

**DEVELOPMENT ASSESSMENT REPORT**  
**Shire of Augusta Margaret River**  
**15 May 2025 to 21 May 2025**

**APPLICATIONS RECEIVED**

Date Rec'd	Reference No.	Address	Proposal
<b>PLANNING</b>			
15/05/2025	P225349	8 (Lot 158) Quinda Place, Margaret River	Holiday House Renewal
15/05/2025	P225350	91 (Lot 36) Rainbow Cave Road, Margaret River	Holiday House (Large) Renewal
15/05/2025	P225351	752 (Lot 101) Wallcliffe Road, Margaret River	Amendment to Planning approval P223766
15/05/2025	P225352	32 (Lot 16) Formosa Street, Margaret River	Holiday House (Renewal)
15/05/2025	P225353	64 (Lot 339) Firetail Rise, Karridale	Single House
16/05/2025	P225354	676 (Lot 1) Redgate Road, Redgate	Building Envelope Variation
16/05/2025	P225355	86 (Lot 104) Woodland Drive, Burnside	Building Envelope Modification
16/05/2025	P225356	Unit 5, 12 (Lot 1) Station Road, Margaret River	Holiday House (Renewal)
16/05/2025	P225357	59 (Lot 207) Dryandra Drive, Margaret River	Verge Tree Relocation
16/05/2025	P225358	Unit 3/18 (Strata Lot 3 of Lot 38) Town View Terrace, Margaret River	Holiday House (Renewal)
16/05/2025	P225359	827 (Lot 206) Burnside Road, Burnside	Holiday House (Renewal)
19/05/2025	P225361	17 (Lot 24) Osnaburg Street, Augusta	Single House
19/05/2025	P225362	1 (Lot 17) Isaacs Road, Prevelly	Holiday House (Renewal)
21/05/2025	P225365	8 (Lot 17) Stewart Smith Loop, Cowaramup	Family Day Care
21/05/2025	P225366	30 (Lot 15) Formosa Street, Margaret River	Holiday House Renewal
21/05/2025	P225367	39 (Lot 130) Matthews Road, Augusta	Development Outside Building Envelope (Carport)
21/05/2025	P225368	25 (Lot 507) Gidgee Road, Witchcliffe	Single House and Outbuilding (Water Tank)
21/05/2025	P225370	63 (Lot 13) Rowe Road West, Witchcliffe	Holiday House Renewal
21/05/2025	P225371	21 (Lot 36) Riedle Drive, Gnarabup	Dwelling Additions (Carport)
21/05/2025	P225372	21 (Lot 31) Elva Street, Margaret River	Subdivision
<b>BUILDING</b>			
15/05/2025	225392	12 Gardiner Road, Cowaramup	Shed
19/05/2025	225403	27 (Lot 103) Dahlberg Street, Augusta	Patio
15/05/2025	225393	30 (Lot 42) Trinder Drive, Margaret River	Alterations Additions to Existing Dwelling - Bathroom
20/05/2025	225409	6 (Lot 416) Dunnart Close, Margaret River	Single Dwelling, Garage and Alfresco
19/05/2025	225405	13 (Lot 412) Dunnart Close Margaret River	Studio Alteration/Addition, Shed Lean-to and Water Tank
20/05/2025	225407	41 (Lot 34) Eldridge Avenue, Witchcliffe	Shed
19/05/2025	225402	5 (Lot 12) Bettong Place, Witchcliffe	Shed
15/05/2025	225394	17 (Lot 69) Concerto Drive, Cowaramup	Patio
16/05/2025	225398	Lot 16 Kyloring Drive Witchcliffe	Stage 3 - 10 x Single Dwellings (Units 5-14)
16/05/2025	225399	Lot 16 Kyloring Drive Witchcliffe	Stage 4 - 10 x Single Dwellings (Units 15-20 & Units 22-25)
20/05/2025	225406	8 (Lot 8) Plumage Close, Margaret River	Single Dwelling and Alfresco
15/05/2025	225391	33 (Lot 329) Firetail Rise, Karridale	Single Dwelling and Garage
15/05/2025	225390	131 (Lot 1499) Stockdill Road, Deepdene	Shed
16/05/2025	225401	28 (Lot 228) Dunham Loop, Margaret River	Single Dwelling, Garage and Alfresco
21/05/2025	225411	99 (Lot 7) Bussell Highway, Margaret River	Alterations Additions - Kingston Bakery Cafe Fit-out
21/05/2025	225412	Unit 2 - 8 (Lot 155) Burton Road, Margaret River	Change of Use to Storage Building
20/05/2025	225410	67/426 Bussell Highway Margaret River	Single Dwelling, Carport and Alfresco

