



Regional Development Assessment Panel Agenda

Meeting Date and Time: Tuesday, 11 March 2025; 9:30am
Meeting Number: RDAP/38
Meeting Venue: 140 William Street, Perth

A live stream will be available at the time of the meeting, via the following link:
[RDAP/38 - 11 March 2025 - Shire of Augusta Margaret River](#)

PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement
2. Apologies
3. Members on Leave of Absence
4. Noting of Minutes

PART B – SHIRE OF AUGUSTA MARGARET RIVER

1. Declarations of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
4. Form 2 DAP Applications
 - 4.1 Lot 12 (413) Burnside Road, Burnside - Adjustments to intensive agriculture, brewery, distillery, winery, licensed restaurant, cellar door, ancillary infrastructure, parking – DAP/24/02701
5. Section 31 SAT Reconsiderations

PART C – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals
2. Meeting Closure

Please note, presentations for each item will be invited prior to the items noted on the agenda and the presentation details will be contained within the related information documentation



ATTENDANCE

DAP Members

Karen Hyde (Presiding Member)
Eugene Koltasz (Deputy Presiding Member)
John Syme (Specialist Member)

Part B – Shire of Augusta Margaret River

Cr David Binks (Local Government DAP Member, Shire of Augusta Margaret River)
Cr Greg Boland (Local Government DAP Member, Shire of Augusta Margaret River)

Minute Secretary

Lena Ng (DAP Secretariat)

Officers in Attendance

Ashlee Kelly (DAP Secretariat)



PART A – INTRODUCTION

- 1. Opening of Meeting, Welcome and Acknowledgement**
- 2. Apologies**
- 3. Members on Leave of Absence**
- 4. Noting of Minutes**



PART B – SHIRE OF AUGUSTA MARGARET RIVER

1. Declarations of Due Consideration

2. Disclosure of Interests

3. Form 1 DAP Applications

Nil.

4. Form 2 DAP Applications

- 4.1 Lot 12 (413) Burnside Road, Burnside - Adjustments to intensive agriculture, brewery, distillery, winery, licensed restaurant, cellar door, ancillary infrastructure, parking – DAP/24/02701

5. Section 31 SAT Reconsiderations

Nil.

**Part B – Item 4.1 - LOT 12 (413) BURNSIDE ROAD, BURNSIDE
- ADJUSTMENTS TO INTENSIVE AGRICULTURE, BREWERY,
DISTILLERY, WINERY, LICENSED RESTAURANT, CELLAR
DOOR, ANCILLARY INFRASTRUCTURE, PARKING**

Form 2 – Responsible Authority Report
(Regulation 17)

DAP Name:	Regional Development Assessment Panel
Local Government Area:	Shire of Augusta Margaret River
Proposed Amendments:	The proposal is seeking adjustments to 2 x conditions and plans relating to approved application (DAP/24/2701).
Applicant:	Marc Halsall, Halsall and Associates
Owner:	Mr Nicholas John Morris
Value of Amendment:	\$2,250,000million
Responsible Authority:	Shire of Augusta Margaret River
Authorising Officer:	Lucy Gouws
LG Reference:	P224951
DAP File No:	DAP/24/02701
Date of Original DAP decision:	14/01/2025
Application Received Date:	28/02/2025
Application Statutory Process Timeframe:	60 Days
Attachment(s):	1. Plans P2 – P12 received on the 3 May 2024

Responsible Authority Recommendation

1. **Accept** that the DAP Application reference DAP/24/2701 as detailed on the DAP Form 2 dated 14 January 2025 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/24/02701 and accompanying plans P2 – P12 dated 13 May 2024 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Shire of Augusta Margaret River Local Planning Scheme No. 1, for the proposed minor amendment to the approved intensive agriculture, brewery, distillery, winery, licensed restaurant, cellar door, ancillary infrastructure, parking at Lot 12 (413) Burnside Road, Burnside, subject to the following conditions:

Amended Conditions

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 Development Assessment Panel.

Plans and Specifications	P2 to P12 received by the Shire on 13 May 2024
--------------------------	--

5. Prior to commencement of the Licensed Restaurant, the applicant must have planted and irrigated all agriculture shown on the approved plans P2 and P3 and completed construction of the winery/ brewery.

