

YR-2023/951 - 23 Maddens Lane, Gruyere – Planning Report

APPLICATION DETAILS

Site Address	23 Maddens Lane, Gruyere 3770
Application No.	YR-2023/951
Proposal	Use and development of a winery and small second dwelling, license premises and display of business identification signs.
Existing Use	Dwelling and agricultural land use (vineyard)
Applicant	Andrew Vogt C/- Millar Merrigan
Zone	Clause 35.04 - Green Wedge Zone Schedule 4
Overlays	Clause 42.03 - Significant Landscape Overlay Schedule 6
Permit trigger/s	<p>Clause 35.04- Green Wedge Zone Schedule 4</p> <ul style="list-style-type: none"> • A permit is required to use the land for the purpose of a winery. • A permit is required for buildings and works (development) associated with a Section 2 use (winery) • A permit is required for the use and development of a small second dwelling. <p>Clause 52.05 – Signs</p> <ul style="list-style-type: none"> • A permit is required to display a business identification sign (Category 3). <p>Clause 52.27 – Licenced Premises</p> <ul style="list-style-type: none"> • A permit is required to use land to sell or consume liquor
Particular provisions	<p>Clause 51.02 - Metropolitan Green Wedge Land: Core Planning Provisions</p> <p>Clause 52.05 – Signs</p> <p>Clause 52.06 – Car Parking</p> <p>Clause 52.27 – License Premises</p>
Other Provisions	Clause 65 – Decision guidelines
Municipal Planning Strategy	<p>Clause 02.03-1 – Settlement</p> <p>Clause 02.03-7 – Tourism</p>

Planning Framework Policy	Clause 11.01-1R – Green Wedges – Metropolitan Melbourne Clause 11.01-1L-04 – Green Wedge Clause 12.05-2L – Rural Landscapes Clause 13.02-1S – Bushfire Planning Clause 13.07-1S – Land Use Compatibility Clause 14.01-1S – Protection of Agricultural Land Clause 16.01-2S – Housing affordability Clause 16.01-3S – Rural residential development Clause 17.04-1L – Tourism in the Yarra Ranges Green Wedge
Objections	Sixteen (16)
Encumbrances on Title (Covenants/Section 173 Agreements)	No
Reason for Council Decision	More than ten (10) objections
Ward	Ryrie

SUMMARY

The planning application seeks approval to use and develop the site for a winery and small second dwelling, licenced premises, and display of business identification signs, at 23 Maddens Lane, Gruyere. The proposal includes retaining the existing dwelling and outbuildings on the site.

The application was advertised, and sixteen (16) objections were received. Objectors raised concerns of whether the use constitutes a winery, as well as concerns that this is an overdevelopment of the site, future expansion of the use, the proposal not aligning with Green Wedge Zone, the small second dwelling being used for tourism accommodation and concerns of offsite amenity impacts from use.

An assessment of the application against the requirements of the Yarra Ranges Planning Scheme, including the relevant planning policies for economy, agriculture and housing has found that the application meets the requirements and is a suitable planning outcome for the site.

Overall, the proposal responds to the constraints of the site, including residential interfaces. The proposal respects the existing viticultural use of the land and the surrounding land uses and provides a small-scale winery within an established agricultural and rural area.

It is recommended that the application be approved, and a Notice of Decision to Grant a Permit be issued subject to conditions to manage the surrounding amenity impacts (attachment 1).

RECOMMENDATION

That Council resolve to approve Planning Application YR-2023/951 for use and development of a winery (associated with an existing vineyard), and a small second dwelling, licenced premise, and display of business identification signs at 23 Maddens Lane, Gruyere, and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007 (Vic)* as to the need for a Cultural Heritage Management Plan (CHMP).

It has been assessed that a CHMP is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title.

SITE LOCATION AND DESCRIPTION

The site is located on the east side of Maddens Lane, approximately 265 metres north of Medhurst Lane, in Gruyere. The subject site is described on the Certificate of Title as Lot 3 on Plan of Subdivision 084111. The site is an L-shaped site, with a frontage to Maddens Lane of 118 metres, a depth along the north boundary of 258.39 metres, and a total site area of 4.045 hectares.

The site rises approximately twenty (20) metres from the north-west to the south-east. There are no easements on the site. Reticulated water and electricity are available, sewerage is not available. Vehicle access is via a single vehicle crossover adjacent to the southern boundary to Maddens Lane.

As shown in the aerial in Figure 1 below, the site is currently used as an established vineyard, with an existing dwelling and outbuildings. The site contains canopy tree planting near the existing buildings and along some property boundaries. A substantial dam exists in the south-east corner of the site.



Figure 1 – Aerial Photo of Subject Site

SURROUNDING AREA

The site is located within a rural area of Gruyere comprising a mixture of agricultural land uses and rural residential dwelling uses, refer to Figure 2.

