

**DEVELOPMENT ASSESSMENT UNIT**  
**Minutes of the Development Assessment Unit**  
**Shire of Augusta Margaret River**  
**On 25 September 2018**

**ATTENDANCE**

Lucy Gouws, Chris Wenman, Clare Hamilton, Jacinta McKinlay, Hilary Metcalfe

**PLANNING APPLICATIONS RECEIVED**

| Date Rec'd | Assess No.     | Address  | Proposal   | DA No.  |
|------------|----------------|--|--|---------|
| 17/09/2018 | A4707          | 17 (Lot 29) Duggan Drive, Cowaramup                                | Bed & Breakfast Renewal  | P218582 |
| 17/09/2018 | A11553<br>A499 | 4558 (Lot 61) Caves Road, Gracetown                                | Dwelling Additions   | P218584 |
| 18/09/2018 | A4396          | Lot 258 (Reserve 20232) Osnaburg Street, Augusta                   | Community Purpose (Memorial)   | P218586 |
| 19/09/2018 | A6464          | 9 (Lot 232) Bandicoot Close, Gnarabup                              | Holiday House (Renewal)  | P218589 |
| 20/09/2018 | A7743          | 413 (Lot 12) Burnside Road, Burnside                               | Section 40   | P218591 |
| 20/09/2018 | A1384          | 268 (Lot 151) Wilson Road, Kudardup                                | Farm Building  | P218592 |
| 20/09/2018 | A6349          | 15 (Lot 41) The Boulevard, Margaret River                          | Bed and Breakfast (Renewal)  | P218593 |
| 20/09/2018 | A1407          | 18 (Lot 354) Peppermint Drive, Augusta                             | Dwelling Additions   | P218594 |
| 21/09/2018 | A3408          | 26 (Lot 89) Sabina Drive, Molloy Island                            | Dwelling Addition  | P218600 |
| 21/09/2018 | A514<br>A2648  | Lots 104 and 105 Bussell Highway, Margaret River                   | Park Home Park - Margaret River Lifestyle Village - Site Lot 1 Woma Lane - John Maloney (1 off design) | P218602 |
| 21/09/2018 | A12482         | 38 (Lot 272) Noreuil Circuit, Cowaramup                            | Single Dwelling  | P218603 |
| 21/09/2018 | A12585         | Unit 4, 35 (Strata Lot 4 of Lot 15) Stewart Street, Margaret River | Single Dwelling  | P218604 |
| 21/09/2018 | A1792          | 10418 (Lot 700) Bussell Highway, Witchcliffe                       | Community Purpose  | P218605 |

**BUILDING LICENCE APPLICATIONS RECEIVED**

| Date Rec'd | Assess No. | Address   | Proposal                                    | BLDG No. |
|------------|------------|---|---|----------|
| 19/09/2018 | A1809      | Lot 104 Vita Court, Margaret River                            | Single Dwelling and Carport                 | 218427   |
| 20/09/2018 | A4095      | Lot 74 Settlers Retreat, Margaret River                       | Conversion of garage to studio with ensuite | 218428   |
| 20/09/2018 | A12343     | Lease Site 'C' Lot 380 (Reserve 29668) Hillview Road, Augusta | Aircraft Hangar                             | 218429   |
| 20/09/2018 | A12333     | Lot 102 Dahlberg Street, Augusta                              | Retaining Walls                             | 218430   |
| 20/09/2018 | A4310      | Lot 868 Chamberlain Place, Augusta                            | Storage Shed                                | 218431   |
| 21/09/2018 | A3408      | Lot 25 Sabina Drive, Molloy Island                            | Lean-to Carport Extension                   | 218433   |
| 21/09/2018 | A10834     | Lot 67 Calabrese Close, Margaret River                        | Storage Shed                                | 218434   |

**SUBDIVISIONS DETERMINED**

Nil

**LEVEL 1 APPLICATIONS determined under delegation**

| Date Rec'd | Officer        | Address                                    | Proposal                     | Outcome  | DA No.  |
|------------|----------------|--|------------------------------|----------|---------|
| 19/02/2018 | Clare Hamilton | 227 (Lot 11) Fifty One Road, Cowaramup     | Section 40                   | Approved | P218091 |
| 13/06/2018 | Clare Hamilton | 29 (Lot 12) Stewart Street, Margaret River | Dwelling                     | Approved | P218353 |
| 22/08/2018 | Leigh Medlen   | 70 (Lot 110) Kilcarnup Road, Burnside      | Building Envelope Variation  | Approved | P218514 |
| 13/09/2018 | Leigh Medlen   | 5 (Lot 27) Tinglewood Court, Cowaramup     | Dwelling, Watertank and Shed | Approved | P218572 |

