



SHAPING THE FUTURE OF WESTERN AUSTRALIA

Swan Valley Statutory Planning Committee Agenda

Notice is hereby given the next meeting of the Swan Valley
Statutory Planning Committee will be

Meeting No. 2

Tuesday, 7 December, 2021, 9:00 am

Room 2.24, 140 William Street

This meeting is not open to members of the public

1.	Declaration of opening	
2.	Apologies	
3.	Members on leave of absence and applications for leave of absence	
4.	Disclosure of interests	
5.	Declaration of due consideration	
6.	Minutes	
6.1.	Confirmation of minutes - Meeting No. 1 on Tuesday, 31 August 2021	7 - 8
7.	Deputations and presentations	
8.	Statutory items for decision	
8.1.	Development Application - Single House - Lot 807 Millhouse Road, Belhus	9 - 20
8.2.	Development Application - Proposed large-scale events - Nikola Estate, Lots 104 and 105 Great Northern Highway, Middle Swan	21 - 46
9.	Urgent or other business	
10.	Items for consideration at a future meeting	
11.	Meeting closure	

Information for SVSPC Members

Quorum: 5 of 9 members

Representation in accordance with the Planning and Development Act 2005

	<p>Mr David CADDY WAPC Chairman <i>Schedule 2, clause 1(2)(c)</i></p>		<p>Mr Len KOSOVA Member of the Statutory Planning Committee <i>Schedule 2, clause 1(2)(c)</i></p>
	<p>Ms Kym DAVIS Member of the Statutory Planning Committee <i>Schedule 2, clause 1(2)(c)</i></p>		<p>Mr Lino IACOMELLA Member of the Statutory Planning Committee <i>Schedule 2, clause 1(2)(c)</i></p>
	<p>Ms Marion THOMPSON Member of the Statutory Planning Committee <i>Schedule 2, clause 1(2)(c)</i></p>		<p>Ms Nina LYHNE Member of the Statutory Planning Committee <i>Schedule 2, clause 1(2)(c)</i></p>
	<p>Mr Justin ROGAN Representative of Swan Valley Residents and Businesses <i>Schedule 2, clause 1(2)(c)</i></p>		<p>Mr John REX Representative of Swan Valley Residents and Businesses <i>Schedule 2, clause 1(2)(c)</i></p>
	<p>Cr Charlie ZANNINO Representative of the Swan Valley Local Government <i>Schedule 2, clause 1(2)(c)</i></p>		

Role of the Swan Valley Statutory Planning Committee

The Swan Valley Statutory Planning Committee is established under Schedule 2, clause 1 of the *Planning and Development Act 2005* as directed by Clause 33 of the *Swan Valley Planning Act 2020*.

The Swan Valley Statutory Planning Committee has been created as a single decision-maker to determine development applications, subdivision and structure plans, and other functions related to the Swan Valley area.

The Committee will administer the Swan Valley Planning Scheme No. 1 with delegated decision-making responsibility from the Western Australian Planning Commission.

Establishment of the Committee

On 10 August 2021, the Western Australian Planning Commission established the Swan Valley Statutory Planning Committee as required by Clause 33 of the *Swan Valley Planning Act 2020* in accordance with Schedule 2, clause 1 of the *Planning and Development Act 2005*.

Membership

The composition of the Swan Valley Statutory Planning Committee is in accordance with Section 33(2) of the *Swan Valley Planning Act 2020*.

- (2) The Swan Valley Statutory Planning Committee is to consist of —
- (a) the chairperson or, if another person has been nominated by the chairperson and approved by the Minister under the *Planning and Development Act 2005* Schedule 2 clause 4(2)(a), that person; and
 - (b) 5 other persons appointed by the Commission, with the approval of the Minister, who must be members of the Statutory Planning Committee established under the *Planning and Development Act 2005* Schedule 2 clause 4; and
 - (c) 1 other person appointed by the Commission, with the approval of the Minister, to represent the Swan Valley local government; and
 - (d) 2 other persons appointed by the Commission, with the approval of the Minister, to represent the interests of Swan Valley residents and businesses.

Delegated Authority (TBA) Powers of Committee

Swan Valley Planning Act 2020 Section 34(2)

1. Power to perform all functions and exercise all powers of the WAPC under Part 2 of the *Swan Valley Planning Act 2020*.
2. Power to perform all functions and exercise all powers the WAPC has under the *Planning and Development Act 2005* as the responsible authority for the Swan Valley Planning Scheme.
3. Power to perform all functions and exercise all powers of the Commission under the *Swan and Canning Rivers Management Act 2006* Parts 4 and 5.
4. Power to determine whether or not proposals and the ongoing implementation of the Swan Valley Planning Scheme from time to time pursuant to the *Swan Valley Planning Act 2020* comply with conditions (if any) applied pursuant to sections 48F and 48J of the *Environmental Protection Act 1986*.
5. All functions of the WAPC as set out in-
 - a. Sections 14(a), 14(c), 97, 134, 135, 136, 138, 139, 140, 142, 143, 144, 145, 147, 151, 153, 154, 157, 169, 214, 215, 216 of the *Planning and Development Act 2005*;
 - b. The *Planning and Development (Local Planning Schemes) Regulations 2015*
 - c. Regulations 21, 22, 24 and 27 of the *Planning and Development Regulations 2009*;
 - d. *Strata Titles Act 1985* or the provisions of a strata or survey- strata scheme;
 - e. *Strata Titles (General) Regulations 2019*;
 - f. Section 52 and section 85 of the *Land Administration Act 1997*;
 - g. Section 40 of the *Liquor Control Act 1988*.
 - h. *Community Titles Act 2018*
 - i. *Community Titles Regulations 2021*
6. Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.
7. Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to section 38(1) of the *Environmental Protection Act 1986* and to refer such proposal to the Environmental Protection Authority.

8. Power to endorse diagrams and plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the *Land Administration Act 1997*.
9. Power to advise the Minister for Planning on any appeal or matter arising therefrom pursuant to Part 14 of the *Planning and Development Act 2005*.
10. Power to defend and otherwise deal with applications for review lodged with the State Administrative Tribunal and to appeal, defend, respond and otherwise deal with any matter that may be appealed to the Supreme Court on a question of law.
11. Power to defend, respond, appeal and otherwise deal with legal proceedings.

Quorum for meetings

In accordance with the Western Australian Planning Commission (WAPC), Governance Guide – Standing Orders, Section 5.1 - Quorum for meetings:

(2) A quorum for a meeting of a committee is at least 50 per cent of the number of current offices of members of the Committee.

Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Section 4 of the Western Australian Planning Commission (WAPC), Governance Guide – Standing Orders, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” is one where a member has an interest in a matter where it is reasonable to expect that the matter if dealt with by the Board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the member.

An “**indirect pecuniary interest**” refers to an interest in a matter where a financial relationship exists between a member and another person who requires a WAPC decision in relation to the matter.

A “**proximity interest**” refers to an interest of a member, or close associate of the member, in a matter if the matter concerns –

- (a) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (b) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (c) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

An “**Impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an organisation or an association with any decision-making process relating to a matter for discussion before the Board or a Committee.

Members disclosing any pecuniary or proximity interests for an item cannot participate in discussion or the decision-making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision-making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

Disclosure of representations

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members.



Swan Valley Statutory Planning Committee

Minutes

Meeting No. 1
Tuesday, 31 August, 2021

Members: David Caddy - Chairman WAPC
Kym Davis - Member of the Statutory Planning Committee
Lino Iacomella - Member of the Statutory Planning Committee
Leonard Kosova - Member of the Statutory Planning Committee
Nina Lyhne - Member of the Statutory Planning Committee
Marion Thompson - Member of the Statutory Planning Committee

Others Present: Michael Daymond - Manager Special Projects
Sam Fagan - Manager, Commission Business
Johan Gildenhuis - A/Director, Metro North
Irene Obales - Commission Support Officer

1. Declaration of opening

The Chairman declared the meeting open at 9.01am, acknowledged the peoples of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members to the inaugural meeting of the Swan Valley Statutory Planning Committee and acknowledged the majority of members were attending the meeting via Zoom video conference. The Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

2. Apologies

Nil.

3. Members on leave of absence and applications for leave of absence

Nil.

4. Disclosure of interests

Nil.

5. Declaration of due consideration

All members indicated that they had received and considered the agenda items prior to the Swan Valley Statutory Planning Committee meeting.

ITEMS FOR DECISION

6.1 Delegation of Powers by the Swan Valley Statutory Planning Committee

Nil.

7. Urgent or other business

Nil.

8. Items for consideration at a future meeting

Nil.

9. Meeting closure

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 9.22am.

CHAIRMAN

DATE

UNCONFIRMED

REPORT TO	Swan Valley Statutory Planning Committee		
Meeting date	7 December 2021	File number	21-50657-1
Subject	Development Application - Single House - Lot 807 Millhouse Road, Belhus		
Purpose	Requires WAPC decision		
Title of Approving Officer	Planning Director - Metro North		
Agenda Part for Reports (All parts are confidential unless otherwise stated)			
SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	City of Swan		
Landowner/Consultant	TULMAR P/L / L. Spiccia & Associates		
Bushfire Prone Area	YES		
Statutory Planning Committee			
Swan Valley Planning Scheme No.1 (SVPS1) Zoning	Priority Agriculture		
Council's recommendations	APPROVE		
Property Address	Lot 807 (#40) Millhouse Road, Belhus		
SUMMARY			
<p>This report relates to a development application for the construction of a single house on Lot 807 (#40) Millhouse Road, Belhus. The proposed dwelling has a domestic building footprint of 606m² which is in excess of the 500m² maximum site coverage requirement which applies under the recently gazetted <i>Swan Valley Planning Scheme No.1 (SVPS1)</i>.</p> <p>The application is referred to the Swan Valley Statutory Planning Committee for determination to consider whether discretion should be applied by approving the application under Clause 39 (<i>Variations to Site and Development Requirements</i>) of the SVPS1.</p> <p>It is recommended that the application be supported as the proposal is considered to be consistent with the relevant objectives and all remaining requirements of the SVPS1, and as it will not adversely impact on the rural character and amenity of the surrounding locality.</p>			
DETAILS OF PROPOSAL			
<p>The application seeks development approval to construct a single house on Lot 807 (#40) Millhouse Road, Belhus. The proposed dwelling is to be one storey with an undercroft and accommodates five bedrooms (Attachment 1 - Development Plans).</p> <p>The total area of the proposed dwelling is 1,253m² which consists of:</p> <ul style="list-style-type: none"> • a domestic building footprint of 606m²; • a garage and storage area of 117m²; • a veranda of 263m²; 			

- an undercroft pool room of 132m²; and
- an undercroft storage of 135m².

The proposed single house is to be setback 45m from the northern rear boundary and greater than 100m from all other lot boundaries.

BACKGROUND

The subject site and surrounding land is rural in character and comprises agricultural land uses. The site has an area of 14.3ha and is zoned Priority Agriculture under the SVPS1 (**Attachment 2** - Zoning Map). It has frontage to both Millhouse Road to the west and West Swan Road to the south. It abuts the Ellen Brook to the north which is reserved Parks and Recreation under the *Metropolitan Region Scheme* and a Bush Forever Site. To the south, the site is separated from a Conservation Reserve (also a Swan Valley Trust Development Control Area) by West Swan Road (**Attachment 3** - Aerial Photograph).

The site falls within a Sewerage Sensitive Area and its northern portion is slightly affected by the flood prone special control area. The northern half of the site also falls within a bushfire prone area.