19/05/2025	225404	27/20 (Lot 27) Riedle Drive, Gnarabup	Spa and Barrier Fence
15/05/2025	225389	2 (Lot 10) Dallip Spring Road, Burnside	Water Tank
15/05/2025	225395	5 (Lot 54) Melaleuca Boulevard, Margaret River	Patio
16/05/2025	225400	2 Darch Road, Witchcliffe	Deck
20/05/2025	225408	12 (Lot 99) Hillside Avenue, Margaret River	Swimming Pool
21/05/2025	225413	31 (Lot 117) Leschenaultia Avenue, Margaret River	Single Dwelling and Verandah
15/05/2025	225396	37 (Lot 66) Mann Street, Margaret River	Water Tank
<b>Exploration Licenses for Comment</b>			
Nil			

#### APPLICATIONS DETERMINED UNDER DELEGATION

Date Rec'd	Reference No.	Address	Proposal	Outcome
<b>PLANNING</b>				
05/11/2024	P224802	545 (Lot 102) Redgate Road, Redgate	Chalets x6	Approved
19/12/2024	P224973	Lot 9015 John Archibald Drive, Margaret River (Rapids Landing)	Local Development Plan (Stage 8)	Approved
31/01/2025	P225061	165 (Lot 5) Yates Road, Margaret River	Building Envelope Variation & Retrospective Clearing	Approved
05/02/2025	P225085	351 (Lot 1001) Redgate Road, Witchcliffe	Outbuilding (Shed)	Approved
19/02/2025	P225120	9 (Lot 242) Illawarra Avenue, Margaret River	Holiday House Renewal	Approved
25/02/2025	P225139	11 (Lot 76) Georgette Way, Prevelly	Holiday House Renewal	Approved
26/02/2025	P225143	13 (Lot 28) Jersey Street, Cowaramup	Retrospective Transport Depot	Approved
27/02/2025	P225148	9 (Lot 509) Powderbark Way, Witchcliffe	Single House	Approved
04/03/2025	P225165	237 (Lot 363) Illawara Avenue, Margaret River	Building Envelope Variation (Carport)	Approved
06/03/2025	P225174	7 (Lot 28) Wooredah Crescent, Prevelly	Holiday House (Large)	Approved
10/03/2025	P225184	29 (Lot 64) Greenwood Avenue, Margaret River	Single House and Ancillary Dwelling	Approved
12/03/2025	P225193	45 (Lot 74) Abelia Avenue, Margaret River	Single House	Approved
12/03/2025	P225194	11 (Lot 837) Millar Way, Augusta	Retrospective Storage Additions	Approved
11/04/2025	P225277	114 (Lot 502) Bussell Highway, Margaret River	Extension of Term to P224224	Approved
16/04/2025	P225283	Lot 900 Leschenaultia Avenue, Margaret River	Extension of Term to Planning Approval P223089	Approved
24/04/2025	P225295	3 (Lot 236) Plenty Street, Margaret River	Single House	Approved
28/04/2025	P225303	5 (Lot 235) Plenty Street, Margaret River	Single House	Approved
29/04/2025	P225309	35 (Lot 195) McDermott Parade, Witchcliffe	Single House	Approved
30/04/2025	P225311	40 (Lot 211) Dunham Loop, Margaret River	Single House	Approved
<b>SUBDIVISIONS</b>				
Nil				
<b>LOCAL LAW PERMITS</b>				
30/04/2025	P225332	Maragret River Skate Park	Local Law Permit to operate skate coaching classes - 26 May to 5 July	Approved
09/05/2025	P225344	Barrett Street Weir, Reserve 27633	Local Law permit to operate canoe lessons - Margaret River Senior High school - Term 2 and 3	Approved

## LEVEL 3 PLANNING APPLICATIONS FOR DETERMINATION

Date Rec'd	Reference No.	Address	Proposal	Recommendation
PLANNING				
28/01/2025	P225052	59 (Lot 56) Leeuwin Road, Augusta	Holiday House Renewal	Approve with Conditions
20/06/2024	P224419	687 (Lot 722) Ellen Brook Road, Cowaramup	Amendment to Planning Application P223450	Approve with 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.



## General Details

<b>Reporting Officer</b>	Caitlin Jameson
<b>Disclosure of Interest</b>	Nil
<b>Assessment Level</b>	Major (Level 3)

## Application Details

<b>Nature of application</b>	Holiday House Renewal 59 (Lot 56) Leeuwin Road, Augusta  PTY/146
<b>Proposed use</b>	A planning application has been received for the renewal of the Holiday House. As previously approved, the existing dwelling is to be used to accommodate up to six (6) short stay guests at any one time. The existing management arrangements are to be retained and the duration of the approval sought in this case is three (3) years.
<b>Is the application same as previous?</b>	Yes
<b>Have there been any objections?</b>	1 x objection – House rules submitted with the initial application (P224183) stated no pets were permitted. Submitter advised pets were staying at the property, therefore not complying with the house rules supplied to the Shire. The submitter did not support continuation of the Holiday House as the owner had not complied with their initial proposal. The submitter is concerned dogs will be left unattended while the guests are out during the day. 1 x support
<b>Have there been any complaints over the recent period of approval?</b>	Yes – complaint received about if dwelling meet building code. Matter was resolved – dwelling compliant with building regulations. P225057
<b>Recommended period of approval</b>	<input checked="" type="checkbox"/> 12 months <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years

## Discussion

The application requests renewal for a Holiday House use at 59 (Lot 56) Leeuwin Road, Augusta for a period of 3-years to accommodate up to six (6) guests.