Details: outline of development application

Region Scheme	N/A
Region Scheme Zone/Reserve	N/A
Local Planning Scheme	Local Planning Scheme No.1
Local Planning Scheme Zone/Reserve	Priority Agriculture
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan Land Use Designation	N/A
Use Class (proposed) and permissibility:	Intensive Agriculture, Brewery, Rural Industry & Licensed Restaurant
Lot Size:	33ha
Net Lettable Area (NLA):	N/A
Number of Dwellings:	N/A
Existing Land Use:	Dwellings & Intensive Agriculture
State Heritage Register	No
Local Heritage	☒ N/A ☐ Heritage List ☐ Heritage Area
Design Review	☒ N/A ☐ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

Proposal:

The proposal is seeking adjustments to conditions and plans relating to approved application (DAP/24/2701).

The adjustments sought include the following:

- Condition 2 - update plans to include P2 - P12 received by the Shire on the 13 May 2024.
- Modification of condition 5 to the following:
~~Prior to commencement of the Rural Produce Sales (Cellar Door) and Licensed Restaurant, the applicant must have planted and irrigated all agriculture shown on the approved plans (Locality Plan DRF NO.Z.02 by Tectonics) and completed construction of the winery/ brewery.~~ Within 5 years of the establishment of the Licensed Restaurant, the balance of the agriculture shown on Plan P2 & P3 shall be implemented.

In brief the development of the site consists of the completion of a partially constructed brewery, winery and licensed restaurant with a capacity for 200 patrons. The brewery includes an area for rural produce sales (cellar door) and the planting of 5 hectares of vineyards and 0.4 hectares of orchards. The conditions were recommended by the Shire and included by the JDAP for the purposes of addressing the Shire's concern that non rural uses could become the dominant use on the site which is at odds with the Scheme.

Background:History

- In October 2017 the Shire of Augusta Margaret River approved a development application for intensive agriculture (vineyards and orchard) winery, rural produce sales (cellar door), brewery and licensed restaurant. Conditions of the approval limited the licensed restaurant to 60 seats and required the establishment of 5ha of agriculture. In 2018, as a result of mediation via the State Administrative Tribunal, conditions were reviewed and seating numbers increased to 80.
- On 13 May 2024 a Form 1 JDAP Application was lodged for a similar proposal inclusive of Intensive Agriculture, Brewery, Rural Industry & Licensed Restaurant with a capacity for 200 patrons.
- At the Council meeting held on 28 August 2024 the Shire of Augusta Margaert River recommended refusal of the application.
- On October 2024 the Regional DAP resolved to approve DAP/24/02701 for Intensive Agriculture, Brewery, Distillery, Winery, Licensed Restaurant, Cellar Door, Ancillary Infrastructure, Parking and Recreation Facilities, inclusive of conditions which the applicant now requests be modified.

Legislation and Policy:

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Augusta Margaret River Local Planning Scheme No. 1 (LPS1).*
- *Draft Shire of Augusta Margaret River Local Planning Scheme No. 2 (LPS2).*

State Government Policies

- *State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the associated Guidelines (Version 1.4 December 2021)*
- *SPP6.1 – Leeuwin Naturaliste Ridge Policy*
- *SPP7.0 – Design of the Built Environment*
- *Government Sewerage Policy, September 2019*

Local Policies

- *Local Planning Policy No.5 – Cellar Door*
- *Local Planning Policy N0.30 – Public Art in Development*

Consultation:

Public Consultation

No consultation has been carried out.

Referrals/consultation with Government/Service Agencies

N/A

Design Review Panel Advice

N/A

Other Advice

N/A

Planning Assessment:

The proposal has been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy section of this report.

Consideration of a Form 2 Application

S17(1) of the *Planning and Development (Development Assessment Panels) Regulations 2011* state –

- “(1) An owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply for the DAP to do any or all of the following –

- (a) *to amend the approval so as to extend the period within which any development approved must be substantially commenced under regulation 16A (2);*
- (b) *to amend or delete any condition to which the approval is subject;*
- (c) *to amend an aspect of the development approved which, if amended, would not substantially change the development approved;*
- (d) *to cancel the approval,”*

Changes to Condition 2

It is the local government's view that this is considered acceptable.

Condition 5 - Rural Produce Sales (Cellar Door)

The applicant requests that reference to Rural Produce Sales (Cellar Door) be removed from Condition 5. This would allow the Cellar Door to become operational without the need for further agricultural development on the site.

The local government is satisfied that sufficient agriculture has been established on the site to justify the commencement of a cellar door. The applicant has planted an area of 5ha of vineyards and orchard as required by the approval granted in 2018. It is therefore agreed that the removal to the reference to Rural Produce Sales (Cellar Door) is acceptable.

Condition 5 – Timing of agricultural development

The applicant requests that the wording of condition 5 be changed to state that additional agriculture development of the site is not required to be undertaken prior to commencement of the Licensed restaurant, but rather that this occur “*within 5 years of the establishment of the Licensed Restaurant*”.