The majority of the site is vacant except for a shed/stable, four paddocks and an outbuilding located centrally within the site.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	<i>Swan Valley Planning Scheme No.1</i>	Some inconsistency, variation warranted
	<i>State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)</i>	Broadly consistent, some discretion required
Consultation	<p>The City has assessed the proposal and recommends the Commission approve the application subject to conditions.</p> <p>The Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions have no objections and provided comments and DBCA Swan River Trust has no objections and recommended conditions in relation to on-site effluent and stormwater.</p>	

PLANNING ASSESSMENT

The site is zoned Priority Agriculture under the SVPS1. The relevant objectives of the Priority Agriculture zone are to protect the priority agricultural land in the Swan Valley and ensure all land use and development enhances the cultural heritage, natural environment and does not detract from the unique rural landscape character and amenity of the Swan Valley.

Within the Priority Agriculture zone, a single house is a 'P' (permitted) use if it complies with any relevant development standards and requirements of the Scheme.

The relevant development standards of the SVPS1 for assessing the proposal are set out in Schedule 5 (Additional Site and Development Requirements). The proposal complies with all relevant development requirements within Schedule 5 including minimum setbacks and maximum building height, except for the maximum domestic building footprint.

In this regard, Table 1 of Schedule 5 of the SVPS1, requires a domestic building footprint of '*10% of the lot area or 500m² whichever is the lesser*'. In this instance, the 500m² maximum domestic building footprint requirement is applicable to the assessment of the proposal.

Whilst the proposed dwelling has an overall floor area of 1,253m², the domestic building footprint which comprises the habitable areas including the five bedrooms, ensuites and living areas totals 606m². This is 106m² over the 500m² maximum domestic building footprint requirement of the Scheme.

Clause 39 of the SVPS1 provides the ability for the Commission to approve an application that does not comply with an additional site and development requirement of the Scheme, including where it considers that the non-compliance will not have an adverse impact on the neighbouring lots or impact on future developments within the locality.

The proposed dwelling is considerable in size, however consideration should be given to the site context, including its siting on a large land holding of 14.3ha. Further, the proposed dwelling is to be setback 165m from the primary street frontage (West Swan Road) and screened by existing trees. It also has significant setbacks to its lot boundaries (311m from the west boundary, 222m from the east boundary and 45m from the rear boundary) which significantly exceeds all relevant setback requirements of the Scheme.

It is further noted that the front of the proposed dwelling facing the primary street is at ground level as the undercroft only appears visible from the rear boundary as the land slopes down. The proposed building height is of a maximum of 9m at the rear where the ground level is lower than at the front and complies with the maximum building height in Table 1 of Schedule 5 (9m roof pitch height).

Given the above context, it is considered that the proposed dwelling will not have an adverse impact on the rural character of the area nor will it have any adverse impact on the amenity of adjoining properties. It is therefore considered that there is reasonable scope to support the proposal under the Scheme notwithstanding the variation required to the maximum domestic building footprint.

Approval of the application is therefore recommended subject to conditions to address relevant planning considerations including on-site effluent disposal and wastewater.

Conclusion

Notwithstanding the variation to the maximum domestic footprint of the SVPS1, it is recommended that the application for the proposed single house be supported as the proposal is considered to be consistent with the relevant objectives and remaining requirements of the Scheme and as it will not adversely impact on the rural character and amenity of the surrounding locality. Approval of the application subject to conditions is therefore recommended.

RECOMMENDATION

That the Swan Valley Statutory Planning Committee resolves to approve the application for development of a single house on Lot 807 Millhouse Road, Belhus subject to the following conditions and advice:

CONDITIONS:

- 1. This approval relates to the attached plans date stamped 5 November 2021 by the Department of Planning, Lands and Heritage on behalf of the Western Australian Planning Commission.***
- 2. The proposed dwelling is to connect to an on-site secondary treatment and disposal system for sewage (which includes nutrient removal) to the specifications of the City of Swan, in consultation with the Department of Biodiversity, Conservation and Attractions (Swan River Trust).***

3. ***A wastewater plan is to be prepared that details how wastewater will be managed to the specifications of the City of Swan, in consultation with the Department of Biodiversity, Conservation and Attractions (Swan River Trust).***
4. ***All stormwater must be contained and disposed of on-site at all times. Further stormwater run-off from constructed impervious surfaces generated by small rainfall events (i.e. the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter Ellen Brook untreated.***

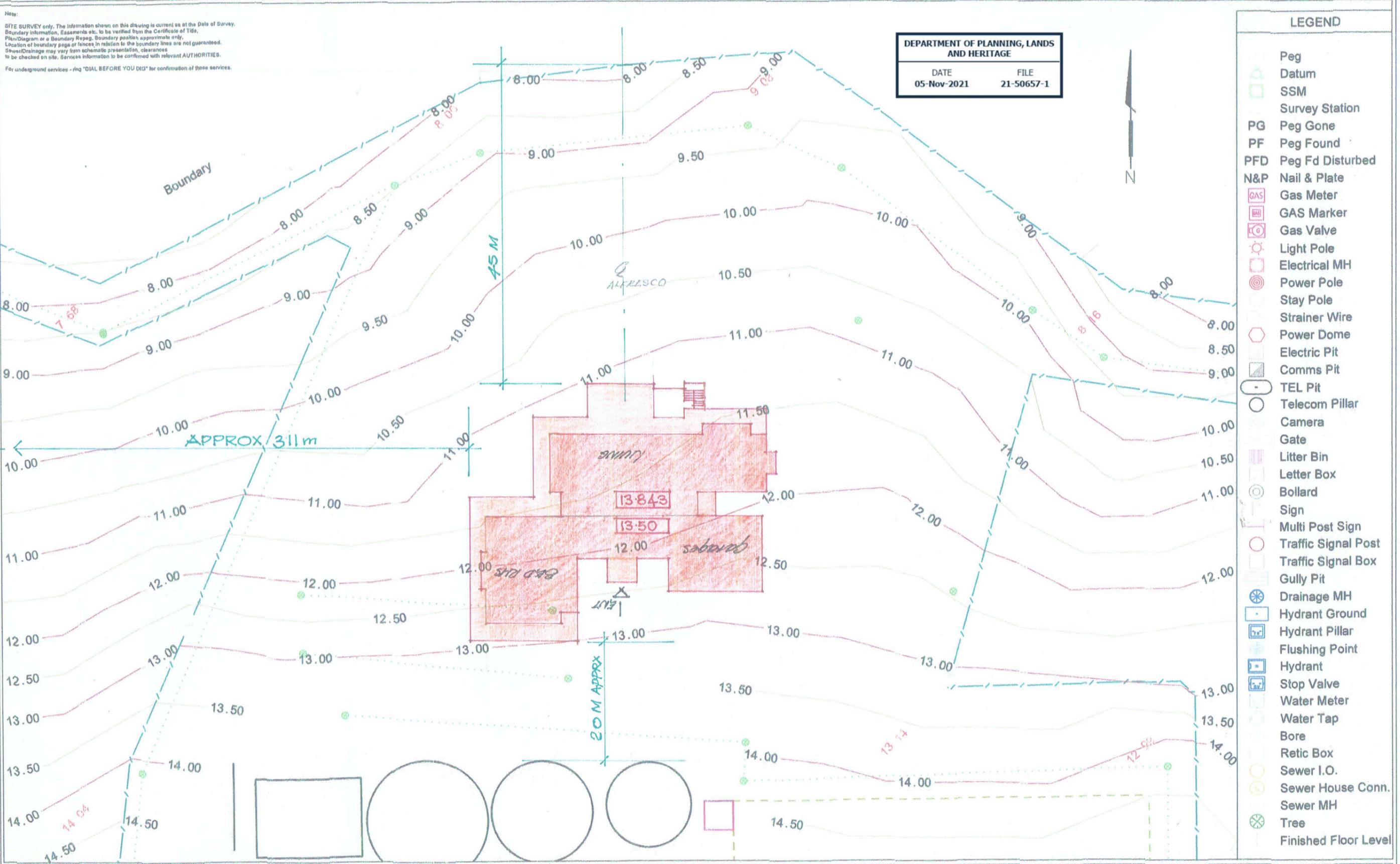
ADVICE:

1. ***This approval does not authorise commencement of any building and/or demolition works. In accordance with the Building Act 2011 and Building Regulations 2012, a building and/or demolition permit must be obtained prior to the commencement of any works.***
2. ***The proposed development is not to be within 1.2 metres of any sewerage septic tank or 1.8 metres of any effluent leach drain without the City of Swan's approval.***
3. ***The Department of Biodiversity, Conservation and Attractions (Swan River Trust) advises as follows:***
 - ***on-site wastewater systems that are located on the Swan Coastal Plain or less than 100 metres from waterways or surface or sub-surface drainage systems that discharge directly to a waterway or wetland within the Swan Canning Catchment are to have secondary treatment systems with nutrient removal;***
 - ***the wastewater plan is to demonstrate that the on-site wastewater system and associated land application area have the capacity to attenuate both phosphorus and nitrogen;***
 - ***the wastewater plan is to include:***
 - ***the size and specifications of the proposed secondary treatment system;***
 - ***the location of the proposed secondary treatment system and any wastewater land application area;***
 - ***the distance between the highest known groundwater level and the discharge point of the wastewater system;***
 - ***the phosphorus retention index of the soil in the wastewater land application area;***
 - ***details of any proposed soil amendments within the wastewater land application area;***
 - ***a landscape plan detailing the type of vegetation that will be incorporated within the wastewater land application area;***
 - ***expected performance; and***
 - ***a monitoring and maintenance plan.***
 - ***the on-site wastewater system and associated land application area is to be located as far as practical from the waterway and drainage systems. The discharge point of the on-site wastewater system above the highest known groundwater level should be at least 1.5 metres in sands, 1 metre in gravels and 0.6 metres in loams and clays, and at least 2 metres in public drinking water source areas. Soils within a wastewater land application area are to have a phosphorus retention index (PRI) greater than 20. Where the PRI of the soil is less than 20, it is recommended that amended soils be added to the wastewater land application area to a depth of 1 metre.***
 - ***Appropriate vegetation should be planted within the wastewater land application area to assist with the absorption of nutrients. It is recommended that a mix of plant species and growth forms that can tolerate wetting and***

drying conditions are planted in the wastewater land application area. The appropriate plant species are those capable of high nutrient removal. Refer to table 5 of Vegetation Guidelines for Stormwater Biofilters in the South-West of Western Australia (Monash University, 2014) when considering species selection.

ATTACHMENTS

- Attachment 1 - Development Plans
- Attachment 2 - Zoning Map
- Attachment 3 - Aerial Photograph





Note:
 SITE SURVEY only. The information shown on this drawing is current as at the Date of Survey.
 Boundary information, Easements etc. to be verified from the Certificate of Title,
 Plan/Diagram or a Boundary Repag. Boundary position approximate only.
 Location of boundary pegs or fences in relation to the boundary lines are not guaranteed.
 Sewer/Drainage may vary from schematic presentation, clearances
 to be checked on site. Services information to be confirmed with relevant AUTHORITIES.
 For underground services - ring "DIAL BEFORE YOU DIG" for confirmation of those services.



