

**DEVELOPMENT ASSESSMENT REPORT**  
**Shire of Augusta Margaret River**  
**12 August to 18 August 2021**

**APPLICATIONS RECEIVED**

Date Rec'd	Reference No.	Address	Proposal
<b>PLANNING</b>			
12/08/2021	P221562	22 (Lot 46) Freycinet Way, Gnarabup	Holiday House (Renewal)
16/08/2021	P221566	31 (Lot 623) Halcyon Crescent, Margaret River	Bed & Breakfast (Cancellation of Approval P220080)
16/08/2021	P221567	13 (Lot 25) Connelly Road, Margaret River	Holiday House (Renewal)
17/08/2021	P221569	6601 (Lot 12) Caves Road, Margaret River	Holiday House (Large) - Cancellation of Planning Approval P220619
17/08/2021	P221573	Unit 3/30 (Strata Lot 3) Town View Terrace, Margaret River	Holiday House (Renewal)
18/08/2021	P221574	48-52 (Lot 48) Town View Terrace, Margaret River	World Food Night Market
18/08/2021	P221575	Lot 30 Redgate Road, Witchcliffe	Commercial Kitchen (Marmalade Cooperative)
18/08/2021	P221576	20 (Lot 23) Shetland Place, Margaret River	Dwelling Addition (Outbuilding)
18/08/2021	P221577	7 (Lot 135) Talltrees Court, Cowaramup	Dwelling Addition (Outbuilding)
<b>BUILDING</b>			
16/08/2021	221502	315/325 (Lot 16) Rocky Road, Forest Grove	Farm Shed
12/08/2021	221539	Reserve Redgate Beach, Redgate Road, Witchcliffe	1 x Amenity Block with 4 x Unisex Cubicles
12/08/2021	221540	3 (Lot 42) Dawson Terrace, Augusta	Brick Fence
12/08/2021	221541	6 (Lot 204) Le Souef Street, Margaret River	Patio
12/08/2021	221542	28 (Lot 72) Turner Street, Augusta	Patio
12/08/2021	221543	15 (Lot 22) Chardonnay Avenue, Margaret River	Additions to Existing Dwelling
13/08/2021	221544	62 (Lots 1 & 4 Bussell Highway, Cowaramup	Occupancy Permit - Unauthorised Works
13/08/2021	221545	429 (Lot 401) Ellenbrook Road, Cowaramup	Shed
13/08/2021	221546	3 (Lot 19) Tallwood Loop, Witchcliffe	Single Dwelling, Garage and Alfresco
16/08/2021	221547	21/63 (Lot 104) Ellen Brook Road, Cowaramup	Unauthorised Works - Alterations and Additions
16/08/2021	221548	24 (Lot 18) Yornitj Grove, Witchcliffe	Two Storey Dwelling, Carport and Two Rainwater Tanks
16/08/2021	221549	31 (Lot 32) Cidergum Loop, Margaret River	Single Dwelling, Garage and Alfresco
16/08/2021	221550	18 (Lot 44) Freycinet Way, Gnarabup	Swimming Pool
16/08/2021	221551	18 (Lot 44) Freycinet Way, Gnarabup	Swimming Pool Barrier Fence only
16/08/2021	221552	3 (Lot 20) Kyloring Drive, Witchcliffe	Garage and Carport
17/08/2021	221553	9 (Lot 13) Bussell Highway, Margaret River	Ancillary Dwelling
17/08/2021	221554	51 (Lot 391) Devon Drive, Margaret River	Unauthorised Works - Carport and Alfresco
18/08/2021	221555	752 (Lot 101) Wallcliffe Road, Margaret River	Mast - Osprey Nest

**APPLICATIONS DETERMINED UNDER DELEGATION**

Date Rec'd	Reference No.	Address	Proposal	Outcome
<b>PLANNING</b>				
12/08/2021	P221033	Lots 102, 103 and 104 Bussell Highway, Karridale	Minor Modification to Local Development Plan	Cancelled
12/04/2021	P221256	14 (Lot 26) Willmott Avenue, Margaret River	Change of Use (Chalet to Caretakers Dwelling)	Cancelled
21/04/2021	P221293	53 (Lot 722) Trinder Drive, Margaret River	Vegetable Production	Cancelled