In order to meet Local Planning Scheme No 1 (LPS1) clause 4.16.4 the additional agriculture should be established as early as possible to ensure that the primary use of the land at all times is for agriculture and that the licensed restaurant is incidental to this primary use. Furthermore by not planting the remaining agriculture on Site prior to the establishment of the licensed restaurant the proposal fails to satisfy clause 4.2.2.1 (g) of the Scheme for low impact tourist development in the Priority Agriculture zone “*where there is an established and continued agricultural pursuit and where such uses will be incidental and complementary to that established use*”.

LPS1 helpfully defines both “Predominant:” and “Incidental” as follows:

Predominant - means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary.

Incidental - means a use of premises which is ancillary and subordinate to the predominant use.

Further to this the local governments Local Planning Strategy 2036 supports low key tourism on agricultural lots only where it is ancillary and complementary to an existing agricultural use. Clause 4.16.4 of LPS1 specifically states that restaurants in the Priority Agriculture zone shall only be permitted where the primary use of the

land will remain for agricultural pursuits and the licensed restaurant or restaurant is incidental to that primary use.

Provision	Requirement	Proposal	Assessment
LPS1	4.2.2.1 (g)	Objectives of the Priority Agricultural Zone	Allow for low impact tourism development – when there is existing or continues agriculture. Where use is incidental to established use.
LPS1	4.16.4	Restaurants in Priority Agricultural Zone	License restaurant can be considered where primary use remains for agriculture, and licensed restaurant is incidental.

In the previous determination and subsequent SAT review of the original application, it was determined that in order for the rural land use to be the predominant, the entirety of the agriculture would need to be implemented prior to the commencement of the restaurant. Part of this was predicated on produce from the agricultural land use being incorporated into the kitchen of the restaurant to establish a relationship between the respective land uses on site. As discretion has not previously been exercised in respect to this matter, it is considered that this would be inconsistent with subclause (c) in that the proposal is substantially different to the previous determination.

Conclusion:

It is the local government's view that the applicants request for the revised wording of condition 5 would move the proposal further away from compliance with LPS1 by increasing the extent to which the approved non rural uses on the site dominate the agricultural production and therefore become the pre-dominant use.

Alternative

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 Development Assessment Panel

Plans and Specifications	P2 to P12 received by the Shire on 13 May 2024
--------------------------	--

5. Within 5 years of the establishment of the Licensed Restaurant, the balance of the agriculture shown on Plans P2 & P3 shall be implemented.

Officer Recommendation

It is recommended that the DAP/24/02701 resolves to:

1. **Approve** DAP Application reference DAP/24/02701 and accompanying plans P2 – P12 dated 13 May 2024 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Shire of Augusta Margaret River Local Planning Scheme No. 1, subject to the following conditions:
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 Development Assessment Panel

Plans and Specifications	P2 to P12 received by the Shire on 13 May 2024
--------------------------	--

5. Prior to commencement of the Licensed Restaurant, the applicant must have planted and irrigated all agriculture shown on the approved plans P2 and P3 and completed construction of the winery/ brewery.

Reasons for Officer Recommendation

The applicant request to modify condition 5 is not considered to meet the objectives and development standards of the Priority Agricultural zone in particular clause 4.2.1.1 (g) and 4.16.4.(a) as provided in the Shire of Augusta Margaret River Local Planning Scheme No.1.