DEPARTMENT OF PLANNING, LANDS AND HERITAGE

DATE	FILE
05-Nov-2021	21-50657-1

Symbol	Description
	Peg
	Benchmark
	Datum
	SSM
	N&P
	Bore
	Retic.box
	Hydrant Pillar
	Flush Point
	Hydrant
	Stop Valve
	Drainage MH
	Water Meter
	Water Tap
	Gas Meter
	GAS Marker
	Gas Valve
	Light Pole
	Electrical MH
	Power Pole
	Strainer Wire
	Power Dome
	House Conn.
	Sewer MH
	Sign
	TEL Pit 1.3m
	TEL Pit
	Tree
	Stump
	Peg Gone
	Peg Found
	Peg Found Disturbed
	Nail & Plate



Typical Western Horse Paddock



Horse Stable Area



Water Holding Facility



Typical Eastern Horse Paddock



Main Access Track looking east from Stables

0	8/10/15	Original	BM	BM	MG
REV.	DATE	REVISION NOTE	SURVEYED	DRAWN	CHECKED

McGREGOR SURVEYS

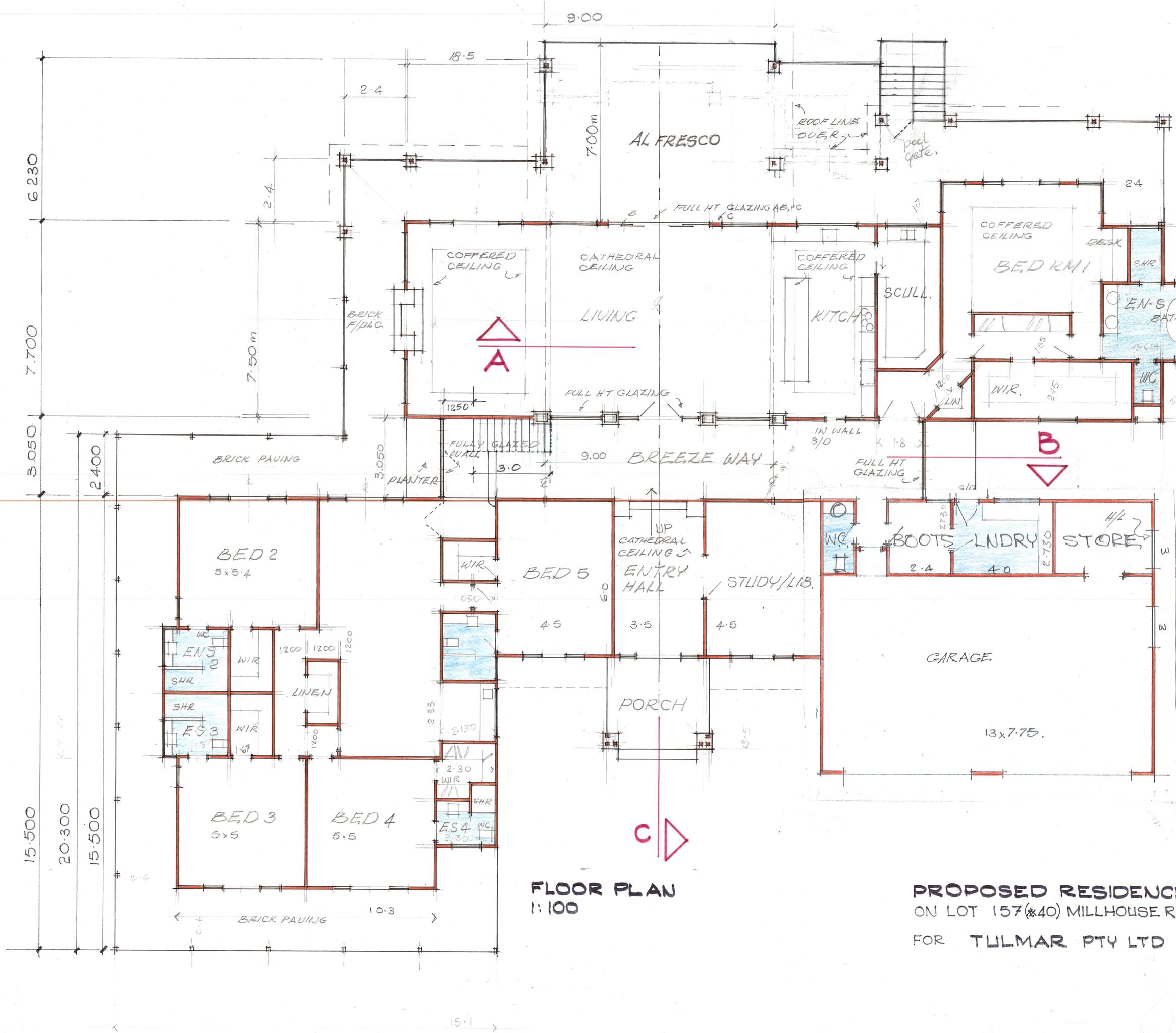
M: 0499 001 442
 www.mcgregorsurveys.com.au
 ABN: 53 080 995 066

PO Box 4042
 Mosman Park 6012

BELVOIR EQUINE CLINIC AND BREEDING CENTRE

CLIENT:	Belvoir Equine Clinic
PROJECT:	40 Millhouse Road, Belhus
DESCRIPTION:	Contour and Feature Survey
HORIZ. GRID:	Perth Coastal Grid
FIELDBOOK REF:	BM 001 / Pg 39-44
FILE NAME:	0020-165_40 Millhouse Rd
ISSUED PLAN:	0020-165_40 Millhouse Rd.pdf

JOB No.:	0020-165
DRAWING No.:	1
SCALE:	1:2,500
SHEET No.:	1
REV.:	0



AREA m ²	
GROUNDFLOOR	606.31
GARAGE & STORE	117.6
VERANDAH & ALFRESCO	263.35
TOTAL	987.30
UNDERCROFT	
POOL ROOM	132.25
TANK STORAGE	135.85
TOTAL	268.10

FLOOR PLAN
1:100

PROPOSED RESIDENCE
 ON LOT 157(40) MILLHOUSE RD BELHUS
 FOR TULMAR PTY LTD

POOL

EXTENT OF BALC OVER

DOWNSTAND BEAM

DOWNSTAND BM

ROLLER DOOR

ROLLER DOOR

SLAB STEP DOWN OVER

2.7φ
* /plc OVER

WATER STORAGE TANKS

47000LT. TOTAL

BAR

POOL ROOM

SHOWER

RAIN WATER STORAGE TANKS 60,000 LT TOTAL

CONC. BEAM OVER

13500LT. 2.7φ

20K

STORR

CUP'D

CONC BEAM OVER

36φ
36φ

36φ

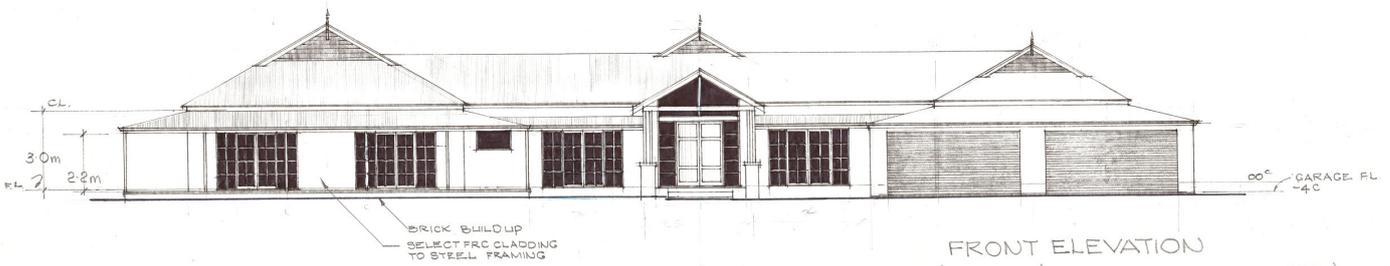
* OVERFLOW

UP

UP

UNDERCROFT PLAN
1:100

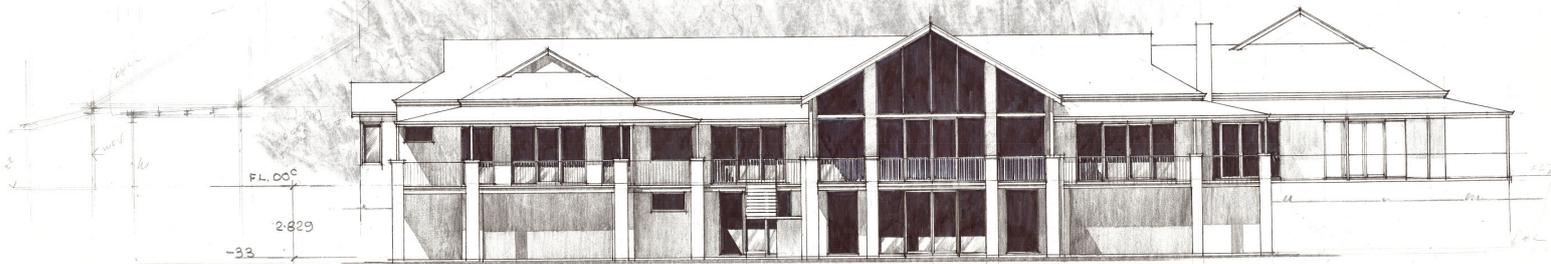
PROPOSED RESIDENCE
TULMAR PTY LTD
LOT 157 (40) MILLHOUSE RD BELHUS.



FRONT ELEVATION
(SOUTH) 1:100 (WITH GLAZING BARS.)

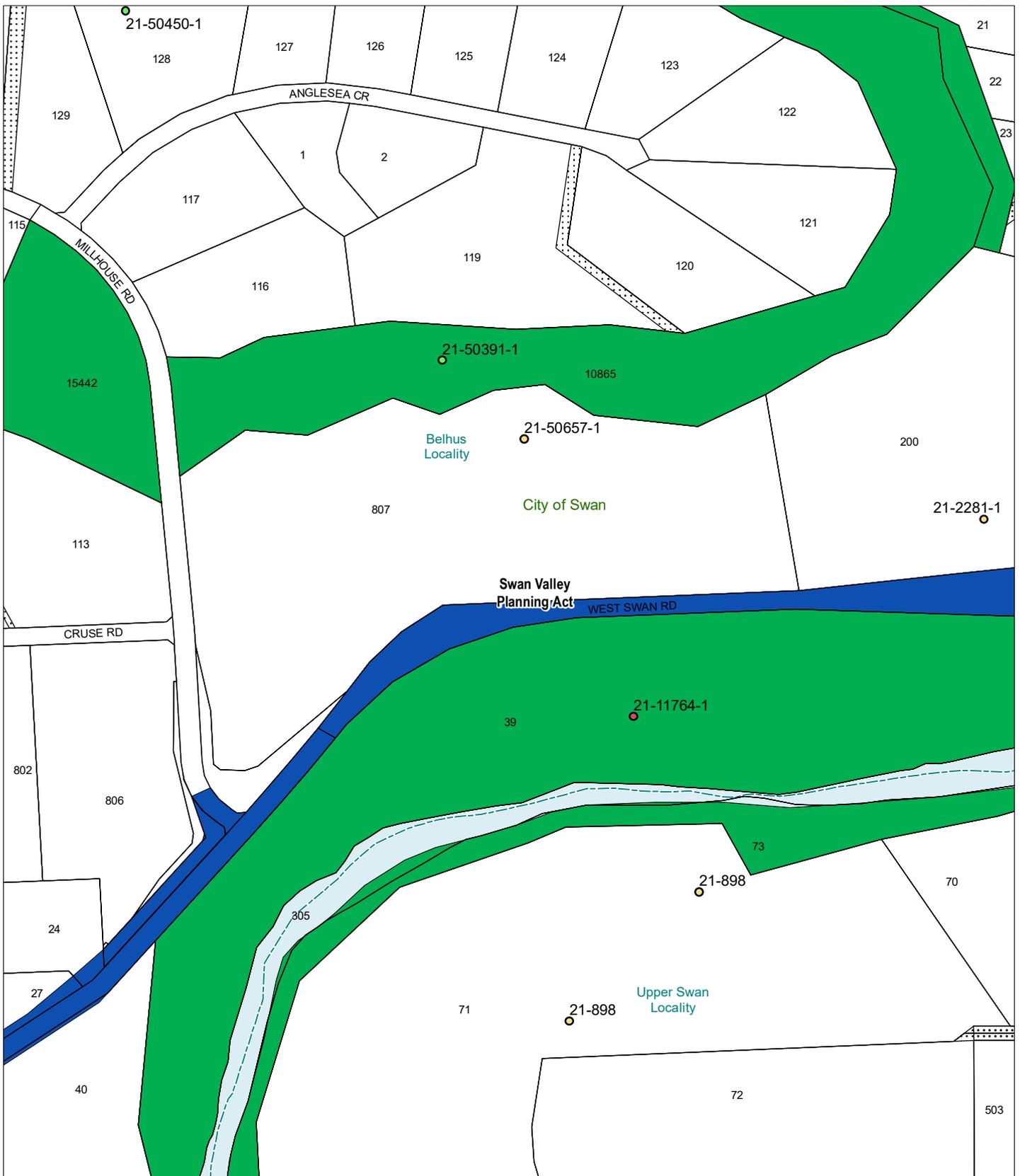


WEST ELEVATION



SOUTH ELEVATION (NO GLAZING BARS.)
1:100

TULMAR PTY LTD
LOT 157 #40 MILLHOUSE RD BERRIS



**Location Plan for:
Development Application**

This data is to be used only for the processing of
Development Application

Application Number: **21-50657-1**

Decision: **OUTSTANDING**

Printed: **19/08/2021**



Produced by Data Analytics,
Department of Planning, Lands and Heritage, Perth WA

Base information supplied by
Western Australian Land Information Authority SLIP 1180-2020-1

