



Ordinary Council Meeting

26 May 2021

LATE ITEM

REPORT & ATTACHMENTS

ITEM NO

SUBJECT

11.2.3

PROPOSED WINERY, RESTAURANT AND CELLAR DOOR, AND SPECIAL EVENTS –
RECOMMENDATION TO THE REGIONAL JOINT DEVELOPMENT ASSESSMENT
PANEL

**11.2.3 PROPOSED WINERY, RESTAURANT AND CELLAR DOOR, AND SPECIAL EVENTS -
RECOMMENDATION TO THE REGIONAL JOINT DEVELOPMENT ASSESSMENT PANEL**

LOCATION/ADDRESS	Clews Road 168 (Lot 2953) Cowaramup and Fifty One Road 261A (Strata Lot 1) Cowaramup,
APPLICANT/LANDOWNER	Planning Solutions Urban And Regional Planning / HAT South West Investments Pty Ltd
FILE REFERENCE	PTY/5132
REPORT AUTHOR	Matt Cuthbert, Manager Planning and Development Services
AUTHORISING OFFICER	Nick Logan, Director Sustainable Development and Infrastructure

Published 21 May 2021.

IN BRIEF

- The Shire has received an application for a restaurant, winery and cellar door located on the site of an existing vineyard in Cowaramup.
- Due to the cost of construction, it must be determined by a Development Assessment Panel (DAP) which in this case is the Regional Joint DAP (JDAP).
- The Shire must provide to the JDAP a Responsible Authority Report (RAR) to inform their decision making.
- The RAR is attached for Council to note.

RECOMMENDATION

That Council notes the Responsible Authority Report (Attachment 1).

LOCATION

The subject land consists of two lots zoned Priority Agriculture which are located approximately 1.7km from the centre of Cowaramup. The subject land is currently developed with approximately 49ha of vineyard.

TABLED ITEMS

Nil

BACKGROUND

The Planning and Development (Development Assessment Panels) Regulations came into effect in 2011 and created a State Government decision making body for the determination of significant planning applications. The DAP Regulations created a number of panels throughout the state and currently the Shire is covered by the Regional Joint Development Assessment Panel (JDAP).

The DAP Regulations are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge. The JDAP is comprised of three specialist members and two members from the Local Government within which the development is located.

A development can either be voluntarily referred to the JDAP for determination by a proponent or Local Government or, as in this instance, is mandatory where the value of construction exceeds \$10,000,000. The construction value of the proposal is \$11,400,000.

Shire officers have processed the application in accordance with the guidance provided by the DAP secretariat. The RAR is required to be provided to the secretariat by the 28 May.

CONSULTATION AND ADVICE

The DAP process allows for the Shire to undertake consultation with the community and government agencies in the normal way.

A total of 12 submissions from the public were received including five objections; three submissions of support; three submissions of conditional support; and one submission of 'indifferent' raising questions. The outcomes of the consultation process and the way in which issues raised have been addressed are discussed in detail in the RAR report.

DISCUSSION / OFFICER COMMENTS

The proposal is considered to be acceptable in terms of the consistency of the proposed land use with the Shire's Local Planning Scheme and in terms of the way in which design and layout of the proposal meet with relevant polices and responds to the local environment.

Key issues for consideration in the assessment of the proposal are building height, noise, and impacts on amenity. Each of these matters is comprehensively addressed in the RAR. It is recommended that all issues are addressed by the proposal or can be addressed with the imposition of appropriate conditions.

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

The DAP process is undertaken within the framework provided by the Planning and Development (Development Assessment Panels) Regulations 2011.

With regard to Council's role in the DAP process, the DPLH advise that Council cannot alter the RAR as prepared by the Local Government planning staff *"although the views of Council may still be incorporated in the appropriate section of the responsible authority report to the DAP."*

As stated in the publication 'Making Good Planning Decisions' at clause 5.3.2:
"It is improper for Councillors of a local government to influence the planning officer's professional opinion on the assessment of the application in any way. If the local government also wishes to make a statement regarding an application before a DAP, it may do so by making a submission."

In view of the above, the RAR is provided to Council for noting only. If Council so decide, additional recommendations/advice can be included in the RAR.

It should be noted that Council will be represented on the JDAP by Councillors Earl and Kennaugh.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2020-2024

Key Result Area 3: Ensuring sustainable development

Community Outcome 1: Clearly defined areas for growth, renewal and protection

Service level strategy/plan: Develop, review and implement spatial plans for key areas of focus for development

PLANNING FRAMEWORK

The RAR provides a comprehensive assessment of the proposal against the planning framework.