17/05/2021	P221367	54 (Lot 591) Tunbridge Street, Margaret River	Dwelling Additions (Outbuilding/Shed)	Approved
08/07/2021	P221469	Unit 1 & 2 111(Lot 200) Bussell Highway, Margaret River	Section 40 - Small Bar	Approved
29/07/2021	P221529	29 (Lot 344) Honeysuckle Glen, Cowaramup	Bed & Breakfast (Renewal)	Approved
05/08/2021	P221535	20 (Lot 10) Offshore Crest, Margaret River	Bed & Breakfast (Renewal)	Approved
<b>SUBDIVISIONS</b>				
Nil				
<b>LOCAL LAW PERMITS</b>				
11/08/2021	P221565	Portion of Festival Precinct, Fearn Avenue, Margaret River	Local Law Permit - Busking in Festival Precinct - 14 August 2021	Approved

### LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
<b>PLANNING</b>				
03/08/2020	P220435	89 (Lot 103) Rowcliffe Road, Forest Grove	Holiday House (Large) & Chalet	Refusal

### 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 (DAU)**  
**Report to Manager Planning and Development Services**

**Proposed Holiday House (Large) and Chalet**  
**89 (Lot 103) Rowcliffe Road Forest Grove**

**Level 3**

**P220435; PTY/12170**

**REPORTING OFFICER : Don Bothwell**  
**DISCLOSURE OF INTEREST : Nil**

General Information	
<b>Lot Area</b>	18.5007ha
<b>Zone</b>	<b>Bushland Protection</b>
<b>Existing Development</b>	<input checked="" type="checkbox"/> Single House <input type="checkbox"/> Grouped Dwelling
<b>Proposed use</b>	<p>A planning application has been received for a Holiday House (Large) and Chalet use. The existing dwelling and associated buildings are proposed to be used for short term accommodation as follows:</p> <p><u>Holiday House (Large) – total of 8 guests</u></p> <ul style="list-style-type: none"> <li>Existing Dwelling – up to 6 guests</li> <li>Existing Round Room – up to 2 guests</li> </ul> <p><u>Chalet – total of 2 guests</u></p> <ul style="list-style-type: none"> <li>Existing Studio (81m<sup>2</sup>) – up to 2 guests</li> </ul> <p>The above mentioned residential buildings have been utilised for short term accommodation historically but it is to be noted that there is no development application approval for the site.</p>
<b>Permissible Use Class</b>	Holiday House - 'A' Chalet – 'A'
<b>Advertising Required</b>	Yes – completed
<b>Reason not exempted from planning approval?</b>	Discretionary uses are not permitted unless the Shire exercises its discretion by granting development approval.
<b>Heritage/Aboriginal Sites</b>	N/A
<b>Encumbrance</b>	N/A
<b>Date Received</b>	03/08/2020
<b>Date of Report</b>	12/08/2021







<b>Have there been any objections?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 2 submissions of objection were received during the public consultation period.
<b>Comments Received</b>	
<b>Nature of Submission</b>	<b>Officer Comments</b>
<p><b>Submission 1</b></p> <ul style="list-style-type: none"> <li>The existing condition of the road near cottages driveway is dangerous and annually gets flooded.</li> <li>Additional tourist vehicle traffic and unsafe tourist road behaviour (especially entering into Rowcliffe and Warner Glen Road).</li> <li>Concerns with the number of guests, 10 or less is preferred.</li> <li>Negative guest behaviour; there has been instances of guest getting lost and entering surrounding properties and on one occasion doing burn outs in the surrounding paddocks.</li> <li>Concerns with emergency exits during a fire.</li> </ul> <p><b>Submission 2</b></p> <ul style="list-style-type: none"> <li>The short stay approval may cause complaints from the surround agricultural activities; for noise, dust, irregular harvesting times (night operations) and the pest control (culling of kangaroos).</li> </ul>	<p>Noted. Comments regarding road/driveway condition are noted.</p> <p>Noted. Total number of 10 guests proposed.</p> <p>Noted. Historically the site has operated as short term accommodation however there is no development approval for this use.</p> <p>Noted. The proposal is not capable of demonstrating two access routes as required by the <i>Guidelines for Planning in Bushfire Prone Areas</i>.</p> <p>Noted. If the application is approved, it is recommended that information be available to guests that there is potential amenity impacts from the existing adjoining agricultural activities.</p>
<b>Internal Department Comments</b>	<b>Officer Comments</b>

Environmental Health Services

Approval for existing onsite wastewater treatment and disposal system cannot be located. A plumber will need to provide information about the existing septic systems, including details, location, and sizing of the system and if the system is in good working order.