Application Status

- Approved
- Outstanding
- Cancelled

Existing LPS Zones and Reserves

Easements and Referrals

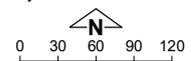
- Easements

Region Scheme Reserves

- Redevelopment act area
- Other regional roads
- Parks and recreation
- Waterways

Localities & Local Government Boundaries

- Local government boundary
- Locality





Legend
 Cadastre (View 1)

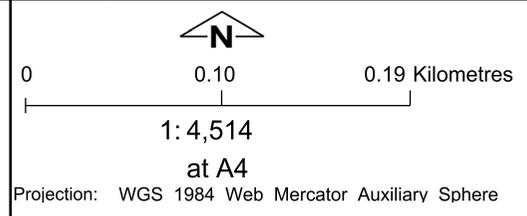
ATTACHMENT 3

Notes:
 * The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.
 * This map is not intended for measurement purposes.
 Map was produced using DPLH's InQuery.

InQuery Map ATTACHMENT 3 - AERIAL IMAGE

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



Date produced: 13-Oct-2021
 SVSPC Agenda Page 20



REPORT TO	Swan Valley Statutory Planning Committee		
Meeting date	7 December 2021	File number	21-50112-11
Subject	Development Application - Proposed large-scale events - Nikola Estate, Lots 104 and 105 Great Northern Highway, Middle Swan		
Purpose	Requires WAPC decision		
Title of Approving Officer	Planning Director - Metro North		
Agenda Part for Reports (All parts are confidential unless otherwise stated) SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	City of Swan		
Landowner/Consultant	Element Planning Consultants for Swan Location II Pty Ltd (Nikola Estate) and Mellen Events		
Bushfire Prone Area	YES		
Statutory Planning Committee - SMART			
Region scheme zoning	Not applicable		
Planning Scheme Zoning	Priority Agriculture		
Council's recommendations	OTHER		
Receipt date	4 June 2021	Process days	187
Property Address	Lots 104,105 (Nikola Estate) and Lots 21, 62, 63, 9 and 16 in Middle Swan		
SUMMARY			
<p>This report seeks the determination by the Swan Valley Statutory Planning Committee (SVSPC) of a proposal for occasional, large scale events, involving high numbers of attendees, at Nikola Estate in the Swan Valley. Consideration of potential impact on rural amenity and nearby residents is necessary, along with the suitability of the use in the context of the <i>Swan Valley Planning Act 2020</i> and the recently gazetted <i>Swan Valley Planning Scheme No. 1</i>.</p> <p>Key issues identified in the development application are whether:</p> <ul style="list-style-type: none"> • the proposed land use is consistent with the planning framework for the area; • impacts of traffic, noise and impact on the environment are manageable; and • the scale of the proposal is appropriate in its planned location. <p>The report concludes that the proposal conforms with the planning framework which contemplates appropriate tourism development within the Swan Valley. Suitable management is essential to mitigate potential impacts, therefore appropriate conditions and approval is recommended.</p>			

DETAILS OF PROPOSAL

The application proposes to use a portion of Nikola Estate winery for intermittent large-scale concert events as detailed in **Attachment 1**. The specific area in which the events are to be held is approximately 3 hectares (ha). Additional land on separate lots to the north of Nikola Estate is proposed for temporary parking (**Attachments 2 and 8**).

Mellen Events (Mellen), contracted by Nikola Estate, proposes to run between four (4) and seven (7) events per spring/summer season and detailed below:

- events are proposed on Saturdays, Sundays and public holidays only;
- between 5,000 and 15,000 people will attend each event;
- each event to start no earlier than 14:00 (2pm);
- each event to conclude at 22:30 (10.30pm);
- a maximum of 600 staff employed onsite for each event;
- open air viewing is to be orientated so patrons/guests face west towards the Swan River and surrounding vineyards;
- the main stage is to be positioned in the north-west of the site 20-23 metres east of the Swan River, facing east over a grassed area;
- bar, food, toilets and casual seating areas are to be spread around the site with panel fencing;
- a maximum of 7,500 car parking bays, including charter bus parking, is to be provided in designated areas; and
- existing small car parking areas for the winery are to be used for temporary parking or staff parking.

Mellen specialises in the design, development, management and promotion of large scale and boutique public events in the entertainment, tourism and sports industry. The application includes the following technical studies and assessments:

- Transport Impact Assessment Report
- Car Parking Plans
- Bushfire Management Plan and Emergency Evacuation Plan (titled Bushfire Emergency Plan with supporting documentation)
- Noise Management Plan

This application is similar to an approved development issued by the City of Swan (under City of Swan Local Planning Scheme No.17) in 2019 at the Sandalford winery for up to 10 concert events per calendar year for a period of five (5) years, with a maximum capacity of 16,000 persons per event. Sandalford winery is approximately 7km south of the subject site.

BACKGROUND

Location and Property Description

The Nikola Estate site on Lots 104 and 105 is 99.505ha in area and is located on Great Northern Highway in Middle Swan and adjacent to the Swan River. The application includes proposed vehicle parking on Lots 21, 62, 63, 9 and 16 (**Attachment 2**). The estate is located 18 km north-east of Perth Central Business District (**Attachment 3**).

Site Context and History

Formerly known as Houghton Estate, the subject winery was established in 1836, making it one of Australia's oldest wineries. In the 1990s, 45 hectares of the Houghton's Estate was purchased by

the adjoining Yukich table grape vineyard. In late 2019, the remainder of the original Houghton Estate was purchased by the Yukich family who renamed the property to Nikola Estate.

Vehicle access to the proposed event site and parking areas will be via Great Northern Highway (reserved as a Regional Road under *Swan Valley Planning Scheme No. 1* which is Main Roads WA responsibility) via Dale Road and Yukich Close - local access roads under the jurisdiction of the City of Swan. The nearest bus service is along Great Northern Highway with bus stops approximately 70m from the intersection of Dale Road/Great Northern Highway. The bus stops service bus routes which connect to Midland Station and to Bullsbrook/Upper Swan.

Landholdings and uses surrounding Nikola Estate are typical of the Swan Valley and include vineyards, wineries and other tourist attractions. Swan Valley Christian College abuts the south-east boundary of the subject site (**Attachments 3 and 4**).

Current Land Use

In addition to wine making, Nikola Estate currently operates as a wedding and reception centre. It hosts functions such as weddings, conferences and meetings in various indoor and outdoor settings that can accommodate small groups up to several hundred guests at multiple functions at any one time.

State Planning Framework

Swan Valley Planning Act 2020

The *Swan Valley Planning Act 2020* (SVP Act) came into effect on 1 August 2021 establishing *Swan Valley Planning Scheme No. 1* (SVPS 1) which replaced the provisions of the City of Swan Local Planning Scheme No. 17 (LPS 17) and the Metropolitan Region Scheme.

In summary, the Swan Valley planning framework implements the State Government's commitment to protecting the Swan Valley as Western Australia's first viticulture area as a result of the *Swan Valley Planning Review – A report to the Minister for Planning: An independent review of Swan Valley planning* (2018) and the subsequent *Swan Valley Action Plan* (2019). The SVP Act and SVPS 1 have been created to protect the Swan Valley as a productive agricultural area within the Perth metropolitan region, maintain the rural character and conserve Swan Valley heritage and ensure horticulture remains one of its principal land uses. New tourism and hospitality opportunities are to be consistent with these aims and objectives.

Swan Valley Planning Scheme No. 1

The subject site is zoned Priority Agriculture under SVPS 1. The objectives of the Priority Agriculture under SVPS 1 are:

- to protect priority agricultural land in the Swan Valley including existing vineyards and other areas of horticulture from incompatible land use and development;
- to provide for long-term agricultural production in the Swan Valley by preventing further subdivision of land and protecting good quality soils from non-agricultural use and development;
- to limit hospitality and tourism development and land use to where it is incidental and complements agricultural production and does not detract from the rural character and amenity of the area (*emphasis added*);
- to ensure all land use and development enhances the cultural heritage, natural environment and protects the unique rural landscape character of the Swan Valley.

Part of the subject land is impacted by the Flood Prone and Perth Airport Special Control areas identified on the SVPS 1 zoning plan. The Swan River Flood Prone Development Control Area has specifically triggered a referral to the Department of Biodiversity, Conservation and Attractions Parks and Wildlife which is a requirement under SVPS 1 (**Attachment 5**).

Public Advertising

The application as described in **Attachment 1** was advertised for a period of 21 days in June 2021. A total of 17 submissions were received; 8 non - objections and 9 objections.

The objections were mainly from public submissions which raised concerns primarily in relation to:

- land use inconsistency with the Priority Agriculture Zone;
- traffic and noise impact;
- bushfire and evacuation;
- environmental impact on Swan River and parking area close to Jane Brook wetland;
- amenity, potential antisocial behaviour, appropriate facilities to be provided, safety and emergency management issues; and
- the scale of the proposal rather to be restricted to 2 events per season with a maximum of only 5000 persons.
(**Attachment 6**)

The City of Swan was invited to comment on the proposal and no response was provided. Given that the statutory time frame for determination of the application has expired, officer level discussions occurred with the City and subsequently the Department's recommendation and draft conditions were provided.

Events Licence

Separate to the requirement to obtain development approval, future events will also need to be subject to an Events licence administered by the local government. It is understood the City is still to consider an Events licence.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	Swan Valley Planning Act 2020	Fully consistent
	Swan Valley Planning Scheme No. 1	Fully consistent
	State Planning Policy 2.10 Swan - Canning River System	Fully consistent
	State Planning Policy 2.8 – Bushland policy for the Perth Metropolitan Region	Fully consistent
	State Planning Policy 3.7 Planning in Bushfire Prone Areas	Broadly consistent, some discretion required
	Position Statement: Tourism land uses in bushfire prone areas (November 2019)	Fully consistent
Government Considerations	Perth and Peel	Fully consistent
Consultation	Public Advertising as per LPS 17 requirements and referral to Government agencies. This is discussed in the Planning Assessment section	

PLANNING ASSESSMENT

Land Use Permissibility

In terms of land use permissibility, the application was advertised as a *Place of Assembly* under the City's former LPS 17. The application is now being assessed under SVPS 1 and a *Place of Assembly* land use is not included in this Scheme. It is considered that the use for intermittent large-scale concert events and ancillary temporary car parking could be classified as *Private Recreation* pursuant to the SVPS 1, which is defined as follows:

means premises that are -

- *used for indoor or outdoor leisure, recreation or sport; and*
- *not usually open to the public without charge.*

This land use definition acknowledges the outdoor nature of the proposed events ticketed to the public. *Private Recreation* is an incidental use ('I' symbol in the land use table) in the Priority Agriculture zone which is consistent with the proposal for the events to be incidental to the existing use of the site as a vineyard and winery (incidental use - means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use).