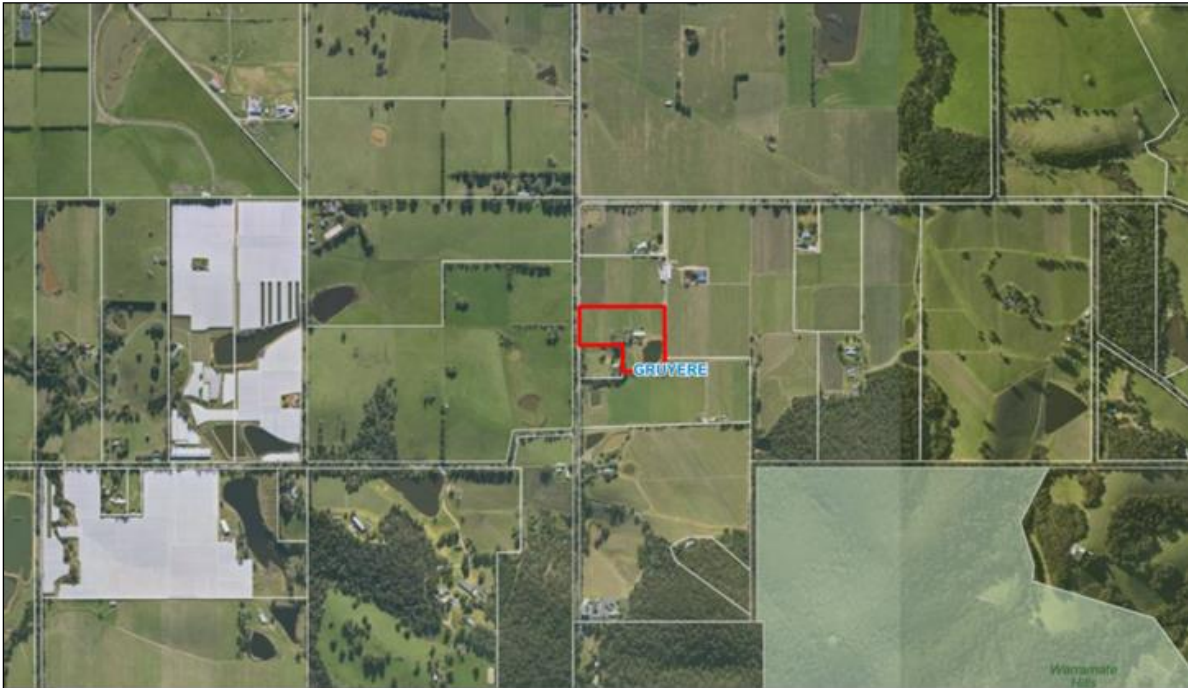


Figure 2 – Aerial image of the surrounding area

The site is directly surrounded on all boundaries by agricultural land, with a variety of agricultural pursuits, including crop raising and vineyards.

The land to the north, east and a portion of the south to the site is characterised by vineyards, agricultural land uses. The remainder of the southern boundary adjoins a smaller rural residential lifestyle allotment containing a dwelling with no agricultural land use occurring. Land to the west of the site is agricultural land.

The zoning of the site and surrounds is shown in Figure 3.



Figure 3 – Zone map of subject site and surrounding area

The subject site and surrounding area are zoned Green Wedge Zone Schedule 4, where agricultural uses are encouraged. The Public Conservation and Resource Zone to the south-east is Warramate Hills Nature Conservation Reserve, owned and managed by Parks Victoria. The Rural Conservation Zone Schedule 1 south of the site covers areas of environmental significance, shown in Figure 3.

The adjoining properties of the subject site are described as follows:

North

- The site adjoins Yarra Yering Winery. This site extends along the north and much of the east boundary of the subject site, and contains an extensive vineyard and outbuildings associated with the use as a winery.

South

- The site adjoins a rural lifestyle property. This site contains a single dwelling located in the north-east corner of the site, 6.6 metres from the southern common boundary with the site, and 2.9 metres from the western common boundary with the site. The site also contains vegetation largely along the property boundary, a dam and a large outbuilding.

East

- The site adjoins a vineyard with agricultural outbuildings associated with the use of the land. A dam is located adjacent to the Maddens Lane frontage.

West

- Across the road is an agricultural property with associated dams and scattered vegetation.

PROPOSAL

The proposal seek permission for use and development of a winery, use and development of a small second dwelling, licenced premises, and display of business identification signs, refer to Figures 4 to 7. A complete set of development plans are available in Attachment 2.

Details for the proposal includes:

Use and development of a winery

Use of the land for the purpose of winery with cellar door, comprising:

- Hours of operation - Thursday – Sunday 10am – 9pm
- Patronage - Maximum 20 patrons on site at any one time
- Manufacturing of wine on site including harvesting of grapes, storing of wine barrels for maturation, and bottling/labelling of bottles
- Grapes processed off-site
- All wine available at the cellar door would be part of the Maddens Lane Winery brand.

Alterations and additions to the existing building, comprising:

- Cellar door with kitchenette and bar
- Two toilets
- Outdoor terrace area

Licenced Premise

The cellar door area is to be provided with a red line plan to allow for the sale and consumption of alcohol. The red line includes the cellar door and kitchenette area, and a proposed terrace area.

A red line plan defines an area on the site or premise where the supply and consumption of liquor is to occur.

Car parking

The car parking area provides for nine car spaces including one *Disability Discrimination Act* 1992 (DDA) compliant car space.

Advertising Signs

Two (2) business identification signs. The signs have a dimension of two (2) metres by two (2) metres, fixed to an angled frame to face north and south along Maddens Lane. The frame stands 1.2 metres above the natural ground level (NGL).