FINANCIAL IMPLICATIONS

Implications

Nil

Long Term Financial Plan

Nil

Whole of Lifecycle considerations

Nil

SUSTAINABILITY IMPLICATIONS

Environmental

There are no known environmental impacts associated with the proposal other than the removal of one marri tree. It is understood that the vineyard will be operated in a way which will enable it to achieve 'organic' status.

Social

Input from neighbouring land owners has informed the design of the proposal to mitigate impact.

Economic

The proposal will create the potential for jobs both in the construction and operation phases.

ADVOCACY

Nil

IMPLICATIONS OF ALTERNATIVE RESOLUTION

Council may wish to provide advice or recommendations to the JDAP which may be either complimentary to, or at variance with the RAR prepared by Shire officers.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council notes the Responsible Authority Report (Attachment 1).

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Responsible Authority Report (RAR)

**Clews Road 168 (Lot 2953) Cowaramup and Fifty One Road
261A (Strata Lot 1) Cowaramup – Proposed Winery,
Restaurant and Cellar Door, and Special Events**

Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Regional Joint Development Assessment Panel
Local Government Area:	Augusta Margaret River
Applicant:	Planning Solutions
Owner:	HAT South West Investments Pty Ltd
Value of Development:	\$11.4 million <input checked="" type="checkbox"/> Mandatory (Regulation 5) <input type="checkbox"/> Opt In (Regulation 6)
Responsible Authority:	Augusta Margaret River
Authorising Officer:	Manager Planning and Development Services
LG Reference:	P221048
DAP File No:	21/01945
Application Received Date:	18 January 2021
Report Due Date:	28 May 2021
Application Statutory Process Timeframe:	90 Days
Attachments:	<ol style="list-style-type: none"> 1. Development Plans and Elevations (received 13 May 2021) 2. Traffic Impact Assessment (dated 2 April 2021) 3. Bushfire Management Plan, Draft Evacuation Plan and reply to DFES comments (dated 7 April 2021) 4. Waste Management Plan – Proposed Restaurant and Cellar Door (dated 9 April 2021) 5. Waste Water Concept Design (dated 9 April 2021) 6. Black Water Management Plan (dated 4 March 2021) 7. Acoustic Report (dated 7 May 2021) 8. Landscape Plan (dated April 2021) 9. Site Plan 10. Schedule of Submissions 11. DFES Response (dated 6 May 2021) 12. DWER Response (dated 17 March 2021) 13. DWER Noise Branch Comments (dated 3 May 2021) 14. DOH Response (dated 5 March 2021) 15. SPP7 Assessment Notes 16. History of Planning Approvals

Is the Responsible Authority Recommendation the same as the Officer Recommendation?	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

Details: outline of development application

Region Scheme	N/A
Region Scheme - Zone/Reserve	N/A
Local Planning Scheme	Shire of Augusta Margaret River Local Planning Scheme No. 1
Local Planning Scheme - Zone/Reserve	Priority Agriculture Development Contribution Area 1 (DCA1)
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Licensed Restaurant – ‘A’ Winery – ‘P’ Rural Produce Sales – ‘D’
Lot Size:	Strata Lot 1 - 16.5ha Lot 2953 Clews Road – 76.2ha
Existing Land Use:	Agriculture Intensive (Vineyard) Rural Industry (Wine Storage)
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

Development Description:

The application proposes development of a Winery, a Restaurant and Cellar Door, and Special Events for up to 300 patrons on four occasions each year. Of note is the fact that the Winery will be located within an existing ‘dry dam’ and will to some degree be located underground with a proposed landscaped roof.

Winery

The proposed Winery comprises:

- a production capacity of up to 350 tonnes of wine annually;
- total floor area (upper and lower ground floor) of 3042m²;
- two hard stand areas including the ground floor hardstand to the south west and lower ground floor hardstand to the north west;

- a sloped and entirely landscaped roof;
- a ridge height of 9.8m from the finished ground level at the south west hard stand ground area (RL111.00 see Section AA and West Elevation); and
- a wall height of 8.85m from the finished ground level (RL111.00 on Section AA).

The Winery is proposed to be operated by two employees and will provide for weekend winery tours for up to 20 patrons.

Ancillary to the Winery is a proposed composting area, which:

- has an approximate size of 160m²;
- is located 33m from the western boundary and over 300m from closest adjoining lot boundary;
- is to have a bunded concrete floor or lime base; and
- will have an annual composting volume of between 30 and 60 tonnes.

Composting material is to be sourced from the Winery and on-site garden green waste and the composted material is to be reused on site.

Restaurant

The proposed Restaurant comprises:

- an 80 seat regular capacity (internal and external) and 150 seats for special events;
- total floor area (Restaurant/Bar/Kitchen/Kitchen Store/Larder) of 434m²;
- an enclosed area (restaurant/bar) 244m²; and
- a building height of 6.1m from existing ground level.