**LEVEL 2 APPLICATIONS for determination**

| Date Rec'd | Officer | Address  | Proposal      | Outcome of DAU Meeting | DA No.  |
|------------|---------|--|---------------|------------------------|---------|
| 03/07/18   | MS      | 46-52 (Lots 47-50) Town View Terrace, Margaret River | Night Markets | Approve                | P218390 |

|          |    |  |                       |         |         |
|----------|----|--|-----------------------|---------|---------|
| 23/07/18 | CH | 25 (Lot 27) Waters Edge,<br>Margaret River | Holiday House (Large) | Approve | P218440 |
|----------|----|--|-----------------------|---------|---------|

**LOCAL LAW PERMITS**

| Date Rec'd | Officer     | Address   | Proposal   | Outcome  | DA No.  |
|------------|-------------|---|--|----------|---------|
| 18/09/2018 | Emma Rogers | Reserve 24563, Flinders Bay and 1 and Lot 858 Blackwood Avenue, Augusta | Local Law Permit - Humpy Camels - Turner Caravan Park and Flinders Bay | Approved | P218587 |

**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 Night Markets – 46-52 (Lots 47 48 49 50) Town View Terrace, Margaret River**

**Major (Level 2)**

**P218390; PTY/3927 PTY/5605**

**REPORTING OFFICER : Matt Slocomb**  
**DISCLOSURE OF INTEREST : Nil**

| General Information              |   |
|----------------------------------|---|
| <b>Lot Area</b>                  | 4045sqm (combined area of lots)   |
| <b>Zone</b>                      | <b>Parks and Recreation and Town Centre (Lot 47)</b>  |
| <b>Proposed Development</b>      | A planning application has been received for the continuation of the Night Markets at 48-52 (Lots 47-50) Town View Terrace, Margaret River (Memorial Park). The proposed Night Markets will be held on one Friday night each month from November 2018 to March 2019, will comprise of 16 stalls and will operate from 5.30pm to 8.30pm. The layout is proposed to remain consistent with that previously approved and a 5 year approval term is being sought. |
| <b>Permissible Use Class</b>     | Use Not Listed (Temporary event exceeding duration of 48 hours)   |
| <b>Heritage/Aboriginal Sites</b> | Yes, Memorial Park is listed under the Shires Municipal Heritage Inventory being of moderate significance that is of statutory effect under the Shires Local Planning Scheme.   |
| <b>Encumbrance</b>               | N/A   |
| <b>Date Received</b>             | 03/07/2018  |



**Background**

**Officer Comment**

The initial planning approval was granted by Council on the 9 December 2015 for the night markets to operate on one Friday night per month between January - March of 2016.

Following the completion of the first year of the event, an application was received for the proposed night market to continue over a longer term with an increase in the number of events. The proposal was advertised, to which 18 submissions were received, with six (6) in support and twelve (12) in objection to the proposal. The objections predominantly came from food business owners located within the town centre, with the key reasons for objection listed as follows:

- Impacts on bricks and mortar businesses, paying rents, land tax etc. all year round. It was stated that this proposal seeks to take the 'cream' over 5 nights in the busy period of the year being an unfair advantage. Multiple claims were made that main street business patronage fell in the order of 20% during the markets operation.
- The night market will cause additional rubbish, potential damage, unlawful use of parking and loss of trade.
- Inconsistency with memorial setting.