A submission received from a neighbouring property owner alleged pets were staying at the property. The house rules presented to the Shire with the initial Holiday House application received on 11 March 2024 stated pets were not permitted. The submitter's primary concern was non-compliance with the house rules supplied with the initial application. The submitter did not state they had experienced any specific issues with pets staying at the property (e.g. dogs barking).

The applicant confirmed via email that pets were permitted. The applicant was then contacted via phone and advised of the objection received and non-compliance with the house rules submitted as part of the initial application which stated pets were not permitted. The applicant confirmed the house rules were prepared by 'Experience Augusta' and inclusion of the 'no pets' rule was an oversight on the applicant's behalf.

No other concerns were raised by neighbouring property owners. One letter of support was received. On 15 May 2025, the property owner provided a response to the submitters concerns. A summary of the response is provided below.

- To date, neither the property manager (Experience Augusta) or property owner have received any feedback from neighbours regarding dogs staying at the property. The owner advised he had met with all neighbouring property owners and hoped they would raise any concerns so they could be resolved.
- Experience Augusta has provided a letter to all neighbours advising them of the property manager's contact details. A copy of the letter was provided to the Shire by the property owner. An 'Experience Augusta' sign with contact details is displayed on the front gate. Evidence of the sign was provided to the Shire.



- The property owner is dedicated to ensuring that the holiday house remains pet friendly. Acknowledging the limited availability of pet friendly accommodation in Augusta, the owner hopes that providing this amenity will encourage more visitors to the area.
- A copy of the confirmation email sent to guests upon booking (including house rules) was provided to the Shire. The house rules state the following:

*Dogs: To continue a commitment in offering dog-friendly accommodation, we ask for your vigilance in supervision at all times of your furred family member. We don't need to remind you that changes in environment can be stressful for dogs & unfortunate behaviours may result. Your support would be appreciated*

*Dog policy: A maximum of 2 dogs is permitted at the property to comply with AMR Shire.*

*Only fully house-trained dogs are allowed inside the property and we ask that No dogs be allowed in bedrooms, on beds or on furniture.*

*All dog hair is cleaned completely or extra charges will be incurred for additional time taken for cleaning. This cost will be deducted from your bond, or claimed from the 3rd party supplier who confirmed the booking.*

*The dog bond is \$100 and will be part of your bond if not taken separately.*

*Large dogs are to be kept outside where possible. Charges will be deducted from your bond if faeces or extra cleaning is required.*

*Guests agree not to leave pets unsupervised at the property inside or out at the home anytime.*

The owner confirmed that the house rules are advertised on their website, at the time of booking, and in a personal email to all guests before arrival. Additionally, if a pet is left unattended the guest would be contacted and asked to return, or Experience Augusta would wait at the property until they returned. Leaving a dog unattended would result in the forfeiture of the bond.

Given the owner or property manager have not received any complaints from neighbouring property owners and have substantially addressed the concerns raised by the submitter, the application is supported. However, due to the amendment to the house rules and objection received specifically relating to pets staying at the property, a 12-month renewal period is recommended. The property owner confirmed they were willing to proceed with a 12-month renewal to ensure pets could continue to stay at the property.

## Determination

**That the Coordinator Planning Services Grant Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the Holiday House Renewal at 59 (Lot 56) Leeuwin Road, Augusta 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 11 March 2024
--------------------------	--

2. The Holiday House use is permitted for a period of **12 months** from .... To .... (Refer to advice note 'a')
3. The approved Bushfire Emergency Evacuation Plan and Bushfire Management Plan shall be displayed in a conspicuous location within the dwelling at all times.
4. 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').