The Restaurant is proposed to be operated by seven employees.

Cellar Door

The Cellar Door comprises:

- an enclosed customer service area of 214m² and net lettable area of 230m²;
- a maximum capacity for 50 patrons; and
- building height of 6.1m from existing ground level.

The Cellar Door is proposed to be operated by six employees.

Parking

Across the site a total of 99 parking bays are proposed: 15 staff parking bays and 84 guest parking bays.

Ancillary Development

The development also includes an ancillary office facility to accommodate 10 staff. The office facility is proposed within the grassed roof structure located to the south west of the proposed Restaurant and will have a 3.7m building height from the existing ground level.

One mature marri tree, located on the site of the Restaurant, is proposed to be removed.

The development is also proposed to incorporate a productive food garden with nature playground to the south of the Restaurant and universal access trails.

A portion of the dry dam wall adjacent to the western boundary, is proposed to be extended approximately 18m to the south.

Special Events

The development is also proposed to host special events, such as weddings or conferences, for a maximum of 300 visitors at any one time (including regular and event guests).

Operating Hours

Operating hours for the development are:

- Winery operation Monday to Friday 0700 - 1700
- Restaurant Monday to Sunday 1000 - 1700
- Cellar Door Monday to Sunday 1000 - 1700
- Events Monday to Sunday 1000 - 0000 (Midnight)

Existing Operations

The existing and ongoing agricultural operations include a vineyard, pasture, stock management and general ground maintenance to be supported by up to eight 'field-based' employees. Wine storage in the existing shed on Strata Lot 1 is proposed to continue.

Copies of the proposal plans and supporting information are annexed to this report at **Attachments 1 to 8**.

Proposed Land Use	Winery Restaurant Rural Produce Sales
Proposed Net Lettable Area	N/A
Proposed No. Storeys	N/A
Proposed No. Dwellings	N/A

Background:

Surrounding Development

The development site on Lot 2953 is located approximately 1.7km west of the Parkwater Residential Estate and 4km west of the Cowaramup Townsite.

The locality is characterised by a mosaic of farmland and stands of remnant vegetation and is defined by creeklines and intermittent watercourses in some cases developed with large dams. The locality contains a number of boutique vineyards and wineries, interspersed with dwellings and a component of low impact.

Together Lot 2953 and Strata Lot 1 are developed with 49ha of vineyard. Lot 2953 is developed with a dam that feeds into a nutrient stripping basin adjoining the western boundary, a dry dam adjacent to the western boundary, a soak adjacent to the southern boundary, and a pump shed. Strata Lot 1 is also developed with vines and a farm shed utilised for wine storage, and a dam. Details of the approved development on these lots is provided in the Site Plan annexed in **Attachment 9**.

A key natural feature on Lot 2953 is a creekline in the north west of the site. The creekline corresponds to the location of the nutrient stripping basin that flows westward

into the stand of remnant vegetation on adjoining 427 (Lot 12) Brockman Road before reaching the waterway downstream on 27 (Lot 11) Fifty One Road.

On 227 Fifty One Road exists Settler's Ridge Organically Certified Vineyard in addition to two residences. The adjoining western property, 427 Brockman Road, is developed with a single dwelling and two freestanding chalets and is operating as the Simala Retreat. The northern portion of 427 Brockman Road is National Trust conservation covenanted bushland.

Legislation and Policy:

Legislation

Environmental Protection (Noise) Regulations 1997 (Noise Regulations)

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Planning Regulations Amendment Regulations 2020

The subject application was made on 18 January 2021 and the amendments to Parts 8 and 9 of the *Planning Regulations Amendment Regulations 2020* do not apply. The application was dealt with in accordance with Parts 8 and 9 of the former deemed provisions in force immediately before commencement day (15 February 2021).

Shire of Augusta Margaret River Local Planning Scheme No. 1 (LPS1)

State Government Policies

Government Sewerage Policy, September 2019

State Planning Policy 3.7: Planning in Bushfire Prone Areas, December 2015 (SPP3.7)

State Planning Policy 6.1: Leeuwin Naturaliste Ridge, amended 31 January 2003 (SPP6.1)

State Planning Policy 7: Design of the Built Environment, February 2019 (SPP7)

Guidelines

Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986): Separation Distances between Industrial and Sensitive Land Uses No. 3, June 2005

Guide to developing a Bushfire Emergency Evacuation Plan, October 2019

Position Statement: Tourism land uses in bushfire prone areas, November 2019 (the Position Statement)

The Guidelines for Planning in Bushfire Prone Areas, Version 1.3, December 2017 (the Guidelines)

Local Policies

Governance and Business Excellence Policy 5.8 – Public Art Policy (Policy 5.8)

Consultation:

Public Consultation

The application was advertised in accordance with the Deemed Provisions of *Local Planning Scheme No. 1* clause 64. The then Deemed Provisions, at clause 64 (3), required a minimum 14 day advertising timeframe. The application was advertised for 21 days with advertising commencing 1 February 2021.