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|   | <ul style="list-style-type: none"> <li>Preference for night markets to be located outside of the town site or further from the main street.</li> </ul> <p>The application was considered by Council at its ordinary meeting on the 12 October 2016 and was approved for a two-year term. In response to the concerns raised throughout the consultation process, the following advice was included on the approval:</p> <p><i>“Advises the applicant that prior to the approval period lapsing, investigations, including consultation with town centre business community is to occur, in order to identify potential alternative sites for night market use which enjoy a high degree of stakeholder support”.</i></p>  |   |
| <b>Policy Requirements</b>  |   |   |
| Is the land or proposal referred to in any Council Policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |   |   |
| <b>Structure Plans and Local Development Plans (DAP)</b>  |   |   |
| Is the land in any Structure Plan Area or subject to a DAP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |   |   |
| <b>Advertising/Agency Referrals</b>   |   |   |
| 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<br>No. received: 7 submissions.  |   |
| Have agency or authority comments been received?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  |   |
| Has the application been referred to internal departments?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  |   |
| <b>Name</b>   | <b>Nature of Submission</b>   | <b>Officer Comment</b>  |
| <b>Submitter 1</b>  | <p>Object to the proposal.</p> <p>Tenant has indicated that the event negatively affects trade. Taking into account the compliance requirements for a permanent venue, overhead costs, wages and lack of tourists in town they are opposed to the market. Another venue would be acceptable (such as footy oval).</p> <p>The attached email from the tenant states the markets draw trade from the main street at a crucial time when business can catch up from slower off seasons. Existing premises pay high rents, shire rates and licencing fees that market stalls do not pay. Food stalls are charging similar prices to main street businesses without service and staff costs. Organisers will not let already established business to operate at the events. If there is to be a market it should be on the main street and involve all restaurants and bars.</p> | Noted. These concerns are discussed further in the comment section of the report.                     |
| <b>Submitter 2</b>  | <p>Support proposed night markets</p> <p>Believe it adds to the vibrancy of the town and provides venue for visitors and locals.</p>  | Noted.  |
| <b>Submitter 3</b>  | Support the proposal.   | Noted.  |
| <b>Submitter 4</b>  | Support the proposal.   | Noted.  |
| <b>Submitter 5</b>  | <p>Support the proposal.</p> <p>Great community idea that should be made permanent.</p>   | Noted.  |
| <b>Submitter 6</b>  | Support the proposal.   | Noted.  |
| <b>Submitter 7</b>  | Support the proposal.   | Noted.  |
| <b>Infrastructure/ Parks and Gardens Services</b>   | <p>A two (2) year term is preferred over five (5) years as future development of the Main Street and surrounds may provide a more suitable location for such an event.</p> <p>A bond is required in advance for the season, for reinstatement and repairs to</p>  | Noted. Advice notes and conditions have been included where applicable in order to address the above. |



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|   | <p>the POS should any damage occur to the grounds, gardens and infrastructure.</p> <p>A Traffic Management Plan is required as this location is busy, affects potentially 3 roads and 2 major footpaths, a shopping centre car park entrance and involves reservation of public parking.</p> <p>Advise that applicant that the current fee for reserving a car parking space is currently \$67.50 per bay. Current shire policy towards fee waivers will require them to pay in advance and apply for a fee waiver later. It is advised that the application is made after all 5-6 events are complete as only one application can be made per year.</p> <p>A written application is required to reserve parking bays with a plan showing the bays intended to be reserved with the dates and times.</p> |  |
| <b>Rangers</b>  | Operators using wood or solid fueled barbeques, pizza ovens and incinerators are required to adhere to the requirements of the Shires Bushfire Order.  | Advice to be provided to applicant in respect to this requirement.                   |
| <b>Environmental Health/Events</b>  | <p>Some issues have been experienced with in the previous term including some minor damages to landscaping and situating vehicles on site. Suggested that measures be put in place to ensure that this is addressed moving forward.</p> <p>Standard advice notes also recommended for inclusion.</p>   | Noted. Conditions and advice notes have been included as required.                   |
| <b>Assessment of Application</b>  |  |  |
| Is the land referred in the Heritage Inventory?   | <input checked="" type="checkbox"/> Yes  | <input 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   |
| <b>R Codes</b>  |  |  |
| Are R Codes applicable?   | <input type="checkbox"/> Yes   | <input checked="" type="checkbox"/> No   |
| <b>Development Standards (Schedule 9)</b>   |  |  |
| Are the development Standards applicable?   | <input type="checkbox"/> Yes   | <input checked="" type="checkbox"/> No   |
| <b>Car Parking</b>  |  |  |
| 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 -  | <input checked="" type="checkbox"/> Complies <input type="checkbox"/> Doesn't Comply |
| <b>Officer Comment</b>  | <p>The market reserves eight (8) on street parking bays and within the park, and has previously been granted consent by 'the village' to allow visitors to park within this complex.</p> <p>The market has operated in the way for the three years that it has been approved, without compliance being received by the Shire in respect to availability of parking for the event.</p> <p>In the case of the previous approvals, the expressed consent of the 'village' was required to be obtained as a part of the preparation of a traffic management. The requirement for a traffic management has been maintained however it has been required in that case that approvals around parking arrangements be provided to the Shire prior to determination.</p>  |  |
| <b>Clause 67</b>  |  |  |
| 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? |  |  |
| <b>Officer Comment</b>  | <b>Previous Approval Requirements/Term of Approval</b>   |  |