DEVELOPMENT
ASSESSMENT PANEL

APPROVED

15-Oct-2024

NOTOS BREWERY

BURNSIDE ROAD MARGARET RIVER

SCALE APPROXIMATELY 1:5000 @ A2

LOCATION

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

02



GOOGLE EARTH MAP REFERENCE



NORTH

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

NOTOS BREWERY

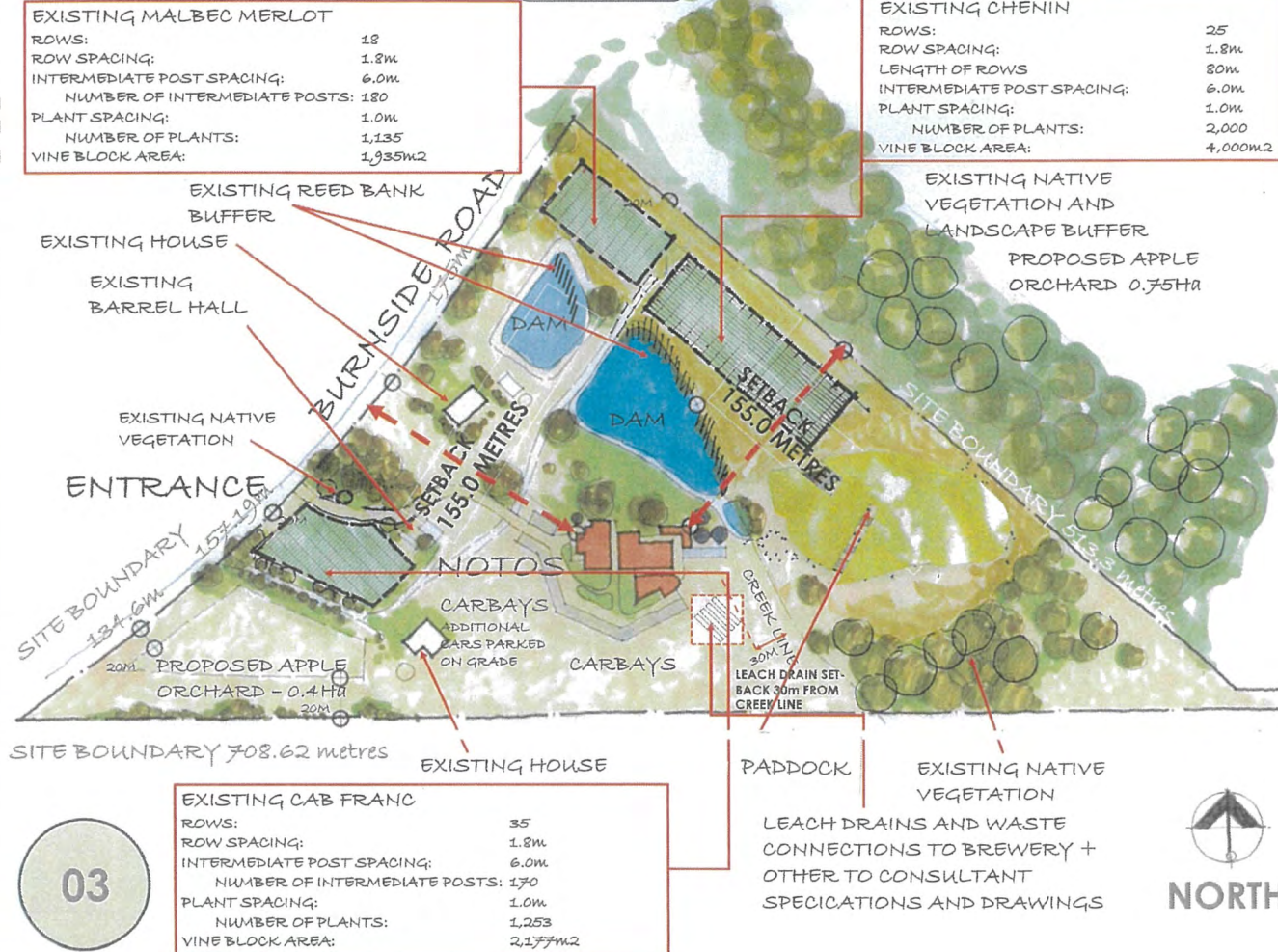
BURNSIDE ROAD

MARGARET RIVER

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

SCALE 1:1250 @ A2

SITE
EDGE4DESIGN
3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922



NORTH



EDGE4DESIGN

PLAN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

MAIN ENTRANCE FROM BURNSIDE ROAD

BUILDING
BREWERY
VERANDA
WINE
EXTERNAL
(MWC,
plus ST
ALFES
KITCHEN
BACK-C
PATROL

0

3 Rannoch Street **FLOREAT** WA 6014 | brian@edge4design.com | 0417 907 922

BUILDING AREAS	
BREWERY + VERANDAH	486.75m ²
WINE STORE	179.69m ²
EXTERNAL TOILETS (MWC, FWC, UAT x 2, plus STAFF ROOM	84.00m ²
ALFESCO DINING + KITCHEN + BACK-OF-HOUSE	363.25m ²
PATRON CAPACITY	200