Part of the rationale for this is for event attendees to be provided with an experience and opportunity to enjoy the rural ambience of the Swan Valley agricultural area whilst enabling the agricultural use (vineyard and winery) to remain the primary priority land use. The proposed use is therefore subordinate and incidental to the predominant use. The objectives of the SVP Act and the aims of SVPS 1 (extract) are attached as **Attachment 7**.

SVPS 1 contains the following objective for the 'Priority Agriculture' zone in which the subject site is located:

To limit hospitality and tourism development and land use to where it is incidental and complements agricultural production and does not detract from the rural character and amenity of the area.

The primary use of the subject site will remain as viticulture and an operational vineyard, consistent with the longstanding history of the site. Grapes will continue to be grown on the site and the commercial volume of wine produced will not change as a consequence of this proposal. Further to the above, the car parking areas are proposed on land not currently and/or not intended in the future to be used for agricultural purposes. The proposal to use the rural setting for tourism purposes at intermittent points throughout the year in the form of specially tailored events is consistent with the use of other rural land in the Swan Valley.

The events are intended and proposed in a location where they can be completely temporary and require no permanent modification of the land. The additional income generated by the proposed events will ensure improved viability of the winery and viticulture business, which, according to grape growers, has become increasingly unviable over recent decades. This will promote the Nikola Estate business and products, allowing the community to enjoy and utilise this historic Swan Valley winery for the long term. Given the above, the proposed land use is considered consistent with the SVP Act and SVPS 1.

Traffic Impact

Guests for events will travel to the venue using several transport modes including private cars, buses and rideshare / taxi services. Access to the proposed event site and to temporary parking areas will be from the Great Northern Highway via unsignalized intersections with Yukich Close and Dale Road.

As part of the proposal, the applicant has prepared a Traffic Impact Assessment (TIA) in accordance with the Western Australian Planning commission (WAPC) *Transport Assessment Guidelines for Developments: Volume 4 – Individual Development*. Based on the maximum of 15,000 patrons, the TIA assesses the impact of the proposed intermittent events on the surrounding road network and intersections with car parking capacity maximum of 7,500 vehicles and in addition, provision for buses. The parking requirements was based on the former LPS 17 for a *Place of Assembly* land use as described in the City's Local Planning Policy on Vehicle Parking Standards. Parking areas in relation to the event site is indicated on **Attachment 8**.

The TIA has drawn the following conclusions following an assessment of the proposed events on the surrounding road network:

- it is anticipated that the peak arrival period will be 17:30 – 18:30, while the peak egress period will be after the ending of the event around 22:30;
- it is estimated that a total of 1492 vehicles trips will be generated during the arrival peak period of 17:30 – 18:30, while 4676 vehicle trips are estimated to be generated during the departure peak period;
- it is anticipated that long queues within the site will build up after the event as most spectators are expected to exit the site at the same time. For example, the TIA indicates that there will be lengthy delays for egressing / exiting vehicles following events and it is depicted for the 80% of vehicles turning right in the Great Northern Highway, they will be subject to delays of 49 minutes (Yukich Close) and 117 minutes (Dale Road) with a theoretical queue of 3.7km. Charter buses and ride share (which are assigned to Dale Road) will also experience severe delays; and
- extensive, approved, active traffic management will need to be in place within the area to mitigate the traffic impacts and safely manage the queues within the site.

Main Roads WA (MRWA) has no objections to the application and requested that any approval is limited to five (5) years, only 15,000 patrons permitted and that the events be restricted between 14.00 and 22.30. In its referral response MRWA advised that prior to each event, a Traffic Management Plan and a Parking Management Plan is to be submitted for approval. In this regard, each event will be reviewed by MRWA on a case by case basis to determine the network impact and to identify the best way to mitigate delays which is the preferred option to manage traffic of this proposal. This suggestion could, for example, result in changes to arrival and departure times of these events, management of the intersections or for example, restricting right/right out movements, managed by onsite traffic management staff and procedures. Further management can be done by the City through the requirement to obtain an Events licence.

MRWA's position that each event be reviewed to determine traffic impacts and to identify measures to mitigate delays through consideration of Traffic Management and Parking Management plans is supported. In this regard, appropriate conditions are recommended.

Noise Impact

The land uses within Middle Swan are predominantly rural of nature. A Noise Management Plan has been prepared by *EcoAcoustics* for Mellen and the dates of events are unknown at this time. Noise level predictions have been calculated to nearby noise sensitive receivers based on music being played at the site. The applicant considered that these noise level predictions will represent a worst-case scenario.

The majority of public submissions received raised the impact of noise as a planning concern. One of the submissions indicated that the noise levels are well above the maximum assigned noise levels stated in the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations), and will impact on their rural dwelling and horses in the area. It is the applicant's view that based on the

nature of the proposed events, the 'normal' assigned noise levels prescribed by the Noise Regulations may not be considered appropriate. In this regard it is noted that the Noise Regulations make provision for the local government to approve outdoor concerts and similar events, to allow for reasonable social and cultural activity to occur that benefits the broader community. Regulation 18(3) states:

"Where the Chief Executive Officer (CEO) of the local government authority (LGA) is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public:
a) *is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and*
b) *would lose its character or usefulness if it were required to comply with that standard,*
The CEO may approve the event, subject to such conditions as the CEO thinks fit, for the purpose of [regulation 18]."

It is acknowledged that the proposed events will generate noise at a level which is not regularly observed in the locality. Notwithstanding, the Swan Valley is a tourist destination and the SVPS 1 does allow for tourism and event proposals, where they are incidental to the ongoing agricultural use of the land. Large scale music events are not uncommon in the Swan Valley and the intermittent nature of the events means that the overall rural appeal and amenity of the area will not be lost.

The concern relating to livestock in nearby properties is noted, however, surrounding events are also located within the vicinity of livestock and are regularly undertaken without issue and no evidence has been provided to support the objection.

Given the City's discretion under Regulation 18(3), land use permissibility that allows for *Private recreation*, the limited number of intended events, the proposed noise generated by the events, when managed correctly, is considered to be acceptable and consistent with similar events in the surrounding area. The applicant has indicated that Mellen will inform all neighbouring residents well in advance and invite them to provide feedback following events. Conditions to implement this are recommended.

Bushfire Management

Areas of the subject site including portions of the event space are in a Bushfire Prone Area and therefore the policy measures in State Planning Policy 3.7 *Planning in Bushfire Prone Areas* (SPP 3.7) apply. In addition, the proposed land use associated with tourism is considered a vulnerable land use under measure 6.6 of SPP 3.7, defined as a land use where persons may be less able to respond in a bushfire emergency. Under this policy measure it is a requirement that a development application for a vulnerable land use includes an emergency evacuation plan. This is to establish the procedures and associated actions for management of a bushfire emergency to ensure the safety of proposed occupants, visitors, customers and staff associated with the use of the site. In this regard, the applicant has provided a Bushfire Management Plan (BMP) and Emergency Evacuation Plan (EEP). These documents were referred to the Department of Fire and Emergency Services (DFES) for comment.

Bushfire Management Plan

In its referral responses, DFES advised that the BMP is not supported as an assessment against the *Guidelines for Planning in Bushfire Prone Areas* (Guidelines) has not been undertaken by the proponent. DFES raise particular concern with the location of the stage and viewing areas within BAL40/Flame Zone and advise that they are not satisfied that adequate vehicular access is available and safe during a bushfire event. DFES continue to refuse to assess vulnerable land uses in accordance with the WAPC's Position Statement: *Tourism land uses in bushfire prone areas*, as they advise this does not form part of SPP3.7 or the Guidelines.

Although the site is limited to one road access, a traffic management plan will be required and the BMP states that the access is through vegetation with a low or moderate bushfire hazard level, which is acceptable under the Tourism Position Statement. Outdoor day events, such as these are permitted to be sited in areas of BAL40/FZ, however a proposed condition of approval is for the establishment of an asset protection zone around the stage. The Tourism Position Statement suggests the closure of the facilities or the cancellation of events on days of elevated fire danger rating. This is proposed as a condition of approval.

In addition, DFES outlined the following relevant requirements that need to be addressed:

- i) a Landscape Management Plan is required for vegetation areas 2, 3,4,6 and 10 as indicated in the Bushfire Management Plan to indicate post-development management and this is also to address Area 10 where there appears to be conflict between vegetation clearing and environmental protection of the Swan River bank;
- ii) the APZ should surround the proposed stage, seating area and areas accessible to the public during a major event;
- iii) the internal public roads are to be upgraded to public road standards in accordance with the requirements of Table 6, Column 1 of the Guidelines, which requires a 6m minimum trafficable surface;
- iv) a dedicated Fire Service Access Route (FSAR) is to be provided between Dale Road and the stage area in accordance with the Guidelines; and
- v) a fire hydrant or water supply is to be provided within 90m from the stage area.

The following responses are provided in regard to the above:

- in relation to (i), a Landscape Management Plan is a compliance mechanism for the landowner to ensure ongoing management of bushfire risk. The applicant has agreed to undertake this work and a condition is imposed;
- in relation to (ii), a condition has been imposed to update the BMP;
- in relation to (iii), Dale Road and Yukich Close are two lane roads 4m wide sealed, and 1 metre wide constructed shoulders. These roads have trafficable surface widths of 6.85 and 6m so no upgrading is required as it aligns with the Guidelines;
- in relation to (iv), in order to allow quick access to the stage area during a fire emergency, a condition has been imposed to dedicate a Fire Service Access Route (or alternative solution) in the BMP; and
- in relation to (v), notwithstanding that the site is connected to water mains, a condition has been imposed to require a water supply within 90m of the events area.

Emergency Evacuation Plan

As part of the EEP, the applicant proposes to utilise an insulated wine storage building which has regulated cooling (referred to as Shed) as a bushfire refuge. In its referral response DFES provided comment that this bushfire shelter building should meet certain design standards and that sheltering in a compliant refuge must be accepted as being a last resort option when it is no longer safe to evacuate to an area not prone to bushfire risk. In response, the applicant advised DFES that the safer onsite building is not designated as a bushfire shelter building and that it is intended only to protect vulnerable persons with respiratory issues from smoke exposure rather than wind, radiant heat, or flame contact. The applicant indicated that the majority of persons are intended to use the open area shelter which is located around the winery.

The Tourism Position Statement requires shelter on-site in a nominated building to meet certain standards including maintenance requirements and annual testing by a fire engineer. Given that the EEP does not designate a bushfire shelter building as per the Position Statement, it is recommended

that reference to the bushfire shelter building is removed in both the BMP and the EEP as reflected in the conditions.

Environmental considerations

Environmental issues associated with the proposal include potential impacts on the Swan River bank, Jane Brook wetland (Bush Forever site) and parking on a vegetated area north east of the winery.