|   |   |
|---|---|
|   | <p>As discussed above, in response to concerns received during the consultation of the previous applicant an advice note was included on the approval to investigate alternative venue options to achieve a broader level of stakeholder support.</p> <p>Upon the submission of the current application, no such information was provided and this was queried with the applicant who advised as follows:</p> <p>“We have not at this stage approached neighbouring businesses as the once a month event was well received by the community and we received no further criticism of the event’s effect on main street businesses. The response has been overwhelmingly positive”.</p> <p>No further detail was provided as to the consultation methodologies applied or details of the investigations undertaken. The disregard of this request, as well as the concerns previously raised by businesses and the Chamber of Commerce is disappointing. In the absence of a broader exploration of the potential of alternative sites, it is considered that a five (5) year approval would not be appropriate. This is supported by the Shires Infrastructure division, indicating that a two (2) year term is preferred over five (5) years as future development of the Main Street and surrounds may provide a more suitable location in future. For this reason, it is recommended that the approval term be limited to 2 year in this case.</p> <p><b>Competitiveness as a Planning Consideration</b></p> <p>Three forms of approval are required for the markets to operate: a planning approval; a permit under the Shire’s Local Law, and a public buildings approval under environmental health legislation.</p> <p>Except in very limited circumstances, the extent to which a landuse may affect the viability of surrounding uses is not a relevant planning consideration that should be given weight in the assessment of the subject development application. It is useful however to consider that a future local law permit will be required and consideration will be guided by the Shires ‘Activities in Thoroughfares and Public Places and Trading Local Law 2010’ which states that the following:</p> <p><i>“6.5 Relevant considerations in determining application for permit</i></p> <p><i>1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—</i></p> <p><i>a) any relevant policies of the local government;</i></p> <p><i>b) the desirability of the proposed activity;</i></p> <p><i>c) the location of the proposed activity;</i></p> <p><i>d) the principles set out in the Competition Principles Agreement; and</i></p> <p><i>e) such other matters as the local government may consider to be relevant in the circumstances of the case.”</i></p> <p>The Competition Principles Agreement states:</p> <p><i>5.1 The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:</i></p> <p><i>a) the benefits of the restriction to the community as a whole outweigh the costs; and</i></p> <p><i>b) the objectives of the legislation can only be achieved by restricting competition.</i></p> <p>The costs to those businesses opposed to the markets would be difficult to measure objectively, however the objection raised are taken as valid concerns and it is possible that there may be some detrimental impact from the proposal on the businesses on the main street. Notwithstanding, this is not able to treated as a valid planning concerns, rather the proposal is required to be considered on its merits against the relevant criteria of the Shires Local Planning Scheme and Policies.</p> |
| A. In the opinion of the officer:   |   |
| i. Are utility services available and adequate for the development?   | Yes.  |
| i. Has adequate provision been made for the landscaping and protection for any trees or other vegetation on the land? | Yes. A bond has been required to enable any damage to landscaping within the reserve to be rectified.   |
| ii. Has adequate provision been made for access for the development or facilities by disabled persons?                | Yes.  |
| iii. Is development likely to cause detriment to the existing and likely future amenity of the neighbourhood?         | No.   |
| iv. Is the development likely to comply with AS3959 at the building permit stage?                                     | N/A. Advice has been provided to the applicant in respect to the requirements of the Shires Bushfire Order.   |
| <b>Other Comments</b>   |   |

|  |                                   |
|--|-----------------------------------|
| Any further comments in relation to the application? |                                   |
| <b>Officer Comment</b>                               | Conditional approval recommended. |