Letters were sent to 131 land owners within a 2km radius of the development site, signs were installed on site, a notice was printed in the local newspaper on four occasions, and full details of the application including technical reports were made available for viewing on the Shire website.

A total of 12 submissions from the public were received including five objections; three submissions of support; three submissions of conditional support; and one 'indifferent' submission raising questions. A Schedule of Submissions is annexed as **Attachment 10** to this report. Submissions were received from landowners of properties located up to 2.5km from the development site raising a number of concerns that are not directly relevant to the proposal.

Concerns raised by the owners of nearby properties 427 Brockman Road and the downstream property at 227 Fifty One Road are significant. The key issues of concern were overlooking, composting, noise, dust, odour, light glare and water quality impacts to the downstream organic vineyard. Each of these issues is addressed in the planning assessment section of this report.

Referrals/Consultation with Government/Service Agencies

The application, including additional amended information, was referred on two occasions to DFES, DOH and DWER.

Department of Fire and Emergency Services

DFES do not support the proposal noting the development design does not demonstrate compliance with the Guidelines (refer to DFES comments annexed as **Attachment 11** to this report). It should be noted that DFES have not assessed the proposal against the most relevant component of the bushfire planning framework being the 'Tourism in Bushfire Prone Areas – Position Statement'. It is understood that DFES do not recognise this part of the policy framework. In any case it remains a legitimate and highly pertinent assessment tool. The BMP demonstrates that the acceptable solutions in the Position Statement can be met subject to:

- validation of BAL ratings;
- amendments to reflect the BAL19 construction standard;
- additional details to spatially represent the location of a dedicated 50,000litre fire fighting water tank in a BAL29 risk rated area, accessibility to a 3.4 appliance and turnaround;
- development of internal roads to the standard of a private road network; and
- amendments to Table 5.

The objectives of SPP3.7 are therefore met in the application subject to submission of an amended BMP and BEEP.

Department of Water Environmental Regulation

DWER advised (refer to DWER response annexed as **Attachment 12**), in relation to the original proposal that it lacked details to demonstrate how the development would satisfy the Government Sewerage Policy 2019 or to determine whether the proposed composting would be categorised as a Prescribed Premises as per the Environmental Protection Regulations 1987. DWER had also not received an application for alcoholic beverage manufacturing and concern was raised that water affecting activities may require regulatory approvals under the RiWI Act 1914.

DWER confirmed in advice of 4 May that the proponent had:

- made a commitment to comply with the Government Sewerage Policy and to meet the local health requirements;
- made a commitment to obtain a licence for the Winery; and
- provided additional information stating that their composting site would not trigger licencing.

Further the applicant had confirmed that the concerns raised by DWER in relation to the need for regulatory approvals under the RiWI Act 1914 were not applicable.

Department of Water and Environmental Regulation – Noise Branch

Three revisions of the Acoustic Report in support of the application were provided. A key concern of DWER was the likely noncompliance of the proposed special events. The third revision of the Acoustic Report addresses this concern subject to implementation of a number of recommendations.

An unresolved issue raised by DWER (refer to DWER advice annexed as **Attachment 13** to this report) is that the Acoustic Report does not consider the impact of noise to the neighbouring noise sensitive premises by comparing predicted levels with measured ambient noise levels at the receiver location. The importance of this assessment is notable given *“ambient noise levels in rural areas can be considerably lower than the assigned (statutory) levels’ and the adjoining noise sensitive premises is used as a ‘retreat’”*.

Department of Health

The DOH provided advice in their initial review of the application (refer to DOH advice annexed as **Attachment 14**). In relation to that advice, potable water requirements for the Winery will be addressed through the DWER Works Approval. A relevant condition has been applied regarding potable water requirements for the Restaurant and Cellar Door.

Details of the proposed black and waste water treatment were provided in the Waste Management Plan, Waste Water Design Concept (WWDC) and Black Water Management Plan (refer to Attachments 4, 5 and 6) submitted with the application. The plans demonstrate the intention for wastewater systems to be designed to comply with the relevant regulatory requirements. Wastewater for the Winery is a matter to be addressed through the DWER Works Approval. Restaurant wastewater is to be addressed at the time of application for a building permit and will require relevant approvals from the Department of Health. The information provided is considered adequate to demonstrate likely compliance of the operations in relation to wastewater.

The concerns of DOH are considered to have been adequately addressed in the application and relevant conditions are recommended.

Design Review Panel Advice

Not applicable.