5. 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')
6. All vehicles & boats connected with the premises shall be parked within the boundaries of the property.
7. The short stay use of the dwelling shall not be occupied by more than **six (6) people** at any one time.
8. Amplified music shall not be played outside of the Holiday House between the hours of 10pm and 10am.
9. Any marketing material for this Holiday House shall include display of the planning approval reference number for this approval. (Refer to advice note 'f')
10. House Rules' shall be provided to all guests and shall be displayed within a prominent position within the Holiday House. (Refer to advice note 'g')

## 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) Evidence of installation of the sign will be required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged.
- d) This approval does not affect the entitlement to use the dwelling for permanent residential purposes.
- e) You are advised of the need to comply with the requirements of the following other legislation:
  - (i) *Health (Miscellaneous Provisions) Act 1911* and Department requirements in respect to the development and use of the premises.
  - (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) Evidence of the display of the planning approval reference number within the marketing of the Holiday House is required to be provided, to the satisfaction of the Shire, at the time an application to renew the Holiday House use is lodged. Applicants are advised to include a screenshot of the website to show that the planning approval reference number is being displayed.
- g) The 'House Rules' document shall be consistent with key elements of the NSW Code for Holiday Houses.
- h) 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.
- i) Please note that approval as short stay accommodation will change the rating category applied to the property to Tourism and may lead to an increase in rates levied for the site. For further information on these changes contact the Shires Revenue team on 9780 5234 or by email at [revenue@amrshire.wa.gov.au](mailto:revenue@amrshire.wa.gov.au).
- j) From 1 January 2025, short term accommodation will also require registration through the State Government [Short-Term Rental Accommodation Register](#). Registrations are valid for 1 year and will need to be renewed every 12 months. Fees apply. For more information on the STRA register, please visit



<https://www.wa.gov.au/organisation/departments-of-energy-mines-industry-regulation-and-safety/short-term-rental-accommodation-register>





## General Details

<b>Reporting Officer</b>	Tessa Ashworth
<b>Disclosure of Interest</b>	Nil
<b>Assessment Level</b>	Level 3

## Application Details

<b>Address</b>	687 (Lot 722) Ellen Brook Road, Cowaramup		
<b>Proposed Development</b>	Amendment to Planning Application P223450 for a 200 -person Licensed Restaurant for: <ul style="list-style-type: none"> <li>• Operating hours</li> <li>• Location of productive garden</li> <li>• Front gate</li> </ul>		
<b>Zoning</b>	<b>Priority Agriculture</b>		
<b>Lot Area</b>	<b>66.5ha</b>		
<b>Use Class and Permissibility</b>	'A' Licensed Restaurant		
<b>Heritage/Aboriginal Sites</b>	None		
<b>Other Considerations</b>	Visual Management Area	<input checked="" type="checkbox"/>	Sewerage Sensitive Area <input type="checkbox"/>
	Special Control Area	<input type="checkbox"/>	Watercourses/Rivers <input type="checkbox"/>
	Bushfire Prone Area	<input checked="" type="checkbox"/>	Environmentally Sensitive Areas <input type="checkbox"/>
<b>Structure Plans/LDP's</b>	None		
<b>Easements/Encumbrances</b>	None		
<b>Why is Development Approval Required?</b>	Amendment to an 'A' use		

## Site Image







## Assessment

Referrals	Yes	No
2km Radius (Non Rural use in Rural Zone)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Government Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Internal Shire Departments Environmental Health	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Where any objections received?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Where any issues raised through the referrals process?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Internal Department Comments		
Department	Department Comments	Officer Comments
Environmental Health	<p>Opening until 12am on Friday and Saturday nights can comply with the noise regulations, but there are some assumptions, building and operational requirements:</p> <ul style="list-style-type: none"> <li>Façade and internal finishes as per the architectural drawings</li> <li>Air conditioning and mechanical plant – have not provided details</li> <li>Noise Management Plan is required. Environmental Health Officers provided a list of suggested operational controls</li> </ul> <p>Noise report shows that compliance can be achieved but does not specify operational measures to achieve this. This would need to be addressed through a Noise Management Plan.</p>	Provision of Noise Management Plan added as condition of approval.

Community Engagement		
Submitter	Submitter Comments	Officer Comments
Private Submitter 1 – object	<ul style="list-style-type: none"> <li>Object to the extension of restaurant hours to 10 PM on weekdays and midnight on weekends.</li> <li>Current noise levels from nearby sand mining and road traffic already make the neighbourhood quite loud during the day.</li> <li>There is a desire for at least one peaceful day a week, particularly Sundays when the mine is closed.</li> <li>The restaurant's current hours are sufficient, and there is no need for later hours in a rural setting.</li> <li>The area is residential, and noise pollution affects the quality of life, especially since homes are located directly across from the restaurant.</li> <li>Concerns about nighttime road hazards, including potential collisions with wildlife, and delays in emergency response times.</li> <li>Increased nighttime activities could negatively impact local wildlife, such as ringtail possums living nearby, potentially leading to harm and stress.</li> <li>The community is known for protecting local wildlife, including Masked Owls, and increased noise could disrupt their hunting behaviour and habitat.</li> <li>Hope for the right to a peaceful environment be respected</li> </ul>	Noted, see discussion below.