The system may require an upgrade for the holiday houses to accommodate a Holiday House Large. To calculate the volume of wastewater produced we have used guidance from the Department of Health Water Unit and our internal policy. This involves assessing the proposal for the *number of occupants* and not the *number of bedrooms*, which is the usual assessment process. We can supply calculations if required by the applicant.

More information is needed to determine the capacity of the existing effluent disposal systems. The existing effluent disposal systems will likely require upgrading to accommodate proposed guest numbers.

**Recommended Department Conditions**

The proposal may require additional equipment for the onsite treatment and disposal of wastewater and shall be installed in accordance with the *Health (Treatment of Sewage and Disposal of Effluent & Liquid Waste) Regulations 1974* and to the satisfaction of the Local Government/Department of Health

Swimming pool is an aquatic facility and as such must comply with the approval, construction and operational requirements of the *Health (Aquatic Facilities) Regulations 2007* if offered to guests for use in association with accommodation

Until it is demonstrated that the existing wastewater systems have the capacity for a 12-person holiday house, the house may only be used to accommodate 6 persons.

The development is to provide a potable water source in accordance with Shire of Augusta Margaret River Health Local Laws 1999.

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.

The number of people proposed for the holiday house is to comply with Section 23, of the *Shire of Augusta Margaret River Health Local Laws 1999*.

Noted. If the application is approved, the recommended conditions/advice notes from Environmental Health should be applied.

**Policy Requirements – Local Planning Policy 7 – Short Term Accommodation (LPP7)**

Policy Element	Provision	Comment
Location	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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No 50,000 litre water tank is existing on-site. A dedicated static fire fighting water supply is proposed which has an effective capacity of 10,000 litres.
	Existing or proposed on-site effluent disposal system sized accordingly to number of guests?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Disposal system(s) require upgrading as per comments from Environmental Health Services if the application is approved.
	Decks and balconies located away from the bedrooms of neighbouring dwellings?	<input type="checkbox"/> Yes <input type="checkbox"/> No N/A
	Decks and balconies located close to the living and dining areas of neighbouring dwellings, provided with suitable screening?	<input type="checkbox"/> Yes <input type="checkbox"/> No N/A
	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?
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 Application was referred to DFES for comment as required.
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 if approved.
	Display the manager's 24hr contact details	Require as a condition if approval.
<b>Officer Comments</b>	<p>State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) Proposals for holiday houses are classified in SPP3.7 as 'vulnerable' land uses because they involve habitation by people who may be less able to respond in a bushfire emergency.</p> <p>The <i>Guidelines for Planning in Bushfire Prone Areas</i> (the Guidelines) include acceptable development and performance based solutions across four key elements; location, siting and design, vehicular access and water.</p> <p><u>Bushfire Management Plan</u> When the application and accompanying Bushfire Management Plan (BMP) was referred to the Department of Fire and Emergency Services (DFES) for comment, they provided the following comments:</p> <ol style="list-style-type: none"> <li>1. <i>The development design has not demonstrated compliance to – Element 1: Location, Element 2: Siting and Design Element 3: Vehicular Access, or Element 4: Water</i></li> <li>2. <i>The proposed development would intensify land use in a bushfire prone area on what appears to be a non-compliant dead-end road which passes through an extreme bushfire hazard.</i></li> </ol>	