Planning Assessment:

The proposal has been assessed against the relevant legislative requirements of LPS1 and State and Local Planning Policies as outlined in the legislation and policy

sections of this report. The following matters have been identified as key considerations for the determination of this application:

1. Height, overlooking, visual amenity and the interaction of these elements with the height requirements of LPS1
2. The design of the proposal and its compliance with SPP7
3. The impact of noise to the adjoining noise sensitive premises
4. Potential offsite impacts relating to light, dust, water quality and impacts on the transport network.

LPS1

Height standards are detailed in the Scheme at clause 5.13.1 which specifies a maximum height of 8.0m '*...to the top of the ridge of the pitched roof of any such building or structure...*'.

Scheme clause 5.13.2 provides discretion to the local government to permit the construction of buildings in excess of the height limits specified at clause 5.13.1 and clause 5.13.2 details the cases when such variations may be considered.

In considering such variations, clause 5.13.2 specifies that the advertising procedure set out at clause 64 of the Deemed Provisions must be followed. Subclause (e) specifies that the local government must consider the information provided by the applicant and any submission made by persons in response to the advertising period. Further, the local government must be satisfied of the matters detailed at clause 5.13.2 (e) in coming to its determination about the suitability, or otherwise, of the height proposed.

The applicant has provided justification for the height variation in accordance with clause 5.13.1(b). The applicant advises that the building is designed in the proposed location to take advantage of the steep slope that occurs in ground level of approximately 4m from the top of the dry dam wall.

The Winery site lends itself to the development of the Winery based on a gravity fed model and one that does not rely on mechanical pumping.

In relation to building design and scale, the applicant states:

'The gravity flow design is an essential feature of a minimal-intervention winemaking style, and in line with the proponent's commitment to sustainability...The raised fermenters, catwalks, and grape elevator system all require additional ceiling clearance as detailed in the cross-sectional layout...Grapes will be processed on the upper ground level and lifted into the fermentation tanks above via a grape elevator. At the completion of fermentation, the wine will be gravity-drained to tanks below, and the skins emptied by gravity into a membrane press which is rolled into position beneath each tank.'

With this factor in mind, it is considered that the building design in order to be functional as a gravity fed winery operation does rely on an elevated roof height and substantially modified ground level sloping toward the north in the proposed location. The question arises as to the extent of the variation that can be justified and the acceptability of the any impacts.

The impact of the proposed building height variation is assessed against the provisions of the Scheme at clause 5.13.2(e) which requires the local government to be satisfied that the proposed building:

- (i) *will be in harmony with the general character or buildings in the locality;*
- (ii) *will not adversely affect the beauty, character, quality of environment or the area generally;*
- (iii) *will maintain a satisfactory relationship to the boundaries of the [land] to on which it is to be constructed and relates satisfactorily to the siting, design and aspect of buildings on other nearby lots; and*
- (iv) *will not impair the amenity or development potential of adjoining lots.*

It is noted that pursuant to clause 5.13.2, the adjoining landowners have not objected to the height of the Winery, however, have raised concerns about the impacts arising from the development in the proposed location. In this regard, the visual impact of the proposal is relevant.

The applicant advises in relation to visual impact:

'...the proposed development is not visible from the adjoining public realm (and will therefore have no impact), has been specifically designed to complement and be in harmony with the surrounding landscape, and will have no adverse impact on the visual amenity of the adjoining property owners...the winery building setback of 450m from Brockman Road, combined with the roof treatment (grass) will minimise any potential visual impact of the building from Brockman Road'.

Whilst a portion of the proposed Winery exceeds the height limit, there are several elements of the design and development in the area that reduce the perceived visual impact from the adjoining property to the west, as follows:

- the building is at a 45 degree angle to the western boundary reducing perceived visual bulk as opposed to a parallel elevation;
- the proposed Winery will not be within direct view of the Chalets on the adjoining premises, noting the buildings are designed and the outlook directed to take advantage of views to the north;
- the proponent advises that materials and colours used will reflect the local pallet; and
- the dry dam wall will be extended south and landscaped on the western elevation to provide additional screening.

Figure 1 below provides a perspective of the Winery building, submitted by the proponent, using a photo taken from the western boundary in proximity to the closest adjoining chalet.



Figure 1: Perspective of Winery building from western boundary submitted by applicant

Concerns regarding overlooking from the Winery roof top have been addressed with proposed balustrading to increase the setback to the affected western property and the accessible parts of the Winery roof.

The Winery hardstand and service road would have a height of 3.5m above the existing ground levels of the adjoining western property and would provide some overlooking potential to the western property. Landscape screening to the western wall of the dry dam is proposed to mitigate this impact and this is recommended to be reflected as a condition of any approval.