Private Submitter 2	<ul style="list-style-type: none"> <li>The restaurant is leaving large floodlights on all night, causing light pollution and affecting the rural character of the area.</li> <li>Concern that extended trading hours will increase light pollution, disrupt wildlife, and lead to more traffic.</li> <li>Suggests limiting hours to 8 or 9 PM from Sunday to Thursday, and 9 or 10 PM on Friday and Saturday.</li> <li>Request that all exterior lights be turned off when the restaurant is closed, to make it a condition of approval.</li> <li>The submitter believes the restaurant should operate under its current conditions for a while to assess any negative impacts before making further changes.</li> <li>They have talked to the restaurant about the lighting issues, and while the restaurant acknowledged the problem, they suggest a condition be applied to this effect.</li> </ul>	<p>This was a late submission following their concerns regarding the light pollution but raises valid amenity concerns for consideration.</p> <p>The restriction of outdoor lighting can be added as a condition.</p>
---------------------	--	---

Policy Framework	Yes	No
Does the proposal involve variations to the Residential Design Codes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Scheme Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the proposal involve any variations to Policy Requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other matters that require discretion (Vegetation Removal)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Policy Requirements

<b>Local Planning Scheme No.1 – Schedule 9 – no change - Complies</b>
<b>Building Height – no change, complies</b>
<b>Car Parking – no change, complies</b>

## Discussion

### Background

The applicant has submitted an amendment to planning approval P223450 to change in operating hours for the licenced restaurant and a change in location of the productive garden.

The licensed restaurant has been open and operating since November 2024. It should be noted that the amendment is requested by the applicant as the initial conditions reflected the operating hours and spatial layout of development as proposed by the applicant.

The subject site has an existing vineyard with approximately 22ha of mature vines, a cellar door adjacent to the restaurant approved in 2021 (P220824) and the licensed restaurant for which the operating hours are proposed to be amended, approved in 2024 (P223450). There is an existing dwelling with holiday house approval 750m east of the restaurant (P222320) where the amended location of the productive garden is proposed.

### LPS1

#### Development in the Priority Agriculture Zone

- Amended operating hours
  - Approved operating hours as per Condition 3 - P223450
    - Sunday to Thursday 11am – 5pm
    - Friday and Saturday 11am – 9pm
  - New proposed operating hours:
    - Sunday to Thursday 11am to 10pm
    - Friday and Saturday 11am to 12 midnight



The amended operating hours need to be considered in terms of impact on amenity on the area. The key relevant objective of the Priority Agriculture Zone is '*To manage land use changes so that the rural productivity and the rural character and amenity within the zone is preserved*' (4.2.2.1 (iii)).

While the applicant has provided a noise report that indicates that the proposal is able to meet the noise regulations (provided a noise management plan is implemented), it does not alone demonstrate that amenity concerns are resolved. Deemed provisions define amenity as: *amenity* means all those factors which combine to form the character of an area and include the present and likely future amenity.

A definition applied in numerous SAT decisions prior to the definition mentioned above being added to the regs as "the sum of the expectations of the residents concerning the quality of their residential environment as determined by the character of an area, its appearance and land uses"

An accepted principle for evaluating amenity, as according to the tribunal, sets out a three-step test:

- a. Establish the existing amenity in an objective sense
- b. Evaluate the manner in which the proposed use will affect the existing amenity.
- c. Assess the degree of impact on the locality

The area is characterised by large rural lots of vineyards, grazing land and remnant bushland, ranging from 30-120ha, and some smaller 20ha bushland lots. The subject lot is on Caves Rd, a main tourist route through the region that has a fair amount of day-time traffic. Outside of general agricultural activity, it also includes the daytime Monday- Friday and Saturday morning noise from the extractive industry across the road from the subject site.

It is a major change in a rural area to have consistent night-time noise and activity (outside of harvest). It is reasonable to expect that this change could have impact on the amenity on the surrounding area, with increased traffic, noise from the restaurant and patrons coming and going.

While the overall impact on amenity could be small, the degree of impact due to the late evening operating hours in an otherwise existing peaceful area, is not insignificant. The importance of quiet nighttime amenity is expressed in a neighbour submission in that it is the only period of peace in an otherwise noisy day time for a rural area.

The acoustic report states compliance with the noise regulations with the following assumptions:

- Noise from 300 patrons within the restaurant/function room
- Provisions of live DJ inside during events and normal operations where the music levels are kept at background level only.
- Live music of up to 85dB within the indoor space where doors and windows are closed. Music must be kept at a level where is it inaudible at the nearest noise sensitive receivers.
- Mechanical plant sound assumptions comply (but depends on particular equipment)
- A noise management plan is provided and includes a number of operational measures to ensure can meet the noise regulations.