Access

The existing crossover to Maddens Lane is proposed to be retained. The internal three metre driveway is proposed to split into two directions: one for public access parking for the winery and small second dwelling, and the other for to the existing main dwelling being retained.

A 6.1 metre wide by seven (7) metre long passing bay is proposed at the entrance with Maddens Lane.

Small Second Dwelling

Use and development of a small second dwelling, comprising:

- Open plan living, dining and kitchen area with access to a deck, two bedrooms, bathroom, and laundry.
- External cladding of weatherboard walls in dark grey 'Monument' aluminium double-glazed windows in white, a pitched metal roof in dark grey 'Monument', and merbau decking.
- A maximum building height of 4.33 metres.
- A 20,000L water tank, comprising 10,000 litres for CFA use.

Effluent Disposal Fields

The proposal seeks to provide three effluent fields to provide for the proposed winery and small second dwelling. A Land Capability Assessment of the proposed effluent system has been provided, see Attachment 3.

The effluent fields are to be located west of the existing dam, 15 metres off the common boundary with the rural residential property, and within proximity of the dwelling on the adjoining property.

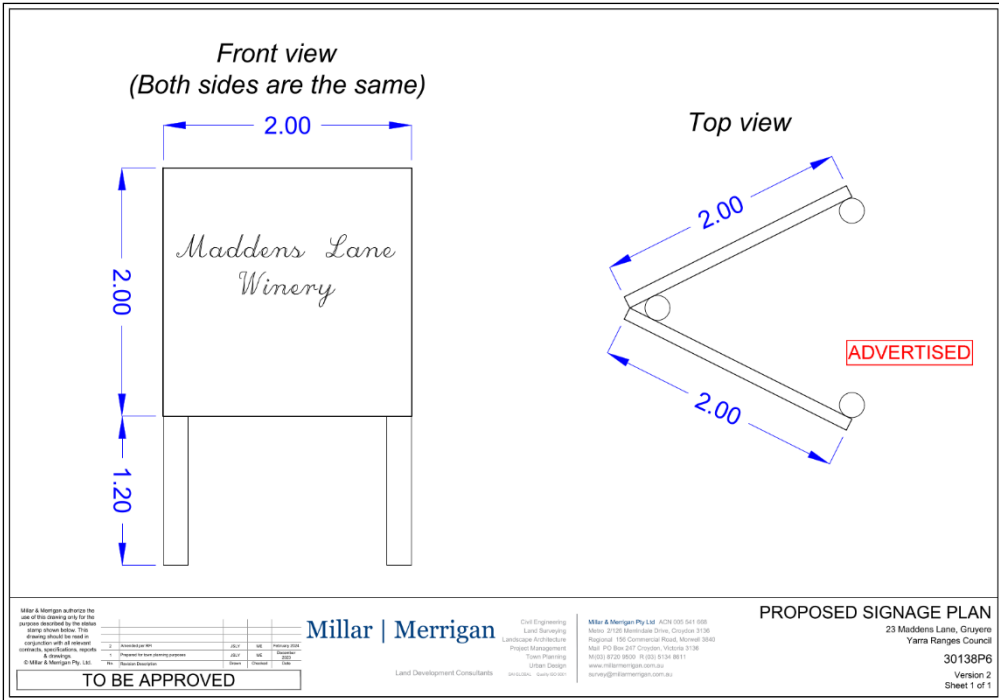


Figure 6- Signage Plan

HISTORY

There is no formal planning application history for this site.

A compliance case was raised in March 2024 regarding earthworks and vegetation removal near the existing dam. Council conducted a site inspection, and the owner provided an Arborist Report as part of this compliance matter.

The works were recommended to be undertaken by Melbourne Water, due to the dam wall being structurally unsound. All trees had to be removed to reconstruct the dam wall and ensure its structural stability.

The planning compliance matter was closed with no further action.

CONSULTATION

Internal Referrals

This application was referred to various business units or individuals within Council for advice on matters.

A summary of the relevant advice is outlined below:

Department	Response	Planner Comments
Traffic Engineering	No objection subject to standard conditions.	All conditions recommended to be included on the permit as Conditions 23-27.

Department	Response	Planner Comments
		<p>Conditions relate to crossover construction, parking arrangements and infrastructure works.</p> <p>Condition 1 will also include the following plan changes:</p> <ul style="list-style-type: none"> • 1(e) - The notation 'Existing 6.3m wide gravel crossover' deleted and replaced with '<i>Existing crushed rock vehicle crossing widened to 6.3 metres.</i> • 1(f) - The notation 'Existing 3m wide gravel Driveway' deleted and replaced with 'Existing crushed rock accessway widened to 3.0 metres minimum'.
Drainage Engineering	<p>No objection subject to a standard condition.</p> <p>Comments: Drainage from small second dwelling can be managed within property boundaries.</p>	<p>Recommended condition to be included on the permit as Condition 29 requiring engineering certification of civil works.</p>
Health	<p>No objection to the proposal subject to conditions</p> <p>Comments: Submitted Land Capability Assessment has been reviewed and there are no concerns with the proposed solution, subject to standard conditions.</p>	<p>Recommended condition to be included on the permit as Condition 29 requiring discharge to an Environment Protection Authority (EPA) approved system.</p>
Arborist	<p>No objection subject to conditions.</p> <p>Comments: Submitted Arborist Report (Attachment 4) reviewed to reveal no concern with assessment works around Trees 1–3, 5–10 and 12–36. These trees health to be unimpacted, subject to standard conditions. Vegetation removal required to accommodate the development</p>	<p>All conditions recommended to be included on the permit as Conditions 31-33.</p> <p>Conditions relate to tree protection measures, including fencing during construction.</p>