### OFFICER RECOMMENDATION

**That the Acting 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 Night Markets at 46-52 (Lots 47 48 49 50) Town View Terrace, 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 received at the Shire Offices on the 3 July 2018 |
|--------------------------|---|

2. The development the subject of this approval, is valid for one Friday per month over the period from November to March, between the hours of 5.30pm and 8.30pm for a period of 2 years (10 events in total commencing November 2018). Where an approval has lapsed, development is prohibited without further approval being obtained.
3. A Traffic and Parking Management Plan shall be prepared and approved by the Shire prior to the commencement of the first event and shall thereafter be implemented to address:
  - a) The provision of parking for the markets;
  - b) Management of pedestrian and vehicle access to and around the markets;
  - c) Measures to ensure adjacent private parking areas are retained for private use;
  - d) Detail in respect to possible parking bay and road closures;
  - e) Details on the number and locations of spotters and marshals around the site during bump in and bump out.
4. The use shall be limited to 16 stalls per event.
5. A waste management plan shall be prepared and approved by the Shire prior to the commencement of the first event and shall thereafter be implemented.
6. Prior to commencement of the use the applicant is to pay a development bond of \$500 for reinstatement and repairs to the Public Open Space should any damage occur to the grounds, gardens and infrastructure.

### ADVICE NOTES

- a) The applicant is advised that an application is required for the reservation of car bays for the event. The current fee for reserving a car parking space is currently \$67.50 per bay. The applicant may be able to obtain a waiver for the fee, which can be sought following the payment and the completion of the events as only one application can be made per year.
- b) Noise emissions resulting from the Permitted Activity 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.
- c) The proposed activity must comply with the *Food Act 2008* and the Australia New Zealand Food Standards Code.
- d) Any amplified music or entertainment associated with the markets is to cease by 9pm and the level of noise is not to exceed 65dB<sub>LA10</sub> at the nearest noise sensitive premises.
- e) No alcohol is to be consumed at the markets.
- f) Proponent to make application to Shire's Events Officer for approval. Applicant to comply with all event approval conditions.
- g) Operators using wood or solid fueled barbeques, pizza ovens and incinerators are required to adhere to the requirements of the Shire's Bushfire Order.
- h) In respect to condition 3, a traffic management plan is required to be prepared by a suitably qualified consultant.



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

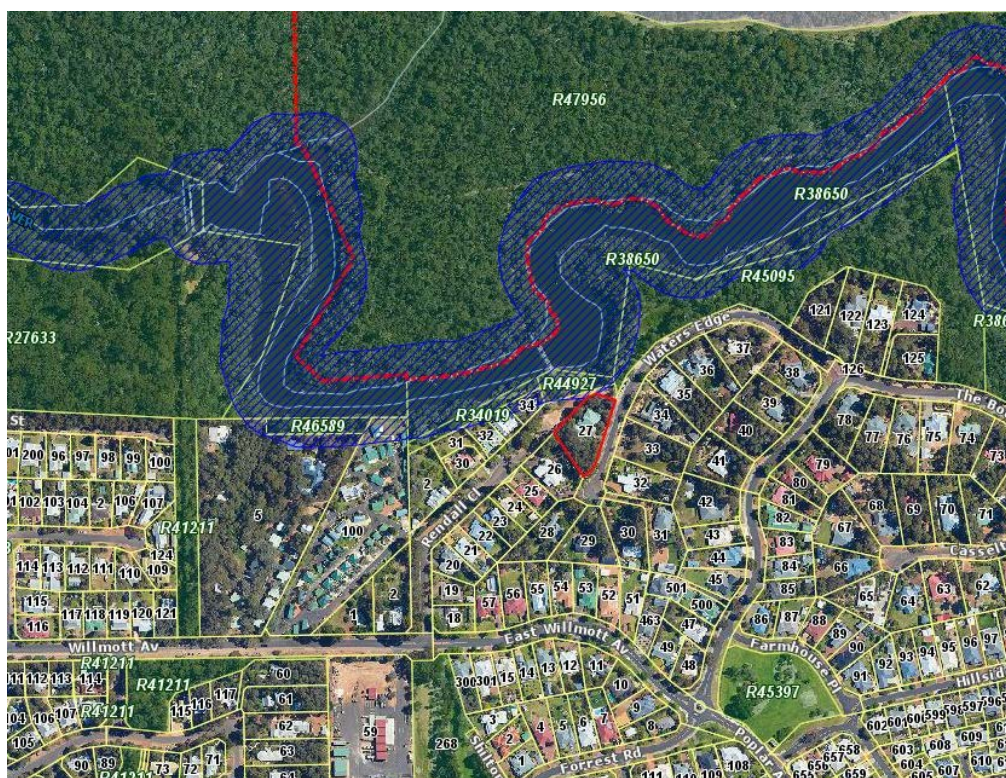
**Proposed Holiday House (Large) at 25 (Lot 27) Waters Edge, Margaret River**