State Planning Policy 7: Design of the Built Environment

SPP7 applies to all development in Western Australia. The policy establishes a set of ten principles that combine to define 'good design' and a summary of the proposed development against the principles in SPP7 is annexed at **Attachment 15**.

Of note is the landscaped Winery roof and the high degree of integration with the natural environment and variety of experiential nature-based activities shown in the Landscape Plan.

Acoustic Assessment

The amended and most recent Acoustic Report largely addressed the concerns raised by DWER. It assessed likely compliance to the Noise Regulations for the Winery and likely compliance for events from the Restaurant. The amended Acoustic Report considered risks to the noise sensitive premises and demonstrates that the development is likely to comply with the Noise Regulations if designed, built, operated and managed as recommended.

The Acoustic Report has a number of limitations; it does not deal with internal acoustics of the buildings, construction noise, or operational noise management. These factors are recommended to be addressed by conditions of approval.

The Acoustic Report also relies on a number of assumptions that should be reflected as conditions of approval, for example, operating hours and the construction standard for car parking areas and road surfaces to car parks.

The assessment relies on implementation of management measures and these are also recommended to be addressed in a requirement for an Operational Noise Management Plan.

An Operational Noise Management Plan (ONMP) is recommended for events, farm activities and the normal operations of the Restaurant and Cellar Door. An ONMP would address ongoing operational matters such as glass and waste handling, vehicle access and movements, appropriate use and maintenance of equipment. A condition is recommended to reflect this requirement.

Acoustic Amenity Impact

While the Acoustic Report has largely been amended with regard to DWER advice, it does not quantify the amenity impacts to the nearest noise sensitive premises. The assessment demonstrates likely compliance of the operation; however it does not provide a relative measure of the likely noise impact against the existing acoustic environment.

Section 4.1 deals with acoustic amenity impacts where it states:

'The impact on the acoustic amenity of the area will be determined by the change in existing noise levels due to the proposed development. Stantec are not aware of any noise complaints against the site in its current operation as a commercial winery.'

The report also relies on the proposal being new buildings to an 'existing winery' on the site, however, while a Rural Industry (Wine Storage) building exists on Strata Lot 1, there is no production of viticultural produce from the premises.

It is the proponent's view that the proposed changes on-site would result in improved amenity outcomes for the adjoining landowner and surrounding locality. The proponent advises:

'...the current operation has reduced mechanical harvesting to approximately half of operations, with the other half being handpicked. It is the winery operator's objective to transition to majority handpicked in 3 years' time...'

'The transition from mechanical to handpicked harvesting will have amenity benefits to the adjoining and surrounding amenity by:

- Reducing the amount of noise from agricultural machinery, including outside daylight hours by using handpicking which is significantly quieter and typically occurs during daylight hours (although some night-time picking may still be required at times); and*
- Reducing the amount of vehicle trips required to deliver / escort mechanical pickers to the site during the harvesting season'.*

While handpicking harvest methods are acknowledged, the noise impacts arising from this activity have not been measured or quantified and are not reliable in the long term.

The noise impacts of the current harvesting methods are not explored in the Acoustic Report therefore it is difficult to justify the extent of benefit from this activity over other more typical harvesting methods. Further, handpicking product is not an operational requirement that realistically could be relied upon in the long term nor is a condition of approval recommended for the continuation of this harvesting method; such a condition being overly prescriptive.

The proponent advises:

'...Currently harvested grapes are transported off-site for wine production. Once the winery is operational, wine will be produced on-site within the winery building. This will significantly reduce the number of trucks accessing the site via Clews Road, to collect grapes for off-site production, and will result in a positive amenity outcome for the surrounding locality...'

The amenity benefits of offsite wine production in relation to transporting grapes are questionable. The current situation of grapes being collected at various locations across the site before being moved off site via Clews Road would appear to be negated by the alternative and proposed central collection and disposal location at the Winery ground floor hardstand area in proximity to the adjoining western premises. Additionally, with development of the Winery, the benefits of offsite production and truck movements away from the site are in fact lost with potentially more trucks accessing the site to deliver grapes grown off site for processing in the Winery.

It is the proponent's view that the gravity feed method to transfer viticultural product through the wine making process negates the need for pumps, limiting equipment use and overall noise from the facility. The Acoustic Report however provides for the management of noise from within the facility with suitable design and construction measures.

It is the proponent's view that the modifications to the viticultural operation will result in an 'overall net positive impact on the amenity of adjoining properties' however this is a questionable noting the scale of the operation and the certain change that will occur to current noise levels. These factors are relevant when considering the extent and nature of the variations sought but must also be weighed against the primary purpose and objectives for the land.