Following a site inspection, DBCA has requested standard conditions in relation to river bank protection, a minimum setback for temporary structures and vehicle access restrictions. This has resulted in a modified Event Plan to apply in relation to a combination of mitigation measures including multiple physical barriers, additional setback of the stage, no heavy vehicles, and a requirement for a riverbank management plan for the exclusion area west of the stage. The modified Event Plan is supported, and appropriate conditions are recommended. The environmental agencies did not raise any issue with parking near Jane Brook wetland and parking on a vegetated area north east of the winery. The applicant claims that the vegetated parking area covered by Blue Gum trees, will be thinned out to accommodate car parking and no vehicles are proposed to park on or traverse the Jane Brook wetland.

The Jane Brook wetland is a Bush Forever site as shown on **Attachment 5**. State Planning Policy 2.8 *Bushland Policy for the Perth Metropolitan Region* (SPP 2.8) section 3.1 states “existing cleared or developed areas within Bush Forever areas are not intended for protection through this policy or excluded from future development. However, any likely significant indirect impact on regionally significant bushland may be subject to planning or environmental controls.” The proposal is consistent with SPP 2.8 as it is not proposing to clear any Bush Forever vegetation. In this regard it is recommended the Events Management Plan (Condition 8) include measure to protect the Bush Forever site during an event from potential indirect impacts such as unauthorised access from cars and pedestrians.

Scale of Proposal

Two (2) submissions suggested that the scale of the proposal be restricted to 2 events per season with a maximum of 5000 persons. The concern from surrounding residents is acknowledged and is likely arising from other events which previously occurred in the Swan Valley. Although there are examples of large scale events at Sandalford, it is difficult to predict the full extent of these events in terms of volume and frequency as they are unknown.

Nikola Estate made a decision to partner with Mellen to deliver these events based on their extensive experience and record. The proposed land use is not inconsistent with the planning framework for Swan Valley. Appropriate management of events to be successful is critical, and it was indicated in previous sections that conditions can be imposed to deal with concerns raised in the submissions. In addition, a condition is imposed that requires the applicant to undertake a survey of its neighbours for the purpose to ascertain the impacts on them in order to address amenity concerns in the area. It is understood that Nikola Estate will held its first event in April 2022 and for this reason it is recommended that the first survey be undertaken before the end of the 2021/2022 financial year as will be required by a condition. The first event date is subject to the evolution of the COVID-19 pandemic and the associated border controls and lockdowns. Given the above, the suggestion to downscale the proposal is not supported.

Frequency of Events, Time Limitation and Validity of Development Approval

The applicant’s intention to run up to 7 events per season and to time limit the events from 14:00 to 22:30 restricted to Saturdays and Sundays and on public holidays is considered reasonable and is supported.

In relation to the approval timeframe, the applicant has indicated that a 5-year approval timeframe has been suggested by Main Roads WA (MRWA) in order to allow for reassessment of the vehicle movement network on an ongoing basis in the medium term. Such approval time frame would be consistent with other planning approvals for similar scale events in the Swan Valley and is recommended.

Conclusion

The proposed land use is considered consistent with the SVP Act and the SVPS 1. The proposal is supported as it fits the rural character of the locality on the basis that events will be intermittent and this is an opportunity to support tourism development in the Swan Valley.

Appropriate management is vital when proposed events occur and therefore conditions have been imposed to deal with an approval time limitation, concert events time, maximum of persons to be permitted including staff, information distribution, surveys to be undertaken post events, traffic/noise/environmental impact, bushfire/evacuation and general operational matters to improve amenity.

Subject to conditions, it is recommended that the application be approved.

RECOMMENDATION

That the Swan Valley Statutory Planning Committee resolves to grant planning approval pursuant to the Swan Valley Planning Scheme No. 1, to hold up to 7 concert events per calendar year for a period of five (5) years, with a maximum capacity of 15,000 persons per event plus 600 staff at Lots 104, 105, 21, 62, 63, 9 and 16, Middle Swan in the Swan Valley in accordance with the attached modified Events Plan stamp dated 16 November 2021 subject to the following conditions:

- 1. The approval is time limited to a period of five (5) years from the date of issue of this approval.***
- 2. A maximum of 15,000 persons are permitted onsite at any one time plus 600 staff.***
- 3. Concert events shall be restricted between the hours of 14:00 and 22:30 restricted to Saturdays and Sundays and on public holidays.***
- 4. A minimum of 15 working days prior to each event, the applicant must prepare and submit a Traffic Management Plan, for Main Roads WA approval, in consultation with the City of Swan to the satisfaction of the Western Australian Planning Commission.***
- 5. A minimum of 15 working days prior to each event, the applicant must prepare and submit a Car Parking Management Plan, for the City of Swan approval, in consultation with Main Roads to the satisfaction of the Western Australian Planning Commission.***
- 6. Prior to the commencement of any event, approval of a Traffic Management Plan from Main Roads WA must be obtained to the satisfaction of the Western Australian Planning Commission.***
- 7. Prior to the commencement of any event, approval of a Car Parking Management Plan from the City of Swan must be obtained to the satisfaction of the Western Australian Planning Commission.***

8. ***A minimum of 15 working days prior to each event, the applicant shall prepare and submit to the City of Swan for approval to the satisfaction of the Western Australian Planning Commission:***
 - ***a Noise Management Plan to be prepared by a suitably qualified engineer;***
 - ***an Event Management Plan detailing onsite and off-site security/crowd control provisions, protection of Bush Forever site 302 from cars and pedestrians, fire and safety, emergency access and first aid; and***
 - ***a Waste/Effluent Management Plan.***
9. ***At the end of each financial year in which a concert event or events have been held, the following is to be undertaken by the proponent to the satisfaction of the Western Australian Planning Commission:***
 - ***undertake a survey of its neighbours for the purpose of ascertaining the impact of its concert events on them;***
 - ***provide a copy of all returned surveys to the City of Swan; and***
 - ***provide a report to the City of Swan on responses contained in the returned surveys and actions that Nikola Estate proposes to undertake to address any concerns identified in them.***
10. ***Any temporary structures associated with large scale events will be setup in accordance with the Events Plan stamp dated 16 November 2021 in consultation with the City of Swan to the satisfaction of the Western Australian Planning Commission.***
11. ***No vehicles, other than in the case of an emergency, are to enter the riverbank exclusion zone as shown in red on the Events Plan stamp dated 16 November 2021.***
12. ***In consultation with the City of Swan, the applicant shall ensure that for events greater than 1000 people the Riverbank shall be fenced as shown on the Events Plan stamp dated 16 November 2021 to the satisfaction of the Western Australian Planning Commission.***
13. ***No vegetation on the Riverbank shall be damaged or removed as a result of an event and should any inadvertent damage occur, the applicant is required to notify the Department of Biodiversity, Conservation and Attractions within 48 hours and rectify the damage to the satisfaction of the Western Australian Planning Commission.***
14. ***In consultation with the City of Swan and the Department of Biodiversity, Conservation and Attractions, the applicant shall take appropriate measures to prevent sediment from entering the stormwater system and soil, or rubbish, enters the river as a result of the works and within 48 hours of the completion of each event the applicant shall ensure the site is clear of litter to the satisfaction of the Western Australian Planning Commission.***
15. ***Prior to the commencement of the first event, the applicant shall submit for approval to the Department of Biodiversity, Conservation and Attractions, a lighting plan which demonstrates that lighting is designed in accordance with the International Commission of Illumination's Guide on the Limitation of Effects of Obtrusive Light from Outdoor Lighting Installations to minimise light spill so that fauna within the River and Riverbank are not unacceptably affected to the satisfaction of the Western Australian Planning Commission.***
16. ***Temporary toilet facilities shall be removed as soon as practicable and shall not remain in place any longer than 72 hours after an event and in the case of events over consecutive weekends, the toilets shall be pumped and cleaned within 24***

hours of each event in consultation with the City of Swan to the satisfaction of the Western Australian Planning Commission.

17. *If in the event of a severe weather warning with the potential to cause flooding the applicant shall ensure that all portable toilets and food vans are moved outside of the 1% flood plain in consultation with the City of Swan to the satisfaction of the Western Australian Planning Commission.*
18. *In consultation with the City of Swan and the Department of Biodiversity, Conservation and Attractions, the applicant shall ensure that no grey water, rubbish or other solid or liquid waste materials enter the river or are disposed of in the Swan Canning Development Control Area as a result of the mobile food van operations or catering for an event to the satisfaction of the Western Australian Planning Commission.*
19. *In consultation with the City of Swan and the Department of Biodiversity, Conservation and Attractions, the applicant is to provide a riverbank management plan for the exclusion area west of the stage as indicated on the Events Plan stamp dated 16 November 2021 to the satisfaction of the Western Australian Planning Commission.*
20. *In consultation with the City of Swan the applicant is to ensure that adequate waste disposal facilities are available for patrons to the satisfaction of the Western Australian Planning Commission.*
21. *Events shall be cancelled in consultation with the City of Swan on days where the fire danger forecast is extreme or catastrophic to the satisfaction of the Western Australian Planning Commission.*
22. *Events shall be cancelled in consultation with the City of Swan where heavy rainfall poses a flood risk to property and people to the satisfaction of the Western Australian Planning Commission.*
23. *Prior to the commencement of any event, evidence is to be provided to the City of Swan that all neighbouring residents are informed and that they are invited to provide feedback following events to the satisfaction of the Western Australian Planning Commission.*
24. *Prior to the commencement of any event, a Landscape Management Plan for the management of vegetation areas 2,3,4,6 and 10 in accordance with the Bushfire Management Plan is to be prepared and implemented in consultation with the City of Swan to the satisfaction of the Western Australian Planning Commission.*
25. *The Emergency Evacuation Plan submitted by the applicant shall be updated to remove reference to the bushfire shelter building from the document and is to be submitted to the City of Swan to the satisfaction of the Western Australian Planning Commission.*
26. *The modified Bushfire Management Plan submitted by the applicant on 27 August 2021 shall be updated to:*
 - *remove reference to the bushfire shelter building from the document;*
 - *indicate the Asset Protection Zone to surround the proposed stage, seating area and areas accessible to the public during a major event are located within BAL-29 or below;*
 - *dedicate a Fire Service Access Route or alternative solution to allow quick access from Dale Road to the stage area during a fire emergency; and*

- **indicate and implement a water supply within 90m from the stage area prior to any event.**