	<p>The applicant subsequently submitted a revised BMP dated 15 May 2021 to address the comments received by DFES. It is considered that the revised BMP sufficiently addresses the comments received in relation to Element 1: Location, Element 2: Siting and design of development, and Element 4: Water.</p> <p>The revised BMP does not address Element 3: Vehicular Access A3.1 and does not meet the intent of the element which is <i>'to ensure that the vehicular access serving a development is available and safe during a bushfire event.'</i></p> <p>Rowcliffe Road provides vehicular access from the site in a westerly direction connecting onto Warner Glen Road which intersects Bussell Highway to the west. Rowcliffe Road turns into an unconstructed and untrafficable road reserve approximately 200m east from the site adjacent to the adjoining property to the east at 135 Rowcliffe Road. It is therefore not possible to travel east bound on Rowcliffe Road to either Rocky Road or Warner Glen Road via Holland Road. Given the above, two different vehicular access routes which connect to public road networks cannot be achieved in this instance. Therefore, Acceptable Solution A3.1 requiring two access routes cannot be satisfied.</p> <p>The Western Australian Planning Commission's <i>Position Statement: Tourism land uses in bushfire prone areas</i> (November 2019) provides pathways for approval in certain situations where the provisions of the Guidelines have not been satisfied. Acceptable solution (policy measure) 2.2 states:</p> <p><i>"Where an existing dwelling achieves BAL-29 or below, the provision of one access route can be considered where it abuts moderate or low threat vegetation, and where it is demonstrated that secondary access (including an emergency access way) cannot be achieved."</i></p> <p>The above acceptable solution was explored by the applicant who engaged an alternative bushfire practitioner to examine the site and its surrounds and provide advice to the applicant and the Shire on this matter in relation to the bushfire risk. It was advised by the practitioner that the one access route does not abut moderate or low threat vegetation, the existing vegetation in the immediate locality is of higher bushfire risk. Therefore, the relevant acceptable solution in the Position Statement cannot be met.</p> <p>Several alternative options were explored by the applicant in relation to an alternative access. Consent was provided from the landowner of 332 (Lot 2761) Rowcliffe Road for access through their property in the event of a bushfire, providing access to Warner Glen Road where it is possible to travel in an easterly direction. The consent however did not extend to an agreement to an emergency accessway being constructed over their land and an easement-in-gross being imposed. The emergency accessway and easement-in-gross would be required by the Shire to be incorporated into a revised BMP and implemented if this potential solution was to be entertained.</p> <p>On balance, it is considered that the benefits of approval of the short-stay accommodation will not outweigh the potential risk to future Holiday House and Chalet guests, potential impacts to the community and local government. Due to the location of the property and type of surrounding vegetation, any bushfire occurring within the area will pose a significant risk to the property and its occupants. The application is recommended to be refused.</p>
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**OFFICER RECOMMENDATION**

**That the Acting Manager, Planning and Development Services REFUSES TO GRANT 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) and Chalet at 89 (Lot 103) Rowcliffe Road, Forrest Grove for the following reasons:**



1. The proposal is unacceptable having regard to the matters required to be considered in the assessment of a development application pursuant to the Deemed Provisions of *Local Planning Scheme No. 1* at clause 67 with specific regard to the following subclauses:
  - (c) the proposal does not meet the objectives and standards in *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP3.7);
  - (r) the site is unsuitable for the development taking into account the possible risk to human safety from bushfire; and
  - (y) the comments received from Department of Fire and Emergency Services regarding the proposal reiterate the unacceptable risk posed by the development in this location.
2. The proposal is inconsistent with objective 5.2 of SPP3.7 given the increased and unacceptable risk that would arise to the 'vulnerable' land use with limited access in only one direction.
3. The proposal is inconsistent with clause 6.11 of SPP3.7 in that the location of the vulnerable land use on the site would pose an unacceptable risk to human life with limited access in only one direction; approval of such a proposal would be inconsistent with the 'precautionary principle' to which decision makers are required to have regard.
4. The proposal does not meet Acceptable Solution (A3.1) of the *Guidelines for Planning in Bushfire Prone Areas* given Rowcliffe Road east of the site is an unconstructed road reserve, is not trafficable and does not provide two access routes.
5. The proposal does not meet Acceptable Solution 2.2 of *Position Statement: Tourism land uses in bushfire prone areas* (where the dwelling is existing and outside a residential built-out area) as the one access route does not abut moderate or low threat vegetation.
6. Approval of the proposal would set an undesirable precedent for approval of similar development applications, where vulnerable land uses are proposed on sites that pose an extreme fire risk with inadequate access, and this would not be in the interests of the community as a whole.