**Major (Level 2)**

**P218440; PTY/6332**

**REPORTING OFFICER** : Clare Hamilton  
**DISCLOSURE OF INTEREST** : Nil

| General Information                         |  |
|---|--|
| Lot Area                                    | 2,421m <sup>2</sup>  |
| Zone  | <b>Residential R5</b>  |
| Existing Development                        | <input checked="" type="checkbox"/> Single House<br><input type="checkbox"/> Grouped Dwelling  |
| Nature of application                       | <input checked="" type="checkbox"/> New application<br><input type="checkbox"/> Renewal  |
| Proposed use                                | To use the existing four (4) bedroom dwelling as a Holiday House (Large) for up to eight (8) guests at any one time. A local Management agent is proposed and the duration of approval being considered is one (1) year.<br><br>Note: This application is assessed and determined under Local Planning Policy 7 (LPP7) – Holiday Houses (in place prior to 13 September 2018). |
| Permissible Use Class                       | 'A' – discretionary use  |
| Advertising Required                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  |
| 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                               | 23/07/2018   |
| Date of Report                              | 20/09/18   |







| <b>Planning History</b>   | Planning approval (P99366) was issued on 3 September 1999 for a dwelling and double garage<br>Planning approval (P20444) was issued on 6 September 2000 for a Shed.<br>Planning approval (P21528) was issued on 8 January 2002 for Dwelling Additions (bedroom and decking).                                     |   |
|---|--|---|
| <b>Has the application been advertised to adjoining landowners?</b> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  |   |
| <b>Have there been any objections?</b>                              | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  |   |
| <b>Comments Received</b>  |  |   |
| <b>Nature of Submission</b>   | <b>Comments Received</b>   | <b>Officer Comment</b>  |
| Objection   | <ul style="list-style-type: none"> <li>• Scale of development with regards increase in local traffic and speed at which accommodation guests may drive</li> <br/> <li>• Potential for increased noise and parties</li> <br/> <li>• Creation of a precedent for short stay accommodation on the street</li> </ul> | <p>The traffic volumes generated by the proposal are not considered to be any greater than that generated by the use of the Site as a dwelling. The road network is of adequate design for the intended capacity of the proposed use. The speed at which people drive is a road safety matter and is not able to be controlled by this planning application.</p> <p>The proponent has submitted the House Rules which addresses matters in relation to noise and amenity. A local property manager (local agent) has been nominated who resides close to Site and will be able to quickly respond to with any issues if they arise. The House Rules require guests to adhere to the rules and behave in a courteous manner in order to prevent adverse noise impact on neighbouring residents. Guest will be required to pay a bond upon booking of the property. Any infringement of the House Rules may result in eviction from the premises, loss of bond and/or a forfeit of all monies paid.</p> <p>The proposed Holiday House is compliant with the acceptable development standards of Local</p> |