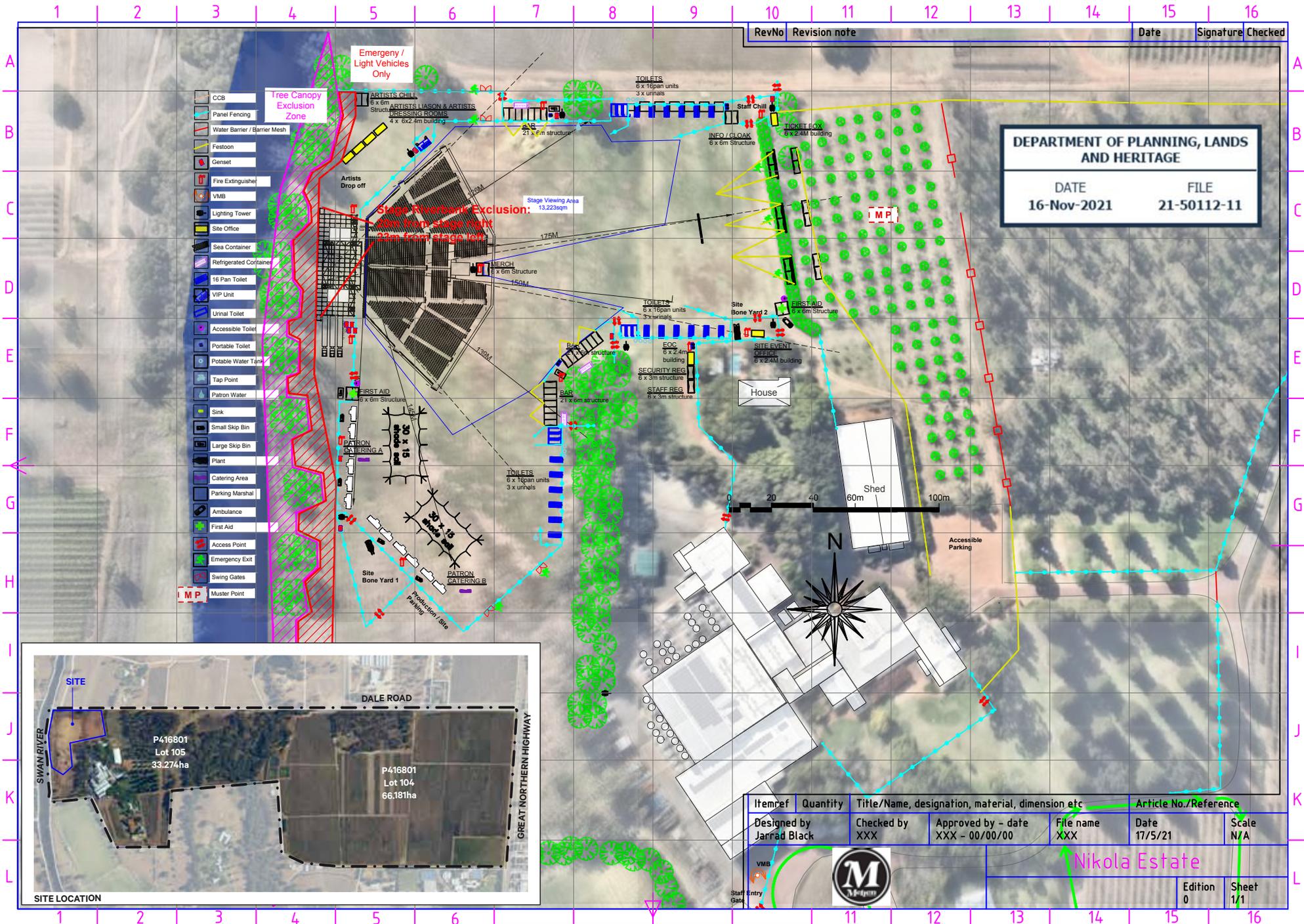
The updated Bushfire Management Plan is to be submitted to the City of Swan and implemented to the satisfaction of the Western Australian Planning Commission.

Advice to applicant

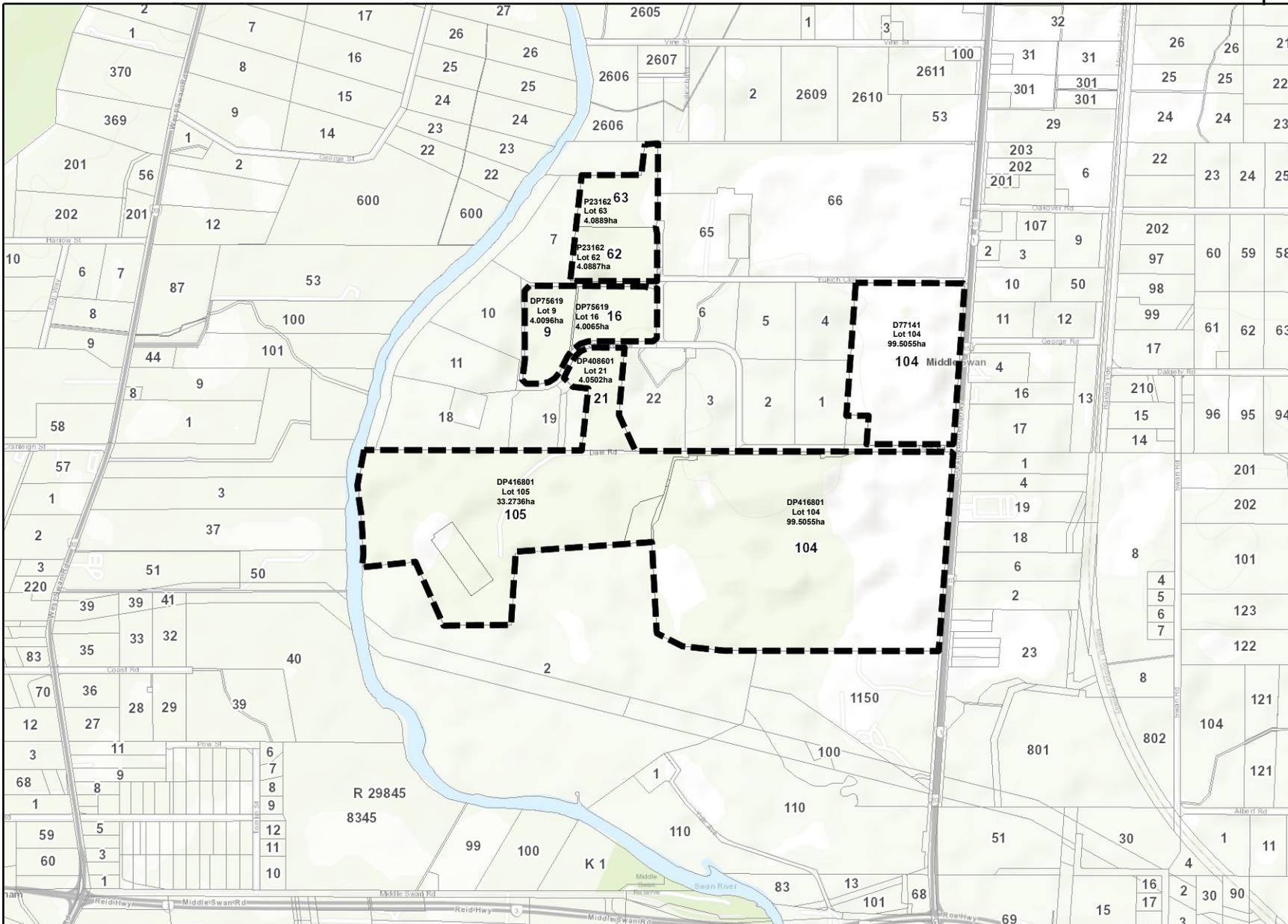
- 1. In relation to Condition 15, lighting should be designed to only illuminate the necessary infrastructure/landmark and not result in light spill to the river or vegetation. The use of glare shields and other methods to direct light and reduce spill are encouraged. It is recommended that a light spill diagram is prepared to support the lighting plan. Light spill to the river and vegetation within the Conservation and Protection Zone should be no more than 0.01-0.03 lux (moonlight), where possible, to ensure no adverse ecological consequences and in this regard the Department of Biodiversity Conservation and Attractions is to be consulted.**
- 2. The applicant is to consult with the City of Swan to ensure that the wastewater treatment irrigation area associated with the winery does not conflict with the areas to be used for the proposed events.**
- 3. In relation to condition 19, the riverbank management plan is to include details of stage setup and pack down that ensures that the bank and fringing vegetation is not damaged and is to include revegetation and stabilisation of the bank to the specifications of Department of Biodiversity, Conservation and Attractions.**
- 4. Condition 24 is also to address the conflict between vegetation clearing and environmental protection of the Swan River bank regarding vegetation area 10.**
- 5. No road works or alterations to Main Roads WA assets are approved as part of this application.**
- 6. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the Western Australian Planning Commission.**

ATTACHMENTS

- A1 - Events Plan
- A2 - Property Description
- A3 - Location Plan
- A4 - Aerial Photo
- A5 - Zoning Plan
- A6 - Submission Responses Summarised
- A7 - Extracts from SVP Act and SVPS 1
- A8 - Proposed Parking Areas



Nikola Estate Event Plan



Legend
 Cadastre (View 1)

Notes:

- * The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.
- * This map is not intended for measurement purposes.

Map was produced using DPLH's InQuery.

Property Description - Development Application Area

DPLH BUSINESS USE ONLY

Internal Spatial Viewer

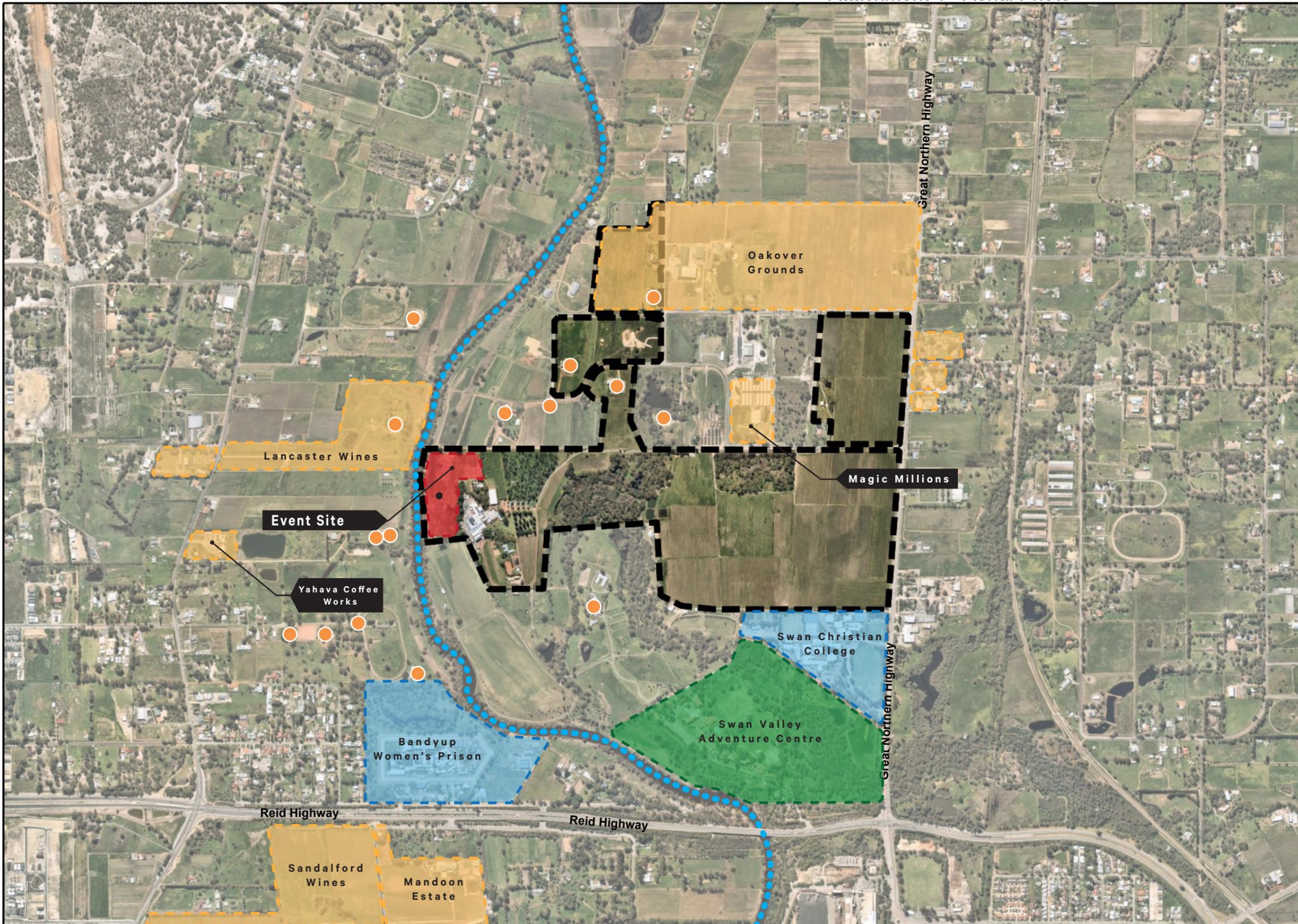

 0 0.43 0.86 Kilometres
 |-----|-----|-----|
 1: 20,000
 at A4
 Projection: WGS 1984 Web Mercator Auxiliary Sphere

Date produced: **18-Nov-2021**
 SVSPC Agenda Page 35



Legend

- Event Site
- Commercial (Wineries, etc)
- Services
- Recreation
- Residential Building (within 800m of the event site)



Notes:

* The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

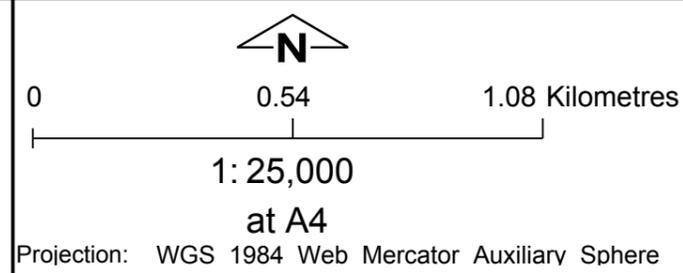
* This map is not intended for measurement purposes.

