> Complies	<input type="checkbox"/> Doesn't Comply
<p>The proposal generates parking as follows:</p> <ul style="list-style-type: none"> • 4 (two bedroom) grouped dwellings = 9 bays * • 3 retail shops (225m² total floor space) = 8 bays • 1 takeaway outlet (99m²) = 3 bays <p>Total parking requirement on Site is 20 bays and 18 bays are provided including the 3 constructed on street parking bays.</p> <p>* Refer to Rcodes clause 5.3.3 Parking (2 bays required in location B for a 2 bedroom dwelling & one visitor bay for every 4 dwellings).</p>			
Building Height			
n/a			
Clause 67			
A. In the opinion of the officer, would approval of the planning consent be appropriate under Clause 67 of the Deemed Provisions of the Scheme?			
Officer Comment	The proposal is considered to be consistent with the objectives of the Margaret River Town Site Strategy.		

	<p>Planning approval P23310 was granted on 19 September 2003 for the development for 4 short stay apartments, 3 retail shops and 1 takeaway outlet. Relevant conditions of approval included:</p> <ul style="list-style-type: none"> • The apartments are only for short stay; • 14 parking bays are required on site; and • 3 on street parking bays are to be constructed in lieu of those removed in the parking area. <p>A condition is recommended to be added to any approval to supersede this approval.</p>
B. In the opinion of the officer:	
i. Are utility services available and adequate for the development?	Site is connected to town water and sewage
ii. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land?	n/a
iii. Has adequate provision been made for access for the development or facilities by disabled persons?	n/a
iv. Is development likely to cause detriment to the existing and likely future amenity of the neighbourhood?	none
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	<p>To allow for the units to be used as either short stay or permanent stay will not result in any additional on or off site impacts. It is proposed that by requesting that a Section 70a notification placed on the titles as a planning it will notify all land owners that the units may be used for both short stay and residential purposes. The condition will include advice that the units adjoins commercial uses, which may have a similar negative impact on the amenity.</p> <p>This type of development that offers dual use already exists in and around the town of Margaret River. The dual use is considered to be acceptable, and planning approval is recommended.</p>

OFFICER RECOMMENDATION

That the Manager of Planning and Development Services GRANTS Planning Consent under Delegated Authority Instrument No. 16 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for 4 x Serviced Apartment / Multiple Dwellings at 23 (Lot 5) Fearn Avenue, 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 – P3 received on 14 June 2019
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2. This approval allows the use of the units for permanent residential purposes in addition to short stay as approved under planning application P23310.
3. A Manager or a contactable employee of the Manager that permanently resides no greater than a 1 hour drive from the site shall be nominated for the Serviced Apartments and this person shall attend to any callout within 1 hour of a reported incident. The Manager or contactable employee is to be retained at all times during the use of the Serviced Apartments.
4. Prior to commencement the landowner contributing towards development infrastructure provisions pursuant to the Shire of Augusta Margaret River Local Planning Scheme No. 1 (refer to advice note 'c').

5. Notification in the form of a section 70A notification, pursuant to the *Transfer of Lands Act 1893* (as amended) is to be placed on the Certificates of Title of the proposed multiple dwellings advising that the dwellings adjoins commercial uses that may have a negative impact on amenity. The notice shall also include that the units may be used for short stay purposes which may have a similar negative impact on the amenity.
6. The garage associated to the multiple dwellings / serviced apartments shall be used for parking and are not to be used for storage purposes only.

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.
- b) You are advised that the conditions of approval for the short stay use under Planning Application No P23310 are still applicable.
- c) In respect to condition 4, the contribution required for this property is \$9819.80, however it is to be noted that this will be indexed annually. Please find attached from the Planning Department 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 approval of a change or extension of use by the local government on the owner's land within the development contribution area.