Department	Response	Planner Comments
	does not trigger a planning permit.	
Strategic Planning	Strategic planning support for the proposal, no conditions required.	No conditions required
Urban Design and Landscaping	No concern subject amendments to the design Comments <ul style="list-style-type: none"> • Retention of the tree adjacent to the Small second dwelling. • Provision of a path to the small second dwelling. • Carparking for the small second dwelling to be provided in the main parking area. 	All design suggestions have been amended into the current set of plans. No conditions required.
Economic Development	No objection recommended	No conditions required

External Referrals

There were no external referrals required by the planning scheme.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of two sign/s on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Public notification was undertaken twice:

1. The first period of notification was for the original submitted proposal.
2. The second period was to readvertise the formal amendment of the plans under Section 57A, which amended the proposed hours of operation and driveway location. This was in response to concerns raised in submissions received by Council. Changes to the application included, inclusion of the red line plan, change in the driveway alignment, arboriculture information and reduction in opening days from seven days a week to four days a week, Thursday to Sunday.

First notification period

28 June 2024 - Public notification undertaken by direct mail to 52 owners and occupiers within the immediate area of the subject site. A sign was also posted on site.

Council was informed that visibility of the signage at the site frontage was limited to passers-by due to essential road works taking place on Maddens Lane which resulted in limited access to Maddens Lane during the works. Access was limited to local traffic only.

Due to the restricted access to Maddens Lane, Council widened the area of direct notification. An additional 41 letters to surrounding owners and occupiers were issued on 4 July 2024, and the notification period was extended by 14 days.

Second notification period

Council received a Section 57A amendment on 26 September 2024, to change the hours of operation and driveway location.

On 2 October 2024, the application was all objectors and properties previously advertised to, plus Two (2) signs were also placed on the site.

Number of submissions

A total of sixteen (16) objections have been received.

The grounds of objection can be summarised as follows:

- Whether the proposed use constitutes a winery.
- The viability of the site as a winery given the size of the allotment and wine production potential.
- Use is an overdevelopment of the site.
- Scale and intensity and potential for the use to be expanded to include a restaurant.
- Limited details provided on the operational side of the winery.
- The purpose of the Green Wedge Zone to protect the environmental significance.
- The amenity and privacy impact of the proposal on the existing dwelling and residences of the adjoining property to the south-west.
- The suitability of the site for a small second dwelling, and impact on adjoining properties.
- The potential use of the small second dwelling for accommodation.
- Illegal works including earthworks and removal of vegetation to the dam, works to existing dwelling.
- Suitability of existing driveway to accommodate proposed use, development, and emergency services.
- Proposed effluent fields located within proximity to property boundary and offsite impacts.
- Proposed effluent field locations impacting existing trees on subject site.
- Traffic impact to Maddens Lane, risk to visitors, need for traffic lights at Maddens Lane/Maroonah Highway intersections.

ASSESSMENT

Assessment of the proposal against the relevant provisions of the planning scheme has been undertaken, and it is considered that the application meets the purpose of the planning scheme, including the Green Wedge Zone Schedule 4.

For further information on the Planning Scheme provisions refer to Attachment 5.

There are several elements of the proposal which are to be assessed:

- Use and development of the land for a winery and associated elements
- Development for a Small Second Dwelling

Use and development of the land for a Winery/Cellar Door and associated elements

Municipal Planning Strategy and Planning Policy Framework

Winery

The winery proposal aligns with the requirements of the Municipal Planning Strategy and Planning Policy Framework. It directly addresses the requirements and strategic directions outlined in Clause 02.03-1 (Settlement), Clause 02.03-7 (Economic Development), and Clause 02.04 (Strategic Framework Plan).

The use and development of a winery responds appropriately to the objectives of Clause 11.01-1R (Green Wedge – Metropolitan Melbourne), Clause 11.01-1L-04 (Green Wedge), Clause 12.05-2L (Rural Landscapes), Clause 14.01-1S (Protection of Agricultural Land), Clause 17.04-1L (Tourism in the Yarra Ranges Green Wedge) and Clause 51.02 Metropolitan Green Wedge Land.

Situated within the established Yarra Ranges winery region, which is recognised and promoted by the Yarra Ranges Municipal Strategic Framework, the proposed winery builds on the area's existing tourism winery reputation.

The primary land use on the site remains agricultural with an existing dwelling. The proposed winery complements the current agricultural and residential uses while preserving productive agricultural land.

The proposal supports an integrated commercial and tourism operation, blending into the rural landscape. It maximises the use of existing infrastructure and built forms, minimises the removal of significant vegetation and integrates seamlessly with the surrounding environment.

The proposal complies with Clause 13.07-1S (Land Use Compatibility) by ensuring compatibility with neighbouring land uses, including existing vineyards and wineries along Maddens Lane. However, the sensitive interface with the rural residential property to the southwest requires careful management to avoid adverse impacts on

this adjoining property. Details on managing amenity impacts are discussed further below.