While the acoustic report shows that the proposal can comply with the noise regulations, some of the assumptions require some significant operational measures e.g. no patrons outside, or music only with the doors and windows closed. These could be addressed through a noise management plan to be provided as a condition of approval, however there is potential for noise to be above that indicated in the report if the assumptions above are not complied with. It is noted that events are suggested as part of the acoustic report, which is not contemplated as part of the subject application.

Other equivalent approvals in the Shire can give some indication as to whether the change in operating hours is acceptable. A summary can be found in Table 1, below:

Table 1: Other similar approvals for restaurants in the rural zone

<p>413 Burnside Road – Brewery and licensed restaurant (2024)</p>	<ul style="list-style-type: none"> <li>• 2024 JDAP approval (council voted to refuse in line with officer recommendation but overturned in JDAP):                         <ul style="list-style-type: none"> <li>○ 200 persons</li> <li>○ 11am – 6pm Monday to Sunday</li> <li>○ 580m<sup>2</sup> restaurant floor area.</li> <li>○ 33ha lot</li> <li>○ 10ha of agriculture use (proposed orchard and vineyard)</li> </ul> </li> <li>• In 2017 council considered an application on the same sit for a brewery and licensed restaurant. 100 patrons were applied for operating hours Monday – Sunday 11am – 6pm and Saturdays until 10pm between November to March.</li> <li>• The council approved only 60 patrons with operating hours 11am – 5pm.</li> <li>• In 2018 a SAT appeal resulted in an increase to 80 patrons.</li> </ul>
---	--



CBCo - 561 Osmington Rd, Bramley – Brewery and licensed restaurant (2013)	<ul style="list-style-type: none"> <li>Extension of operating hours approved in 2013 to 10am -10pm Friday, Saturday, Sunday. Until 6pm all other days.</li> <li>264 patrons permitted.</li> <li>A maximum of 12 functions per calendar year of no more than 264 patrons. Hours of operation for functions is from 6pm to 12 midnight.</li> </ul>
Glenarty Road, Karridale – restaurant (2018)	<ul style="list-style-type: none"> <li>10am – 5pm</li> <li>50 seats</li> </ul>
Olio Bello – Armstrong Rd, Gracetown – restaurant (2013)	<ul style="list-style-type: none"> <li>11am – 8pm Monday to Thursday and 11am – 10pm Friday to Sunday.</li> <li>80 seats</li> </ul>
227 Fifty One Road, Cowaramup – Brewery and ancillary restaurant (2015)	<ul style="list-style-type: none"> <li>10am – 7pm Monday – Sunday</li> <li>Not constructed, but approval still current.</li> </ul>
Brewhouse, Margaret River (2012)	<ul style="list-style-type: none"> <li>10am – 9pm Monday – Saturday, 10am – 10pm Sunday, and 10am and 12pm for special events on Friday and Saturday (amended in 2016, extending from 7pm on weekdays)</li> <li>200 patrons</li> </ul>

In terms of the table above, operating hours of until 12am on Friday and Saturday nights, is outside what is expected in the rural zone in the Shire, apart from in the instance where events were applied for. Concerns around rural amenity and the general standard that has been set in the Shire for rural restaurants are as such that the proposed operating hours are not supported.

Attempts to negotiate an outcome with the applicant were unsuccessful, with the applicant, under instructions from their client, not willing to negotiate on the hours at all, being particularly hardline on the hours until midnight on the weekend. This lengthy time of negotiation is the reason it has taken so long to issue a determination, with some hope that they may be willing to concede on some hours. The original applicant, Urbis, is no longer involved, with the hospitality consultant taking over. Similarly, no further negotiation was able to be achieved with the new applicant.

In lieu of being able to achieve a negotiated outcome, it is considered that until 7pm weekdays and until 10pm weekends is an acceptable level of impact on rural amenity and in line with other approvals in the Shire. This was presented to the proponent as a draft condition, but it was not accepted, with the applicant indicating that a SAT appeal is likely.

Despite this, the officer recommends that these hours be put forward. As the restaurant becomes established in the area and demonstrates their level of impact on the amenity of the locale, there may be acceptability around later opening hours in future.

## Functions

Enquiries from the applicant regarding functions, advertising on their social media for functions as well as functions being included in the noise assessment, raises concern regarding the land use at the site. The applicant has been informed that functions will not be permitted under this approval, and separate application for a 'reception centre' will need to be made in future if they wish. Part of the restaurant booked out for a function while the rest is open for general service is considered acceptable under the restaurant approval.

It should be noted that a 'reception centre' in a rural area was refused by the Shire in 2019 and upheld in the SAT (DR224/2019).

## 2. Amending location and size of productive garden

Restaurants may only be permitted to be established in the agricultural zones where the primary use of the land will remain for agricultural pursuits and the restaurant is incidental to that primary use (Clause 4.16.4). The productive garden proposed by the applicant provided a key linkage between the restaurant and the agricultural use in the previous restaurant approval.