|                     |  | Planning Policy 7 – Holiday Houses and therefore can be considered as appropriate in this location.  |
|---------------------|--|--|
| Objection           | <ul style="list-style-type: none"> <li>• Eight guests on a regular basis would negatively impact the safety and security of the neighbourhood</li> <li>• Potential for increased noise from parties</li> <li>• Potential for increase in traffic noise and risks to walkers as no footpaths</li> <li>• Do not consider short stay appropriate at the location</li> </ul> | <p>The size of the Site and dwelling are considered to be suitable to cater for eight (8) guests. Outdoor areas are suitably located away from neighbours, with large areas of vegetation screening the dwelling. The concerns that are raised in relation to impact the Holiday House will present to the security and safety of the area are not justified, considering the use is not in operation.</p> <p>The House Rules and the appointment of a local manger are in place to ensure guests do not disturb neighbouring dwellings. Guests who do not adhere to the House Rule can potentially be evicted with a loss of the bond.</p> <p>Please refer to earlier comment above with regards traffic. The matter of no pedestrian footpaths in this area and the risk to walkers is not a matter for assessment under this application. The use as a Holiday House is not of greater capacity than the occupancy of a dwelling.</p> <p>The application was lodged prior to the adoption of the reviewed Local Planning Policy 7 (LPP7) that came into effect on the 13 September 2018. Both the Local Planning Scheme No.1 and Holiday Houses Policy allow for the consideration of the Holiday House in this area.</p> |
| Policy Requirements |  |  |
| Policy Element      | Provision  | Comment  |
| 1. Location         | Does not adjoins, fronts or is within an area of "significant tourist attraction" but exceeds 1000m <sup>2</sup> in area.  | √  |
| 2. Occupancy        | Does the proposed number of guests (8) comply with the acceptable development criteria?  | √ Yes <input type="checkbox"/> No  |
| 3. Amenity          | Have there been any complaints since previous approval?  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A   |
|                     | Complies with the objectives and provisions of the zone?   | √ Yes <input type="checkbox"/> No  |
|                     | For <u>Holiday House (Large)</u> , is sufficient information provided to assess potential impacts on local amenity.  | √ Yes <input type="checkbox"/> No<br>House rules have been provided and local management agent proposed.   |
| 4. Design           | Is the dwelling <u>of sufficient size</u> to cater for intended number of guests?  | √ Yes <input type="checkbox"/> No<br>Connected to main sewerage  |
|                     | Is the dwelling <u>sufficiently serviced</u> to cater for intended number of guests?   | √ Yes <input type="checkbox"/> No  |
|                     | Sufficient potable water supply?   | √ Yes <input type="checkbox"/> No<br>Scheme Water  |
|                     | Sealed Crossover   | √ Yes <input type="checkbox"/> No  |
|                     | One parking bay per bedroom is provided for a Holiday House, and Holiday House (Large)   | √ Yes <input type="checkbox"/> No<br>2 car bays in garage and space for 2 cars on driveway   |
|                     | Decks and balconies located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided?   | √ Yes <input type="checkbox"/> No<br>The subject Site only adjoins one additional residential lot to the south. Other dwellings in the vicinity are separated from   |