The proposal to value-add agricultural produce grown on the land within a development that is based on a more sustainable agricultural form is a key objective of the Priority Agricultural zone. The proposal would provide for a stronger more sustainable agricultural industry, has the potential to enhance the environmental qualities of the landscape and promote sustainable environmental practices. There must also be consideration of the actual rural character and amenity of the zone being one that is characterised by harvesting and processing agricultural produce and reliance at times on the use of disruptive machinery and disruptive practices. While the application does not quantify the noise impact to neighbouring properties it does demonstrate that the impacts have been mitigated and can be managed. The proposal is considered to be acceptable based on the information provided and subject to application of appropriate conditions to any approval granted.

Transport

The Traffic Impact Assessment (TIA) in support of the development shows the development can be undertaken without any adverse impacts to the existing Brockman Road, however, there is some concern with the additional service vehicles proposed to access the development from Clews Road.

Clews Road is constructed with compacted gravel pavement and is approximately 4m to 5m in width. The supporting TIA, in regards to servicing the developments internal access way which will connect to Clews Road, states;

'The service vehicle access roads should be designed in accordance with AS2890.2. A minimum two-way roadway width of 6.5m is required for heavy rigid vehicles and articulated vehicles (Table 4). Roadway widths should be increased at the bends in the road'.

Given Clews road is only 4m to 5m in width, the Clews Road pavement width should be widened to a 4m seal with gravel shoulders to support safe passage for adjoining properties intermingling with the larger vehicles proposed to use Clews Road when accessing the development. The design of the upgrade should be undertaken with input from the Shire to ensure suitable environmental outcomes are achieved by preserving the large trees that are located within the road reserve.

Composting

Concerns regarding the composting have largely been addressed by relocation of this activity to more than 300m from the sensitive premises and submission of details to clarify the scale of composting to a maximum of 60 tonnes. The composting is however directly related to and ancillary to the Winery land use and will be managed through the DWER works approval/licensing. Accordingly, this issue has been addressed.

Dust

Dust impacts arising from the prescribed premises are addressed through the works approval/licencing requirement and are a matter for ongoing administration by DWER. A dust management plan is also recommended to be required by condition to address dust during construction therefore addressing this issue

Light Glare

This issue is recommended to be addressed by way of conditions requiring management of light glare impacts.

Water Quality

Separation from water resources is dealt with through the Government Sewerage Policy and separation distances from ground and surface water will be administered through the DWER works approval/licence. Effluent disposal from the Restaurant including black water and grey water is administered by the DOH and the Shire. A separate application is made at the time of submission of a building permit.

It is considered that the objections raised in the advertising period will be addressed by recommended conditions of any approval.

A summary of the submissions received during the advertising period was provided to the proponent. Amended plans and technical information were provided as an outcome of the advertising period.

Conclusion:

The key issue arising in the assessment of this application is the merits of the development noting the significant height variation sought in proximity to the adjoining premises coupled with concerns about the impacts of the development to the amenity and enjoyment of the adjoining western property.

Notwithstanding, adequate information has been provided to demonstrate that the development, subject to achieving relevant subsequent approvals/licences is likely to meet regulatory requirements including the Noise Regulations. Additionally, with the application of conditions to any approval granted, the development is considered able to meet State and local policy.

While the concerns raised during the advertising period are noted, the development is consistent with the intent and purpose for the zone and must be considered with regard to the primacy of agricultural land uses in the Priority Agriculture zone. The impacts arising from the development are able to be mitigated through conditions of approval. The concerns raised in this case do not warrant refusal of the proposal and the application is recommended to be granted conditional approval.

Officer Recommendation

It is recommended that the Joint Development Assessment Panel resolves to:

Approve DAP Application reference DAP/21/01945 and accompanying plans in accordance with Clause 68 of Schedule 2 of the (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Shire of Augusta Margaret River Local Planning Scheme No. 1 subject to the following conditions:

Conditions:

1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect. Where an approval has lapsed, development is prohibited without further approval being obtained.
2. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the Shire of Augusta Margaret River or the Joint Development Assessment Panel.

Plans and Specifications	P1 – P16 received at the Shire on 13 May 2021
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Noise

3. The recommendations of the Acoustic Report (dated 7 May 2021) shall be implemented from occupation of the development and at all times thereafter.
4. An Operational Noise Management Plan (ONMP) shall be prepared to the satisfaction of the Shire of Augusta Margaret River. The ONMP shall include operational measures to minimise noise emissions from the use of the development including for Special Events. The ONMP shall be implemented on site from commencement of use of the development and at all times thereafter.
5. Mechanical plant, including any external fan, air conditioner or similar equipment should be installed and located so that there is no loss of amenity to the locality by appearance, noise, emissions or otherwise, to the satisfaction of the Shire. Details to be submitted with the building permit for the Restaurant and Cellar Door.