The applicant has located the wastewater disposal system where they had previously proposed the productive garden. While this was proposed unprompted in the previous application, the applicant has now decided that it is unfeasible to manage such a productive garden due to water constraints at the site and therefore an amendment to Condition 14 - *The productive garden shall be implemented on site prior to the commencement of the use of the restaurant and shall be maintained at all times thereafter*, is proposed.



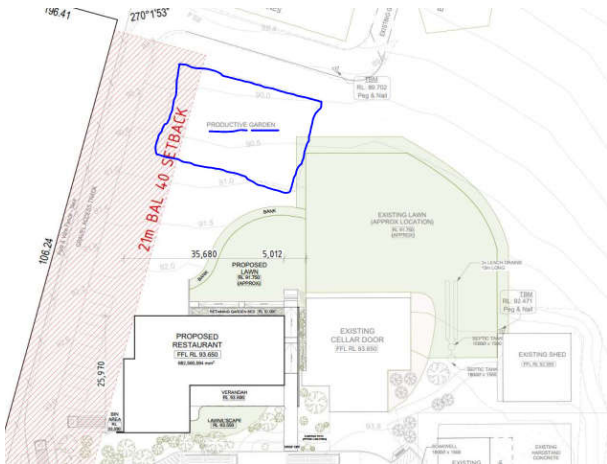


Figure 2: Approved plan P223450 shows 690sqm productive garden beside the restaurant.



Figure 3: proposed amended location of productive garden – 200sqm garden plus an existing olive grove adjacent to the dwelling on the site.

While the productive garden was a key linkage between the agricultural use and the incidental restaurant use in the original approval, the applicant is able to demonstrate that the proposal still meets the requirements of Clause 4.16.4. The 22ha of mature vines, a related cellar door as well as the 200sqm proposed garden and olive grove combine to a satisfactory level of incidental use.

The dwelling is lived in by restaurant staff/chef allowing it to be more easily managed. The new size and location of the productive garden as shown above is considered sufficient and is supported.

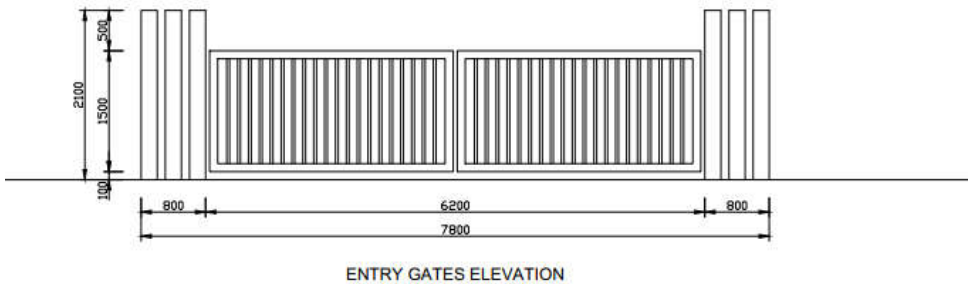
## LPP4 – Boundary Fencing

Element 3 of LPP4 details the requirements for boundary fences within the Shires Rural and Rural Residential Zones. To meet the acceptable development criteria - *Visually permeable fences constructed of post and wire (which may include barbed wire) or timber and not exceeding 2m in height; or Fences of a style and material stipulated by any relevant Structure Plan (AD4.1).*

The proposal has a variation to AD4.1 for the fence height of 2.1m in lieu of 2m. Assessment against the performance criteria has been carried out.

Front entry is already installed and clearly exhibits a rural aesthetic. The pillars are of aged wood pylons and the gate of a rusty metal. The variation is very minor, and the entry cannot be seen from the road as it is located further up the driveway from Ellenbrook Rd. The variation to LPP4 is supported.





Determination

That the Coordinator Planning Services Grant Planning Consent under Delegated Authority Instrument No. 34 pursuant to Clause 68(2) of the Deemed Provisions of Local Planning Scheme No. 1 for the Amendment to Planning Application P223450 at 687 (Lot 722) Ellen Brook Road, Cowaramup subject to compliance with the following 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	Plan 1 and Plan 2 received by the Shire on the 2 June 2024 Plan 3 received by the Shire 6 December 2024
--------------------------	--