|  |  |   |
|--|--|---|
|  |  | the lot by public road networks.<br>Vegetation on the Lot screens all boundaries. |
| <b>5. Management</b>   | Emergency Response Plan and Fire Management Plan submitted?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No               |
|  | Management Plan submitted?   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No               |
|  | No amplified music between 10pm & 10am   | Require as a condition  |
|  | Display the manager's 24hr contact details   | Require as a condition  |
| <b>6. Period of Approval</b>   | <input checked="" type="checkbox"/> 12 months <input type="checkbox"/> 3 years   |   |
| <b>Any discretionary considerations under LPP7's performance criteria.</b> | <p>A holiday house is defined as a vulnerable land use under <i>State Planning Policy (SPP) 3.7 Planning in Bushfire Prone Areas</i>. The Bushfire Attack Level (BAL) Assessment submitted with the application identifies a BAL-19 rating for the dwelling, with an appropriate Asset Protection Zone (APZ) in place.</p> <p>Clause 6.6.1 of SPP 3.7 requires that where a vulnerable landuse has a BAL rating above Low a Bushfire Management Plan (BMP) and Emergency Evacuation Plan (EEP) is required to be submitted with an application for planning approval.</p> <p>A BMP has been submitted, and provides assessment against the bushfire protection criteria acceptable solutions of the <i>SPP3.7 Guidelines</i>. The proposal achieves compliance with the acceptable solutions of all elements apart from A3.3 Cul-de-sac. To achieve compliance with the acceptable solution of Element A3.3, a cul-de-sac requires to be no greater than 200m in length (and where no alternative access exists), and meet certain technical built requirements. The dwelling in which the holiday house is proposed is located 250m from the start of the intersection of the cul-de-sac (which is 330m in total length). Where a proposal cannot comply with the acceptable solution, alternative solutions can be developed as performance principles to achieve the intent of the element. In this instance, the intent of Element 3 is to "ensure that all vehicular access serving a development is available and safe during a bushfire event". The performance principle stated in the BMP is considered to appropriately achieve the intent of the element as follows:</p> <ul style="list-style-type: none"> <li>• Although the cul-de-sac is longer than 200m, the dwelling is located a distance marginally over this maximum cul-de-sac length. In the event of an emergency, it is considered that this minor exceedance would not produce a tangible increase risk.</li> <li>• The cul-de-sac is constructed to the technical standard as prescribed in the <i>SPP3.7 Guidelines</i> inclusive of turnaround requirements.</li> <li>• The Emergency Evacuation Plan ensures that there are adequate monitoring systems and response measures in place in the event of requirement of emergency evacuation.</li> </ul> <p>The following is also noted:</p> <ul style="list-style-type: none"> <li>• Two-way access is achieved from the intersection of the Waters Edge cul-de-sac with The Boulevard, which allows access either south or west to the wider road network. Waters Edge and all connecting roads are publicly accessible at all times and constructed to a bitumen sealed standard.</li> <li>• The property also has a boundary adjoining a secondary street, Rendell Close which also connects to the wider public road network.</li> <li>• The Lot is connected to a reticulated water supply and fire hydrants that feed from this supply are installed along the street to requirements for firefighting purposes.</li> </ul> <p>It is recommended, should approval be granted, conditions are included to ensure the BMP and all management measures therein are verified as implemented prior to commencement of use and maintained thereafter.</p> <p>The EEP is considered to appropriately address evacuation requirements</p> <p>The BMP and EEP were referred to the Shire's Emergency Services Manager who confirmed acceptance of the above approach.</p> <p>Referral to DFES has not been required in this instance as the development is considered 'Minor' and located within a residential built out area.</p> <p><u>Conclusion</u></p> <p>Following assessment against LPP7, it is considered that the intensity of the proposed use is no greater than the usual residential use of the property and the above items can be managed through application of appropriate conditions.</p> |   |
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|  | <p>The proposal was advertised and raised concerns from two submitters. The issues raised are considered to have been addressed by information included in the application. The proposal for the Holiday House use is considered to be consistent with the capacity of the dwelling and suitable relative to the size and nature of the site.</p> <p>The application is recommended for conditional approval for 12 months.</p> |
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**OFFICER RECOMMENDATION**

**That the Acting 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 a Holiday House (Large) at 25 (Lot 27) Waters Edge, 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.

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| Plans and Specifications | P1 to P3 received at the Shire Office on 23 July 2018 |
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2. The Holiday House use is limited to a period of **twelve (12) months** from the date of this approval. (Refer to advice note a)
3. The short stay use of the dwelling shall not be occupied by more than **eight (8) people** at any one time.
4. A Manager or a contactable employee of the Manager that permanently resides no greater than a 35 minutes drive from the site shall be nominated for the Holiday House and this person shall attend to any callout within 35 minutes drive 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)
5. The 24-hour contact details of the **Manager and owner** of the Holiday House shall be visible on the property from the nearest street frontage and maintained to the satisfaction of the Shire.
6. All vehicles & boats connected with the premises shall be parked within the boundaries of the property.
7. Amplified music may be played outside of the holiday house between the hours of 10am and 10pm.
8. The 'House Rules' shall be provided to all guests and shall be displayed within a prominent position within the Holiday House. (Refer advice note f)
9. The Bushfire Management Plan and Emergency Evacuation Plan shall be implemented on site prior to commencement of the Holiday House use and at all times thereafter.
10. Certification is to be provided to the Shire by an accredited Bushfire Consultant that **all bushfire management actions** detailed in the approved Bushfire Management Plan have been implemented prior to commencement of use.
11. The approved Emergency Evacuation Plan shall be displayed in a conspicuous location within the dwelling at all times.

**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) A sign limited to a maximum of 0.2 square metres and not exceeding 1.5 metres in height from ground level may be erected at the property frontage and within the property.
- 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.



- (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.
- f) The 'House Rules' document shall be consistent with key elements of the NSW Code for Holiday Houses.