04

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

EXISTING STEEL FRAME SHED
WITH INSULATION AND
COLORBOND CLADDING

END OF TRIP
FACILITY

EXTENT OF LICENSED
AREA FOR RGL
SHOWN DOTTED

LEACH DRAIN
SET-BACK
30m FROM
CREEK LINE

LEACH DRAINS AND WASTE CONNECTIONS TO BREWERY + OTHER TO CONSULTANT SPECIFICATIONS AND DRAWINGS

NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

SCALE 1:250 @ A2

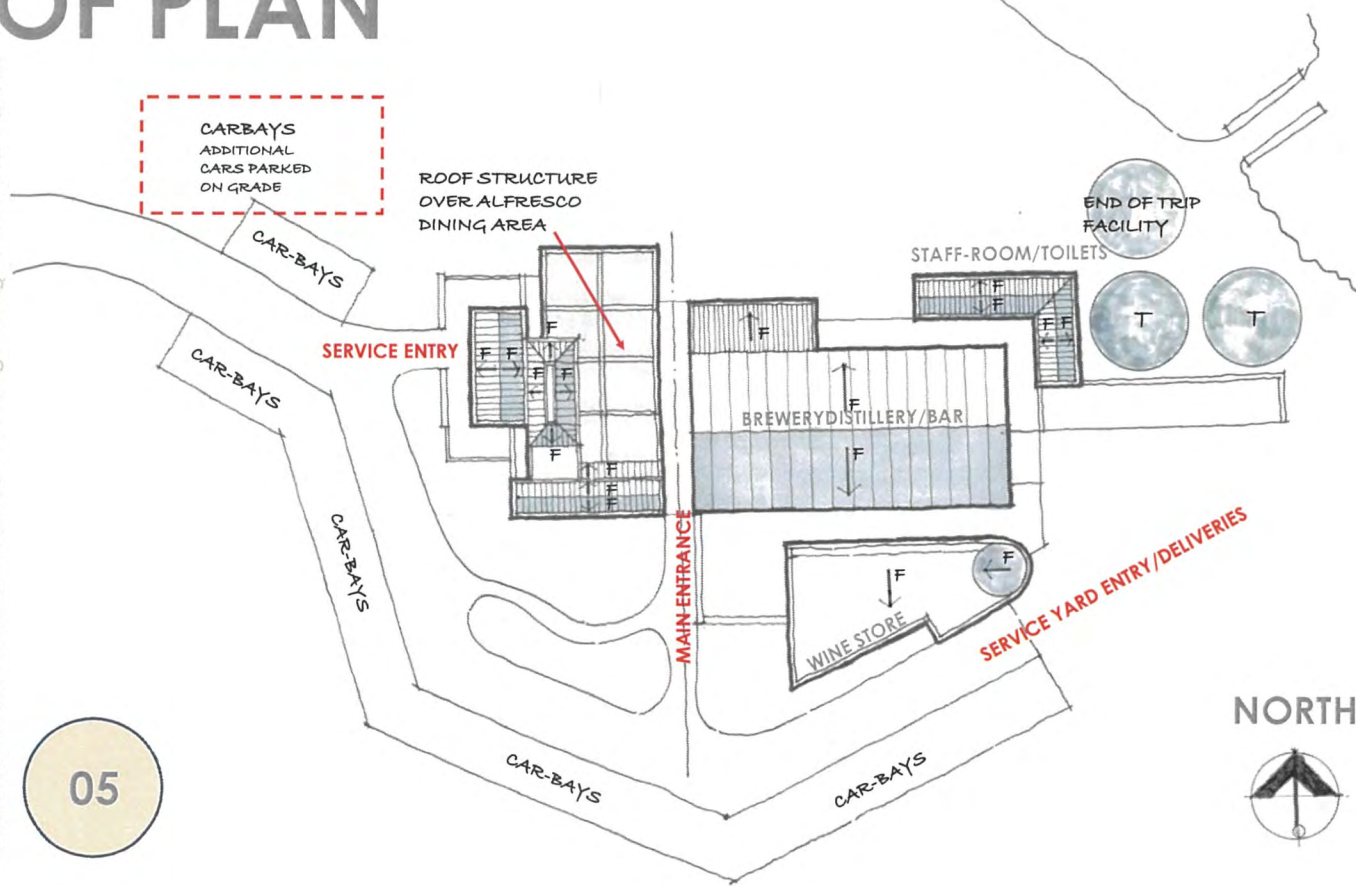
RECEIVED
By Shire of Augusta Margaret River
13 May 2024

ROOF PLAN

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

05



NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER
SCALE 1:200 @ A2

ELEVATIONS

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

NOTE:

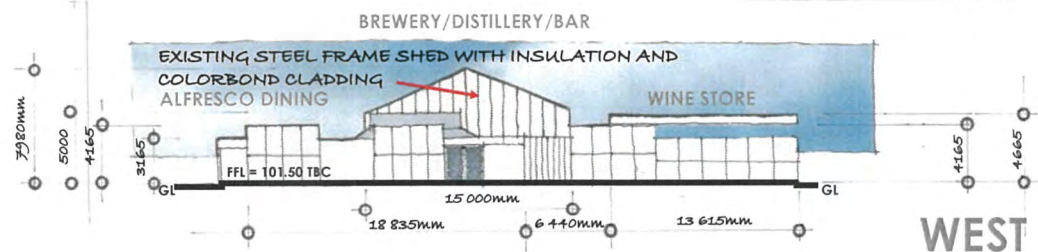
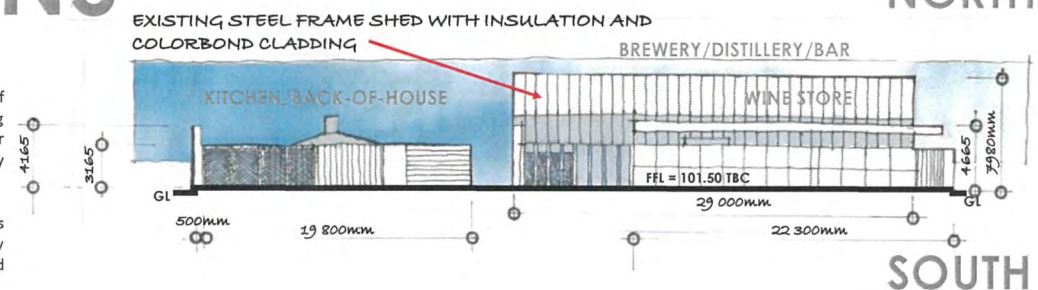
NOTOS brewery has no changes of level throughout the building making for easy movement for patrons and any physically handicapped.

The floor level inside NOTOS as noted is 0.0 and is approximately 150mm above the adjacent ground level.

The building existing ground level is a prepared pad which in terms of adjacent (and existing) site levels sits at approximately 101.50m

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

06



NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER
SCALE 1:200 @ A2

SECTIONS

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

07

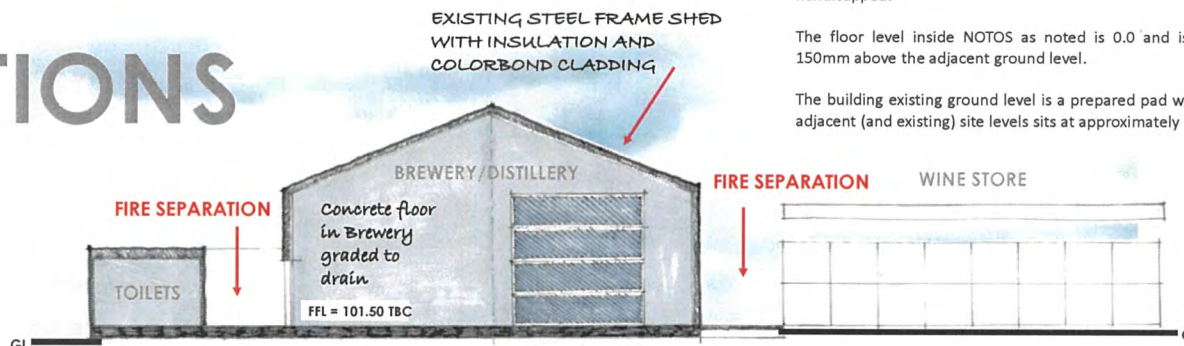
RECEIVED
By Shire of Augusta Margaret River
13 May 2024

NOTE:

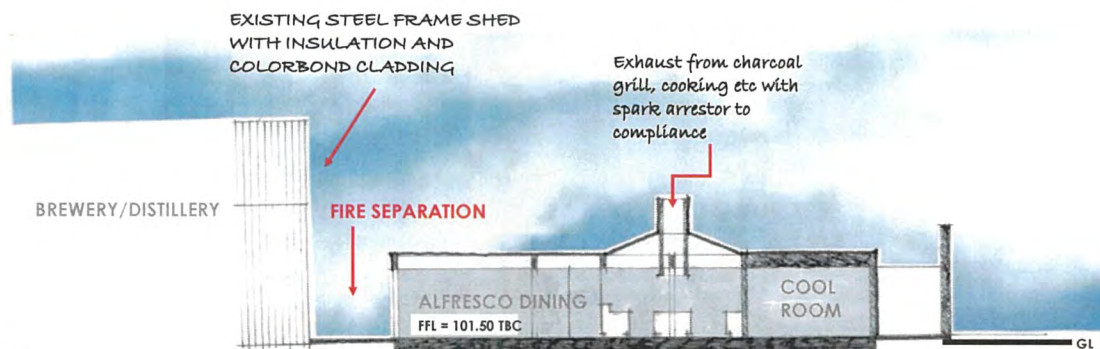
NOTOS brewery has no changes of level throughout the building making for easy movement for patrons and any physically handicapped.

The floor level inside NOTOS as noted is 0.0' and is approximately 150mm above the adjacent ground level.