The winery's small scale reflects the limited site area, helping to protect local amenity and balance land-use compatibility with nearby rural residential properties.

Overall, the winery offers another valuable addition to the region's tourism winery landscape and is locally compatible, work in conjunction with the existing agricultural (vineyard) use of the subject site and surrounding area.

Use and development of a winery

The subject site is in an area of Gruyere characterised by agriculture (vineyard) land use positioned alongside rural lifestyle properties and traditional grazed pasture agricultural land use.

The applicant has stated in their submission to Council (see attachment 6) that the site has historically operated in some capacity as a winery, with existing buildings providing a cellar door component and barrel storage in the basement. According to Council historical records, the winery ceased operations, this application seeks to reinstate the winery use back onto the site.

The existing building plans show a previously used cellar door / tasting room in the existing building, with the winery in the basement below the dwelling.

The proposed winery use of the land is contingent on it responding to the purpose and decision guidelines of the Green Wedge Zone:

“...to provide for use of the land for agriculture”, to recognise and protect the land for its agricultural, environmental, landscape, and tourism purposes, to encourage use and development that is consistent with sustainable land management practices, to encourage sustainable farming activities and productive agricultural uses, and to enhance the biodiversity of the area”.

The winery recognises the commercial, recreational and tourism potential for the subject site, whilst retaining the primary agricultural (vineyard) land use and preserving the wider landscape character.

The proposal responds appropriately to the decision guidelines of the Green Wedge Zone Schedule 4, demonstrating the land can accommodate a small-scale winery use and the associated minor development works. The reuse of the existing building on the site as the cellar door component minimises adverse impacts on the character and appearance of the area, retaining the existing built form coverage on site and revitalising the existing unused buildings.

The use of the site as a winery is compatible with adjoining vineyard and winery land uses to the north, east and south, demonstrating the suitability of the land to sustain the proposed activities. The proposal has a sensitive interface with a rural residential property to the southwest, with the dwelling on this property located adjacent to the common property boundaries. The proposed use of the subject site as a winery, whilst an intensification of the use adjacent to a rural residential property, can be

appropriately controlled to protect the ongoing amenity of the residential property through the recommendations outlined in the below assessment.

A “winery” land use is defined under Clause 73.03 of the Yarra Ranges Planning Scheme as:

“Land used to display, and sell by retail, vineyard products, in association with the growing of grape vines and the manufacture of vineyard products. It may include the preparation and sale of food and drink for consumption on the premises.”

The proposed winery satisfies the requirements of the definition. The proposal seeks to process the grapes from the existing vineyard operation offsite due to the financial input required to process the grapes on the site. Sufficient manufacturing processes will be occurring on the site, including harvesting the grapes, maturation of the wine in barrels, and bottling/labelling the wine for the activities on site to support the winery land use.

The applicant has submitted to Council that no outside wine external to the Maddens Lane Winery brand is to be available at the cellar door. To further limit the scale of the operation and maintain the definition as a winery, the wine served and sold from the proposed cellar door will be required to be manufactured from 75 percent of the grapes grown on the land.

To address this, Condition 16 of the permit has been included as a permit condition to limit the wine sold to be produced majority from the grapes grown on the land.

The application has not included a restaurant or food service use associated with the winery. The size of the land prohibits use of the land for a restaurant use. A condition has been included to limit food being sold separately, therefore ensuring that the venue does not transform beyond a cellar door.

To address this, Condition 18 of the permit has limited any food consumption on site to be only light snacks and pre-packaged food associated with the tasting and required for the responsible service of alcohol. The condition also restricts that no food is to be sold separately.

Winery/Cellar Door - Buildings and Works

The proposal seeks to convert the existing building into a cellar door, providing an area where patrons can purchase and taste wine.

The cellar door works comprise internally rearranging the building to accommodate two toilets and a kitchenette area, and external changes to windows and doors. The kitchenette is to prepare small snack food to complement wine tasting and to encourage the responsible consumption of alcohol. No formal food service would be permitted as part of the use. The external changes to the facade do not alter the appearance significantly of the existing building.

The cellar door area extends out to a 'terrace' off the northern elevation, which is appropriately sited and designed to limit amenity impacts on the adjoining dwelling to the south-west of the building.

The existing building's basement will be used to store wine barrels for the maturation process, prior to bottling.

The proposed internal driveway and carpark extensions for the winery has minimal encroachment of tree protection zone of nearby trees. Tree health will not be impacted.

Winery/Cellar Door – Patrons Numbers

The application seeks a patronage of 20 patrons at any one time. The number of patrons is reasonable and appropriate for the scale of the proposed winery. The number can accommodate a small tour bus, as well as individuals who may visit in conjunction with visits to other wineries along Maddens Lane.

To address this Condition 7 and Condition 8 of the recommended permit conditions controls this as part of the future operation of the winery.

Winery/Cellar Door - Hours of operation

The proposal seeks the following hours of operation for patrons to visit the site to explore scenery and purchase and consume liquor.

- Thursday to Sunday between 10.00am – 9.00pm.

Officers do not contest the days of operation, as these reflect the visitation patterns for wineries to our region. However, the hours of operation on the given days do not reflect the constraints of the site, the small-scale winery/cellar door operations and amenity impacts and proximity to existing surrounding residential properties.