6. Prior to issue of a building permit for the development, a Construction Management Plan, shall be prepared to the satisfaction of the Shire. The plan shall be implemented on site at all times construction is in progress.

Contribution

7. Prior to issue of a building permit for the development, the proponent shall make a contribution toward public art in accordance with the Shire's *Governance and Business Excellence Policy 5.8 – Public Art Policy*.

Stormwater

8. 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 in accordance with the Shire of Augusta Margaret River's Standards & Specifications.

Nuisance Impacts

9. Waste shall not be stored onsite in any manner and in any quantity that causes or is considered to cause a nuisance and or unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of any other premises.
10. All lighting shall be designed so that light over spill does not unreasonably affect the amenity of adjoining properties. Lighting that is associated with the development shall be internally directed and/or shielded. Details to be provided with the building permit for the development.

Capacity

11. The number of patrons for the Restaurant and Cellar Door hereby permitted, shall not exceed 130 without further prior planning approval.
12. A maximum of four (4) events are permitted to be held on Lot 2953 in any calendar year.
13. The number of patrons permitted on site for events is limited to 300 at any one time.

Visual Impact

14. Prior to submission of a building permit, a schedule of colour and texture of the building materials shall be submitted and approved prior to the commencement of any work(s) and shall be implemented accordingly.
15. The walls and roof of the building shall be clad in a non-reflective material and painted in a colour of natural or earth toning consistent with the existing landscape and existing development. To this end, reflective materials or reflective colours as cladding/external (including but not limited to) are prohibited. Details to be submitted with the building permit for the development.

Health Requirements

16. The development is to provide a potable water source in accordance with The Australian Drinking Water Guidelines.
17. Prior to issue of a building permit for the Restaurant and Cellar Door, a Waste Management Plan shall be submitted to the satisfaction of the Shire.

18. From commencement of occupation and use of the Restaurant and Cellar Door and at all times thereafter, the Waste Management Plan, required in abovementioned condition 26, shall be implemented on site to the satisfaction of the Shire of Augusta Margaret River.

Parking and Access

19. Prior to occupation of the development, engineering drawings and specifications for the upgrading of Clews Road, are to be submitted, approved, and road construction works, undertaken in accordance with the approved plan(s). All associated works required in the Clews Road upgrade, including but not limited to construction, clearing and drainage works shall be at the applicant's cost, to the satisfaction of the Shire of Augusta Margaret River.
20. Prior to occupation of the development, vehicle parking areas shall be designed, sealed, drained, lit, and thereafter maintained in accordance with accepted Vehicle Parking Construction Plan(s), the Australian Standard AS 2890 and the Shire's Standards and Specifications.
21. Acrod bays and statutory signs shall be located convenient to the building entrance and shall be designed in accordance with AS2890.6 Parking Facilities Part 6: Off street Parking for People with Disabilities.
22. Prior to occupation of the development, crossovers shall be designed, constructed, sealed, and drained in accordance with the Shire's standards and specifications.

Landscaping

23. Prior to lodging a building permit for the development, a Landscape Plan shall be prepared to the satisfaction of the Shire by a suitably qualified and/or experienced landscape consultant. The Landscape Plan shall address the following:
 - a) the recommendations and outcomes in the amended and accepted Bushfire Management Plan for the development;
 - b) the location, name, planting density and mature heights of existing and proposed trees, shrubs and ground covers and riparian species;
 - c) landscaping on the dry dam wall adjacent to the Winery in order to screen the development to the west;
 - b) any soil treatment or mulching;
 - c) weed control and maintenance;
 - e) lawns and paved areas to be established;
 - f) natural landscaped areas to be retained;
 - d) reticulation or irrigation using water sensitive principles;
 - h) quantitative completion criteria; and
 - i) annual monitoring plan.
24. Landscaping shall be implemented, in accordance with the approved Landscape Plan required in abovementioned condition 31, prior to occupation/use of the development and shall be maintained at all times.
25. During construction, areas of endemic vegetation as shown on the approved plans must not be damaged or removed by any works including the placement of fill, rubble, rubbish or any other material.

Bushfire Management Plan

26. Prior to lodging a building permit, the Bushfire Management Plan and Bushfire Emergency Evacuation Plan shall be revised by a level 3 accredited bushfire planning practitioner to the satisfaction of the Shire.
27. The revised and accepted Bushfire Management Plan and Bushfire Emergency Evacuation Plan, required in above-mentioned condition 37, shall be implemented on site prior to commencement of use of the development and at all times thereafter.
28. Prior to commencement of the use of the development, certification shall be provided to the Shire by an accredited level 3 bushfire planning practitioner that all bushfire management actions detailed in the updated and accepted Bushfire Management Plan, required in abovementioned condition 37, have been implemented on site.