The building existing ground level is a prepared pad which in terms of adjacent (and existing) site levels sits at approximately 101.50m



SECTION A - A



SECTION B - B

NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

3D VISUAL

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

EXISTING STEEL FRAME SHED
WITH INSULATION AND
COLORBOND CLADDING

BREWERY/DISTILLERY/BAR

WINE STORE

ALFRESCO DINING

SERVICE ENTRY

ARRIVAL VIEW
3D VISUALISATION

08

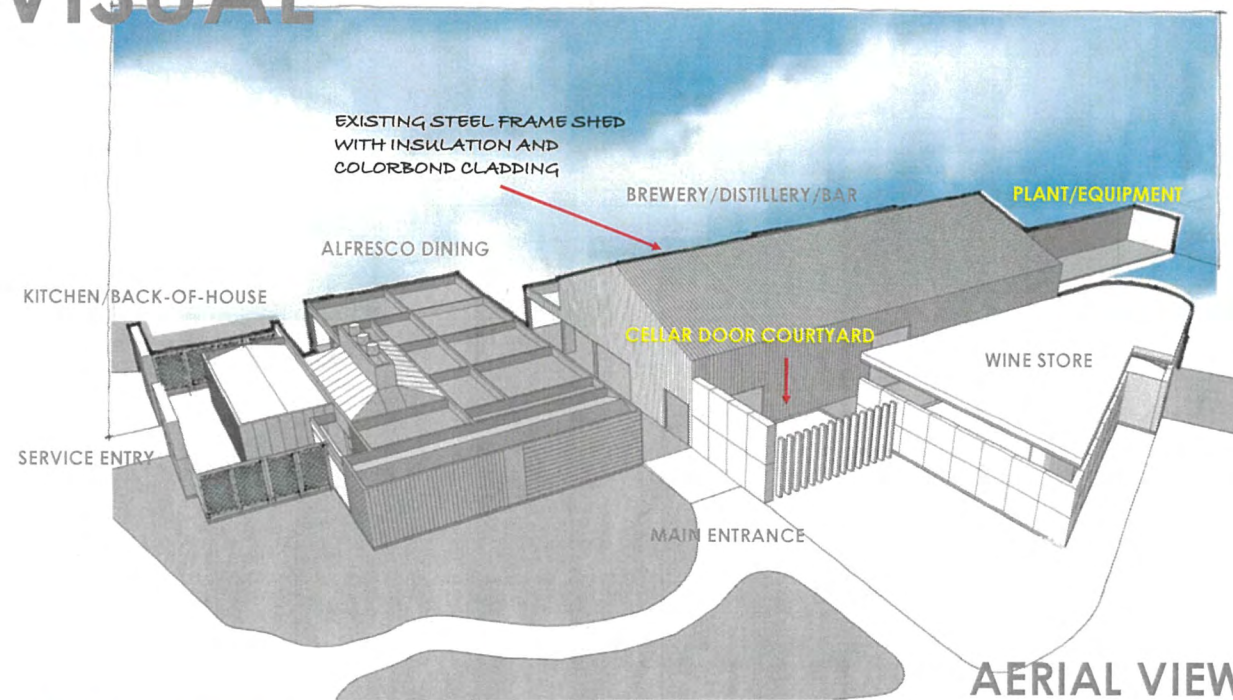
RECEIVED
By Shire of Augusta Margaret River
13 May 2024

NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

3D VISUAL

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922



AERIAL VIEW
3D VISUALISATION

09

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

3D VISUAL

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922



EAST VIEW
3D VISUALISATION

10

RECEIVED
By Shire of Augusta Margaret River
13 May 2024

NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

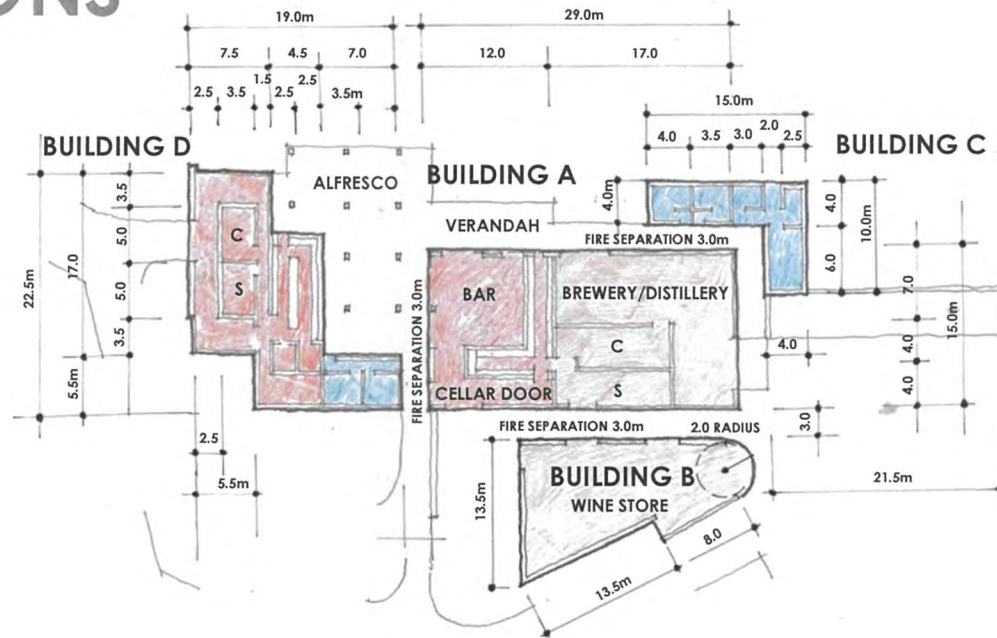
SCALE 1:250 @ A2

- BUILDING A** BREWERY/DISTILLERY/BAR/CELLAR DOOR/COOL ROOM/STORE
BUILDING B WINE STORE
BUILDING C MALE WC/FEMALE WC/UAT/STAFF ROOM/STAFF UAT
BUILDING D KITCHEN/STORE/COOL ROOM/STORE / BIN STORE / MALE WC FEMALE WC

DIMENSIONS

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922



AREAS

- BUILDING A** BAR 172.5m² / BREWERY/DISTILLERY 262.5m² TOTAL 435.0m²
BUILDING B WINE STORE 197m² TOTAL 197.0m²
BUILDING C MALE WC/FEMALE WC/UAT/STAFF ROOM/STAFF UAT 26.0m² TOTAL 26.0m²
BUILDING D KITCHEN/STORE/COOL ROOM/STORE 139.25m² / BIN STORE 65.25m² / MALE WC FEMALE WC 37.5m²
TOTAL 242.0m²
TOTAL BUILDING AREA 900m²



NOTOS BREWERY
BURNSIDE ROAD MARGARET RIVER

PALETTE

EDGE4DESIGN

3 Rannoch Street FLOREAT WA 6014 | brian@edge4design.com | 0417 907 922

12



CORTEN STEEL
CLADDING
SCREEN
WALLS/WALLS



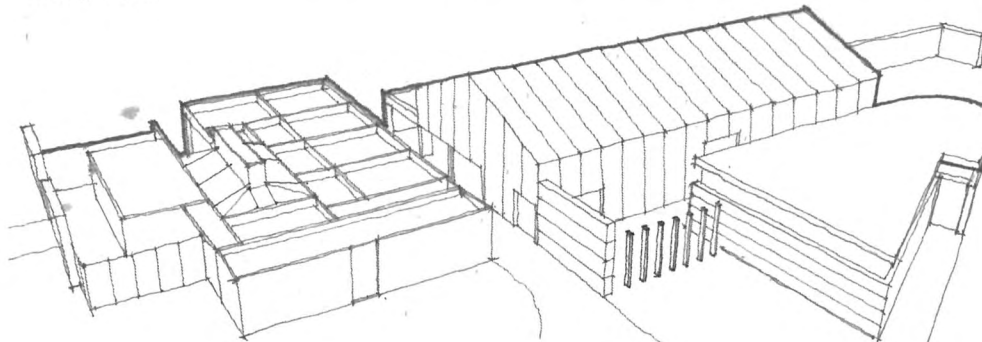
TIMBER
SALVAGED/RECYCLED
SCREEN WALLS/WALLS



COLORBOND
PALE EUCALYPT
CLADDING



COLORBOND
MANGROVE
CLADDING



ALL COLOURS AND MATERIALS REFERENCE THE
SURROUNDING ENVIRONMENT



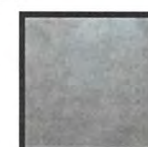
CONCRETE
HONED
BAR
FLOOR FINISH



RAMMED EARTH
SCREEN WALLS/WALLS



LIMESTONE/PEBBLE
PATHWAYS,
LANDSCAPING



CONCRETE
BURNISHED
BREWERY
FLOOR FINISH



STAINLESS STEEL
BRUSHED



COLORBOND
MONUMENT
CLADDING

RECEIVED
By Shire of Augusta, Margaret River
13 May 2024



PART C – OTHER BUSINESS

- 1. State Administrative Tribunal Applications and Supreme Court Appeals**
- 2. Meeting Closure**