It is deemed more appropriate to reduce the hours of operation to:

- Thursday to Sunday between 10.00am – 5.00pm.
- Good Friday, Anzac Day and Christmas Day - Closed

These recommending hours of operation protect the amenity of the adjoining properties and contain the scale of proposed use to reflect the small-scale winery operation. Further, these recommending hours of operation appropriately reflect the fact the site will not be able to offer other complementary patron tourism activities such as a restaurant and guest accommodation due to the subject land size been too small to meet the 40 hectare minimum criteria for a planning consideration under Green Wedge Zone.

To address this Condition 5 and 6 of the recommended permit conditions controls the hours of operation.

Winery/Cellar Door - Location of sale and consumption of Liquor (red line area)

The applicant has provided a redline area which delineates the area for liquor sales and wine tastings can take place.

The submitted redline area is shown in Figure 7:



Figure 7 – Red Line Plan indicating where liquor will be served

When considered the redline area we must consider amenity impacts to the surrounding area.

The proposed red line area comprises the cellar door area, terrace area, and a portion of grass/garden area beyond the terrace to the north and west.

It is common for wineries to offer the outdoor areas to maximise their patron experience to enjoy the rural landscape sceneries outdoors in the warmer months of year.

Officers support containing the red line area to the cellar door and terrace area. However, officers do not support the portion of grass/garden area beyond the terrace to the north and west due to a clear proximity impact to adjoining rural residential property.

It is acknowledged that the planning policy promotes economic opportunities for tourism-related activities within the Green Wedge Zone, and the site is in an area with several established winery operations, generally on a larger scale than the proposed development and situated on larger allotments with more significant setbacks from sensitive interfaces. However, this site has specific constraints that must be considered for potential amenity impacts, particularly due to its proximity to an adjoining rural residential property, as the dwelling on the adjoining property is located just 51.5 metres to the southwest of the proposed cellar door and red line area.

With 20 patrons proposed on site at any one time, it is considered patrons would not spread far from the core cellar door building area and terrace when purchasing and wine tasting. With the minimal food available there is a general discouraging of longer stays by patrons.

Having regard to the patron numbers, winery size, proposed redline area, together with the need to minimise adverse impacts to adjoining rural residential property, it is recommended that a balanced approach is to reduce the redline area as stated above to maintain a reasonable setback between the red line area, and the adjoining south-west rural residential property, without compromising the tourism experience of outdoor activities.

To address this concern, Condition 1d of the recommended permit conditions has been included to reduce the redline area on the plan.

Winery/Cellar Door - Signs

The proposed business identifications signs to be located adjacent to the crossover access to Maddens Lane are a reasonable design outcome for the scale of the proposed use. No additional signage is proposed on site. Directional signage may be required to ensure patrons of the winery follow the correct driveway orientation. In accordance with the decision guidelines, the appropriateness of the signs and their impact on the streetscape and wider area must be considered.

The proposed business identification signs, meets the planning scheme definition and are modest in design, with a simple white background and contrasting black writing with the winery name “*Maddens Lane Winery.*” No illumination of the sign is proposed. The design will not cause unnecessary visual clutter or distractions, or impact on road safety, particularly given there are no other signs within the immediate vicinity of the proposed sign.

The scale of the signs, at two metres by two metres, erected on a 1.2 metre supporting frame is not sensitive to the area in terms of the rural landscape and protection of views and vistas. The scale of the signs should be reduced in scale to a maximum overall height and width of 1.5 metres, including any supporting structures, similar in scale to the business identification signs for other wineries within the vicinity of the subject site, maintaining a consistency in the scale and form of signage relative to the landscape.

To address this, Condition 1c has required amended plans for the signage to be prepared.

Winery - access

The winery access shares the common driveway with the onsite dwelling from Maddens Lane, however where adjacent to the adjoining dwelling the driveway design has been proposed to split the driveway. Consideration was given to options to relocate the winery access, however relocating the crossover and driveway is constrained by the agricultural activity occurring on the site and would result in the fragmentation of the land. A standalone access point for the winery would also mean a new access point onto Maddens Lane, which should be avoided.

The split driveway design will create a separate access point for visitors away from the shared boundary with the nearby adjoining dwelling. The split design will enable the existing dwelling to retain its established access arrangement, while moving the vehicles accessing to the site for the winery to be away from the boundary, thus allowing the existing dense vegetation along the shared boundary to provide a buffer of noise, sound and dust, see Figure 8 below. The split to the driveway design will create a setback of 24.1 metres between the driveway servicing the winery and the adjoining dwelling.

Both the existing access and the newly design split driveway access will be a crushed rock material, which is an acceptable access design material for a driveway which will be servicing low levels of traffic volumes. The limited patron numbers of 20 on site at any one time is not expected to generate large and frequent traffic movements. With low traffic volumes it is not required for the access to be sealed and a request to seal the access would be beyond the design requirements for a winery of this scale.



Figure 8 – Existing access to site showing existing vegetation along the shared boundary.

Small Second Dwelling

Strategic Framework – Small Second Dwelling

The proposal includes the use and development of a small second dwelling. A small second dwelling is categorised to be self-contained, no greater than 60 square metres in size and provides additional housing accommodation on land with an existing dwelling.

A review of the site history confirms that there is an existing dwelling on the site, which provides residential accommodation.