- 2. If the development, the subject of this approval, is not substantially commenced within two (2) years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
- 3. At all times, all stormwater and drainage run-off from the development shall be detained within the lot boundaries and managed to predevelopment flow regimes and/or disposed offsite by an approved connection to the Shire's drainage system in accordance with the Shire of Augusta Margaret River's Standards & Specifications.
- 4. The restaurant is limited to a maximum of 200 seats/persons.
- 5. Operating hours are 11am – 7pm Sunday to Thursday and 11am – 10pm Friday and Saturday.
- 6. The accepted Bushfire Management Plan and Bushfire Emergency Evacuation Plan v2 dated 3 October 2023, shall be implemented on site prior to commencement of the restaurant use and at all times thereafter.
- 7. The Bushfire Emergency Evacuation Plan shall be displayed in a conspicuous location within the development at all times.
- 8. Certification shall be provided to the Shire by an accredited Bushfire Consultant that all bushfire management actions detailed in the accepted Bushfire Management Plan have been implemented prior to commencement of the use.
- 9. A Landscape Plan shall be prepared by a suitably qualified and/or experienced landscape consultant and submitted for the approval of the Shire prior to the commencement of development. The Landscape Plan shall be drawn to scale and is required to reduce the visual impact of the development from Caves Road.
- 10. The approved Landscape Plan shall be implemented prior to the commencement of the use and shall be maintained at all times to the satisfaction of the Shire.



11. Sewage disposal is to be in accordance with the Government Sewerage Policy.
12. A secondary treatment system shall be installed at the site prior to the occupation of the building. The system selected shall be approved by the Department of Health and be installed and operated in accordance with AS/NZS 1547:2012 On-site domestic wastewater management and AS 1546.3:2017 On-site domestic wastewater treatment units, Secondary treatment systems.
13. The applicant is to **remove existing signs** and relocate advertising sign to be outside the Caves Road reserve prior to the submission of the building permit. See advice note (f).
14. The productive garden shall be implemented on site prior to the commencement of the use of the restaurant and shall be maintained at all times thereafter.
15. Prior to commencement of the development, a **Waste Management Plan** must be submitted to and approved by the Shire for the intended use. The Waste Management Plan must then be implemented to the satisfaction of the Shire, and have due regard to the following:
  1. Ownership, maintenance and management of waste receptacles;
  2. Provider of waste collection services;
  3. Categories (landfill, recycling, FOGO, etc.) and volumes of waste expected to be produced;
  4. Bin storage area and types of receptacles – showing quantity and placement of bins in storage area;
  5. Method of collection and disposal of waste including access, circulation and collection times for the servicing of waste bins/receptacles;
  6. Hygiene and noise, odour and vermin control;
  7. Health, safety and environmental considerations, particularly focussed around manual handling, and prevention of accidental spills and releases; and,
  8. Waste avoidance and staff education on avoiding waste.
  9. Any opportunities for management of waste on site, like composting food waste, etc.
16. The accepted Waste Management Plan, required in abovementioned condition 15, shall be implemented on site from commencement of the use and at all times thereafter.
17. Prior to issue of a building permit for the development, the proponent shall make a one percent of the building cost contribution toward public art in accordance with the Shire's *Local Planning Policy 30 – Public Art*.
18. Prior to the commencement of operations after 5pm Sunday – Tuesday and after 9pm Friday and Saturday, a Noise Management Plan is to be provided to the satisfaction of the Shire and shall include operational controls. See advice note (b).
19. Noise management plan abovementioned shall be implemented on site prior to the commencement of the new operating hours, and at all times thereafter.
20. All outdoor lighting is to be turned off outside the approved operating hours.

## 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) The NMP needs to include (but is not limited to) the following operational controls:
  - (i) DJ music limited to an average sound pressure level of 85 dB(A) in the restaurant/ function area.



- (ii) Background music levels are kept at 75-80db(A) for normal operations in the restaurant.
  - (iii) General music and entertainment to be background in nature, to ensure music is not audible at any of the receivers.
  - (iv) No speakers in the alfresco area
  - (v) Speakers should not be directly attached to the roof structure via hard connections (anti-vibration mountings are recommended) in order to reduce sound transmission and vibration.
  - (vi) Limit access to the venue amplifier / PA system to Licensee or Approved Manager only.
  - (vii) Management to monitor noise emissions a site boundaries regularly
  - (viii) Patrons to consider neighbouring residents when leaving the premises.
  - (ix) Waste collection to occur only between 7am and 7pm Monday to Saturday
  - (x) Compliant process
- c) The proposed activity must comply with the *Food Act 2008* and the *Food Standards Australia New Zealand Code*. Prior to the construction and fit out of the approved food premises, detailed plans and specifications of all internal fixtures, finishes and fittings must be submitted to the Local Government for assessment.
- d) The development is to provide a potable water source in accordance with *Shire of Augusta Margaret River Health Local Laws 1999*.
- e) A building or place or part of a building or place where persons may assemble is a public building and is required to comply with the *Health (Public Building) Regulations 1992* and the *Building Code of Australia*.
- f) All signage is to comply with Shire's *Local Planning Policy 26 – Signage*. The existing canvas signs are required to be removed. The entry and freestanding sign may be considered subject to further planning approval.