The proposed small second dwelling suitably responds to the objectives set in Clause 16.01-2S (Housing Affordability) and 16.01-3S (Rural Residential) to support alternative housing affordability options in established residential used land and wider established residential areas to meet the needs of households as they move through life cycle changes.

Use and development of Small Second Dwelling

The small second dwelling responds to the minimum requirements outlined in Clause 35.04-2 of the Green Wedge Zone by providing the following:

- accessed via the existing crossover to Maddens Lane and existing all-weather crushed rock driveway with adequate dimensioned to accommodate emergency vehicles.
- connection to an electricity supply.
- installation of 20,000 litre water tank, with 10,000 litres dedicated for firefighting purposes and the remaining 10,000 litres for domestic use.
- appropriate wastewater treatment in accordance *Environment Protection Act 2017*.

The small second dwelling responds to the use and design objectives of housing set out in Clause 11.01-1L-04 (Green Wedge), Clause 12.05-2L (Rural Landscapes), Clause 14.01-1S (Protection of Agricultural Land) and relevant decision guidelines of the Green Wedge Zone Schedule 4 having regard to following key attributes:

Compatibility:

- The small second dwelling is located on a site containing an existing dwelling.
- The small second dwelling is in a manicured area of the site, to not reduce agricultural production use of land in both the current term and long term.
- The small second dwelling has minimal adverse amenity impact on the surrounding properties, with its siting and appearance, and nature of residential living, is commonplace in the area.

Siting:

- The small second dwelling is suitably co-located with the existing dwelling.
- The small second dwelling has pedestrian links to the carpark and main dwelling residence.
- Mature vegetation to the west and south partially screens the small second dwelling from Maddens Lane and the rural residential property to the southwest, minimising adverse impacts on the character and appearance of the area.
- The small second dwelling has minimal encroachment into the tree protection zone of nearby trees. The assessment has determined there will be no impact to tree health or retention.

Appearance:

- The proposed colour scheme of Colourbond “monument” for the walls and roof of the small second dwelling is not acceptable and results in the building presenting

as prominent within the landscape. The Green Wedge Zone focuses on minimising adverse impacts of colours and materials on the landscape and vistas. The provision of a muted colour palette for the small second dwelling external façade reflecting more earthy and neutral tones minimise the visual bulk and impose a harmony appearance with the wider natural landscape when viewed from the public realm and adjoining properties.

Condition 1a of the recommended permit conditions has required amended colour palette to modify the finishes to a more natural muted colour palette improving the integration of the small second dwelling into the surrounding landscape.

Overall, the small second dwelling is considered appropriate for the site given the scale and location, been appropriately sited to offer suitable setbacks to adjoining properties and Maddens Lane, and utilising existing vegetation to provide a visual buffer.

RESPONSE TO SUBMITTERS CONCERNS

The application has been advertised and sixteen (16) objections have been received. Fourteen (14) objections were received during the original advertising period. A further six (6) objections were received during the second advertising period, with three (3) of these being repeat submissions from property owners. A summary of key themes of objections and a response to respective concerns is outlined in the table below.

Ground of Objection	Assessment and considerations
Whether the proposed use constitutes a winery	<p>The proposed winery use as described by the documentation submitted with the application is considered to constitute a winery under the definition outlined in Clause 73.03 Planning Scheme.</p> <p>The land is currently operating as a vineyard, with sufficient portion of the manufacturing process occurring on site to permit the use to be expanded to include a winery component.</p>
The viability of the site as a winery given the size of the allotment and wine production potential	<p>A condition would be imposed on the use that 75 percent of grapes used to produce wine must be from the subject site. The viability of the site as a winery and the production potential is for the Producer to determine.</p>

Ground of Objection	Assessment and considerations
Use is an overdevelopment of the site- scale and intensity and potential for the use to be expanded to include a restaurant	<p>The area is characterised by a mix of rural residential and agricultural properties, with several wineries operating along Maddens Lane.</p> <p>The proposed winery is not an overdevelopment for the site or the wider area, given the precedence for this use. The scale and intensity of the use is pared back to reflect the site capabilities.</p> <p>As discussed in the assessment section, any amenity impact can be appropriately reduced and managed through conditions to ensure the proposed winery does not expand.</p>
Limited details provided on the operational side of the winery	<p>Day to day operational details of the 'wine making' is not a necessary component of the planning application and is not required to be provided for the operation to meet the requirement of a 'winery' land use planning definition. The applicant has satisfied their activities as an agricultural winery, by detailing that grapes are intended to be harvested from the side, and move off set for processing, returned as wine, stored in barrels, with bottle on site.</p>
The purpose of the Green Wedge Zone to protect the environmental significance	<p>The Green Wedge Zone encourages both the protection of the environmental significance of land, and the use of the land for agriculture (vineyard), which is currently occurring on the subject site. The proposed winery is a permitted use provided it is associated with viticultural production.</p> <p>The proposal utilises an existing building to accommodate the winery, and the siting of the small second dwelling is clear of vegetation. The environmental impact of the proposal is limited and can be managed by tree protection conditions, refer to proposed permit conditions, Condition 31-33.</p>

Ground of Objection	Assessment and considerations
<p>The amenity and privacy impact of the proposal on the existing dwelling and residents of the adjoining property to the south-west</p>	<p>The proposal is of a scale and intensity that could impact the amenity and privacy of adjoining properties if not appropriately managed and controlled.</p> <p>This can be managed through conditions and restrictions on the scale of the use.</p> <p>As part of the planning assessment process, the applicant has chosen to realign the internal driveway for the winery use off the common side boundary and behind an additional row of trees, to limit noise and privacy concerns.</p> <p>The operating hours and patron numbers will be limited by permit condition and the use itself can be appropriately managed through the inclusion of conditions on the permit.</p> <p>The small second dwelling is appropriately sited to provide a reasonable setback from the adjoining properties and will not result in any detrimental amenity impact on adjoining or nearby properties.</p>
<p>The suitability of the site for a small second dwelling, and impact on adjoining properties.</p>	<p>The small second dwelling is an acceptable proposal, well set back and reasonably screened from adjoining residents to prevent adverse amenity impacts on adjoining properties.</p>

Ground of Objection	Assessment and considerations
<p>The potential use of the small second dwelling for tourism accommodation</p>	<p>The application is proposing to construct a small second dwelling which is a permitted use subject to a planning permit under the Green Wedge Zone. Council has assessed the appropriateness of the use as a small second dwelling associated with the existing dwelling, in accordance with the requirements outlined in the Green Wedge Zone.</p> <p>The planning scheme does not place any restriction or condition on how a small second dwelling can be occupied. A small second dwelling could be a full-time residence or alternatively a small second dwelling could be rented out to provide short term accommodation.</p> <p>With the planning scheme not defining limitations or restrictions on how the small second dwelling can be occupied; the planning permit is not able to place restrictions on the length of stay or that it must be a primary residence. A permit condition cannot prevent the small second dwelling from being used for tourist accommodation.</p> <p>Council does have a provision within our <i>Neighbourhood amenity Local Law</i>, local law 21 – <i>Short Stay Accommodation</i>, which seeks to protect the amenity of the area and imposes the obligations to the landowner to be responsible to ensure short stay guests are not causing a nuisance.</p>
<p>Legality of works including earthworks and removal of vegetation to the dam, works to existing dwelling.</p>	<p>A compliance case was raised with Council regarding the illegal earthworks and vegetation removal on and around the dam.</p> <p>The investigations determined that the works were a necessary response, and rectification works to address Melbourne Water concerns over the leaking dam, and to ensure that the integrity of the dam was rectified.</p> <p>The vegetation removed were juvenile self-sown trees that had grown following soil disturbance and had the long-term likelihood of undermining and impacting the integrity of the dam wall, and if allowed to remain would result in the partial or total failure of the dam.</p> <p>Council have determined that works occurring inside the dwelling did not require planning permission. The planning application process cannot consider additional works which do not form part of the planning application proposal which has been submitted.</p>

Ground of Objection	Assessment and considerations
Suitability of existing driveway to accommodate proposed use, development, and emergency services.	<p>The existing dwelling access will retain access via the existing driveway.</p> <p>The existing driveway has been modified to provide an additional driveway set back from the adjoining property to be used to accommodate the proposed winery use and the small second dwelling.</p> <p>Council's Traffic Engineers have determined that, subject to the addition of a passing bay at the Maddens Lane boundary, and subject to conditions, the existing driveway is suitable and appropriate for the proposed intensity of use.</p>
Proposed effluent fields located within proximity of adjoining residential property, and potential run off.	<p>Council has reviewed the location of the proposed effluent fields and the provided Land Capability Assessment Report (Attachment 3).</p> <p>Council's Drainage Engineers and Health Officers have concluded that the location is appropriate, and runoff is a minor hazard, with no mitigation measures necessary. Further discussion has been provided in the assessment section above.</p>
Proposed effluent fields located impacting existing trees	<p>The location of the proposed effluent fields presents a major encroachment into the tree protection zone of Tree 32 [Group] in the Arborist Report of between 9.5 percent and 14.5 percent.</p> <p>Council's Arborist has deemed the trees will remain viable subject to conditions, as the tree is in good health, there is ample remaining root area, and the species are moderately tolerance to root impact.</p>
Traffic impact to Maddens Lane, risk to visitors, need for traffic lights at Maddens Lane/Maroondah Highway intersections	<p>The small scale of the proposal is deemed unlikely to cause a significant increase in traffic to the area, particularly as the proposal is likely to become an additional stopping point for existing visitors to Maddens Lane.</p> <p>The Maddens Lane / Maroondah Highway intersection is a matter to be taken up with Council's Traffic Engineers and the Department of Transport outside this planning application. The traffic engineers did not raise this as an issue as part of the assessment of the application.</p>

CONCLUSION

The development application has been assessed and is considered to be in accordance with Section 60(1) of the *Planning and Environment Act 1987* and all relevant instruments and policies.

The proposal is consistent with the objectives of state planning policies, local planning policies and the relevant zone and overlay provisions of the Planning Scheme, and overall results in an acceptable use and development of the site, subject to conditions.

As such, approval of the planning application is appropriate and is it recommended that a permit be granted, subject to conditions as outlined in Attachment 1, and Council resolve to issue a Notice of Decision to Grant a Planning permit.

ATTACHMENTS

- 1 Proposed Conditions
- 2 Proposed Development Plans
- 3 Land Capability Assessment Report
- 4 Arborist Report
- 5 Planning Policy Controls
- 6 Town Planning Report