Map was produced using DPLH's InQuery.

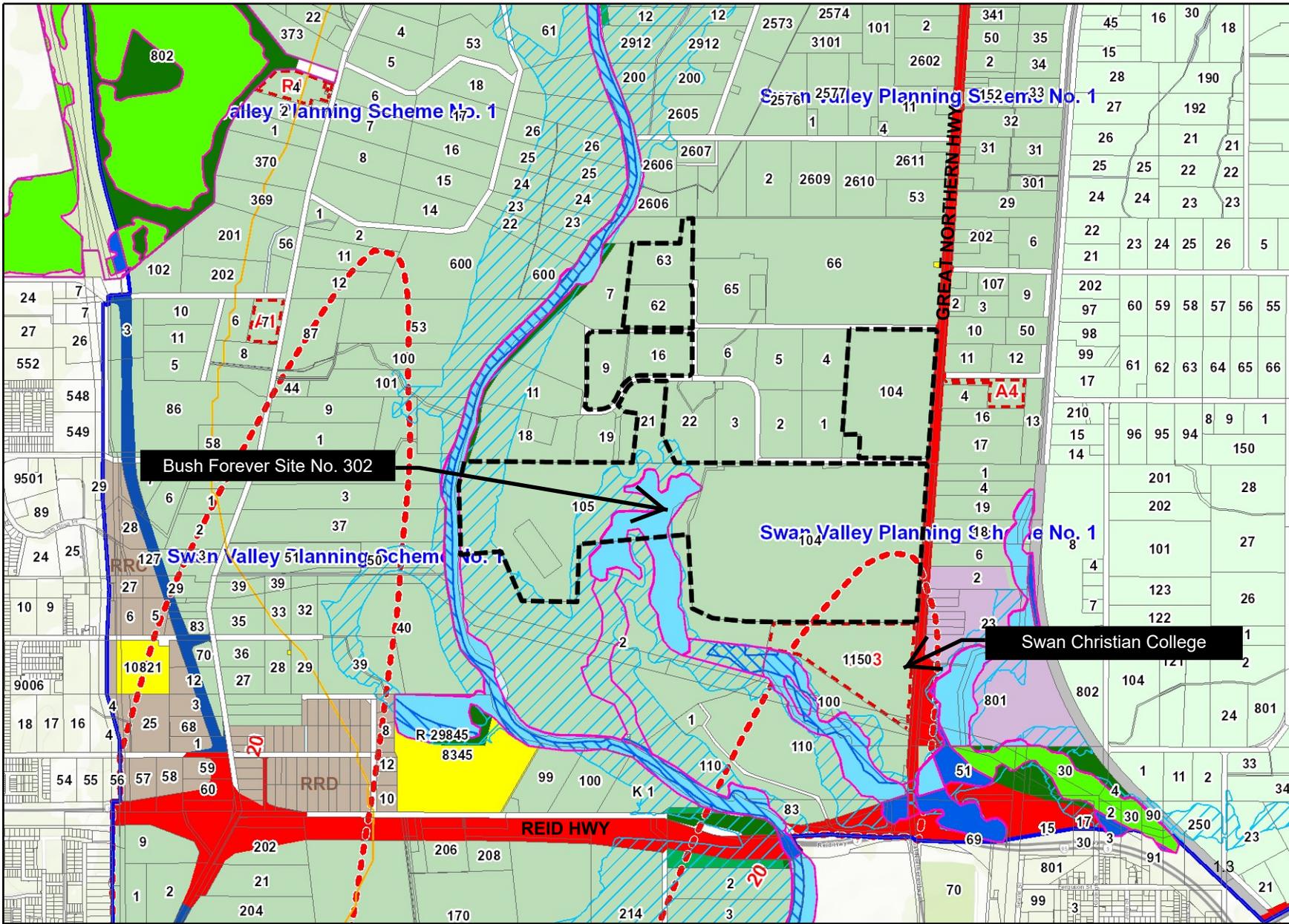
Aerial Photograph (August 2021)

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



Date produced: 18-Nov-2021



Legend

- Localities
- Cadastre (View 1)
- Swan Valley Planning Act Area
- Restricted and Additional Uses

Special Control Areas

- Perth Airport Special Control Area
- Flood prone Special Control Area

Zones & Reserves

- Conservation
- Parks and Recreation
- Public Purposes
- Waterway
- Regional Road
- District Road
- Local Road
- Railway
- Priority agriculture
- Swan Valley Rural
- Rural Residential
- Enterprise

Subject Development Application Area

Restricted and Additional Uses

Other Categories - Areas (SCA, DCA, DA etc)

Notes:

* The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

* This map is not intended for measurement purposes.

Map was produced using DPLH's InQuery.

Zoning Plan

DPLH BUSINESS USE ONLY

Internal Spatial Viewer

0 0.54 1.08 Kilometres
 1: 25,000
 at A4
 Projection: WGS 1984 Web Mercator Auxiliary Sphere

Attachment 6 – Submission Responses Summarised

Agency	Agency Comments
<p>(1) Department of Planning, Lands and Heritage (Heritage Development)</p>	<p>No objection</p> <p>The Nikola Estate is a place of cultural heritage significance where the following is identified - State Registered Heritage Place known as <i>Houghton Homestead</i>.</p> <p><i>Houghton Homestead</i> has cultural heritage significance as it demonstrates the mid nineteenth century European settlement of the Swan Valley and the aesthetic characteristics of colonial vernacular architecture.</p> <p>The proposal does not impact on the identified cultural heritage significance of <i>Houghton Homestead</i>.</p>
<p>(2) Department of Water and Environmental Regulation (DWER)</p>	<p>No objection</p> <p>The Department does not object to the proposal and has provided advice in relation to the following:</p> <ul style="list-style-type: none"> • The proposed temporary stage, seating, dressing rooms and dining structure are located within the Swan River floodway; • The Department’s guiding principles for floodplain management are to ensure that proposed development has adequate flood protection from a 1 in 100 Annual Exceedance Probability (1% AEP) flood and does not detrimentally impact on the existing flooding regime of the general area. • The natural surface contours are between 2 m AHD and 3 m AHD. • The 1 in 100 (1%) AEP flood level is estimated to be around 6.75 m AHD (refer to Attachment 1). Flood depths will be around 3.75 m to 4.75 m AHD. • The 1 in 10 (10%) AEP flood level is estimated to be around 4.8 m AHD. Flood depths will be around 1.8 and 2.8 m.

	<ul style="list-style-type: none"> • According to the ARR2019 Flood Hazard Map, the 1% and 10% AEP flood depths are considered to be unsafe for people and vehicles. All building types are considered vulnerable to failure in the 1% AEP flood depths and vulnerable to structural damage in the 10% AEP floodwaters. • The proposed temporary structures could be obstructive to major flows if a flood event occurred. • The floodway should have no permanent fill or structures. • Regarding the proposed carparking areas for events, the 1 in 100 (1%) AEP flood level is around 6.9 m AHD and the natural surface contours for these areas are between 14 and 17 m AHD.
<p>(3) Main Roads(WA)</p>	<p>No objection Main Roads has no objections to the application subject to the following conditions being imposed:</p> <ol style="list-style-type: none"> 1. This approval is time limited to a period of five (5) years from the date of issue of this approval. 2. A minimum of 15 working days prior to each event, the applicant must submit a Traffic Management and Parking Management Plan endorsed by a Road Traffic Manager or Advanced Worksite Traffic Controller ticket holder to Main Roads for approval. 3. Prior to the commencement of an event onsite, approval of a Traffic Management Plan from Main Roads must be obtained. 4. No road works or alterations to Main Roads assets are approved as part of this application. 5. A maximum 10 000 patrons are permitted onsite at any one time. <i>(Note: The 10,000 figure should be 15,000 – corrected on 11 November 2021 by email from Steve Fernandez)</i> 6. Hours of events shall be restricted to between 14.00 hrs and 22.30hrs at all times. <p>Advice:</p> <ol style="list-style-type: none"> a) Condition 1 and 2 have been imposed to reflect Main Roads Temporary events procedures and process pursuant to the Road Traffic Code 2000. b) The applicant is required to submit an Application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads. c) The support of this application is valid for a period of two (2) years
<p>(4) Department of Biodiversity, Conservation and Attractions</p>	<p>No objection DBCA has not raised objection to the proposal. DBCA recommends the following conditions if the WAPC decides to support the proposal:</p>

Parks and Wildlife Service (DBCA)
River and Estuaries Branch in relation to the MRS Clause 30A (2)a(ii)

1. Any temporary structures associated with large scale events will be setup in accordance with the events Concept Plan dated 10 November 2021.
2. No vehicles, other than in the case of an emergency, are to enter the riverbank exclusion zone as shown in red on the events Concept Plan dated 10 November 2021.
3. The applicant shall ensure that for events greater than 1000 people the Riverbank shall be fenced as shown in the Concept Plan to ensure event patrons do not access the River and cause erosion.
4. No vegetation on the Riverbank shall be damaged or removed as a result of an event. Should any inadvertent damage occur, the applicant is required to notify the Department of Biodiversity, Conservation and Attractions within 48 hours and rectify the damage.
5. The applicant shall take appropriate measures to prevent sediment from entering the stormwater system and soil, or rubbish, enters the river as a result of the works. Within 48 hours of the completion of each event the applicant shall ensure the site is clear of litter.
6. Provide a lighting plan which demonstrates that lighting is designed in accordance with the International Commission of Illumination's Guide on the Limitation of Effects of Obtrusive Light from Outdoor Lighting Installations to minimise light spill so that fauna within the River and Riverbank are not unacceptably affected to the satisfaction of the Department of Biodiversity, Conservation and Attractions. (Advice Note 2).
7. Temporary toilet facilities shall be removed as soon as practicable and shall not remain in place any longer than 72 hours after an event. In the case of events over consecutive weekends, the toilets shall be pumped and cleaned within 24 hours of each event.
8. If in the event of a severe weather warning with the potential to cause flooding the applicant shall ensure that all portable toilets and food vans are moved outside of the 1% flood plain.
9. The applicant shall ensure that no grey water, rubbish or other solid or liquid waste materials enter the river or are disposed of in the Swan Canning Development Control Area as a result of the mobile food van operations or catering for an event.
10. The applicant is to ensure that adequate waste disposal facilities are available for patrons.
11. The applicant is to provide a riverbank management plan for the exclusion area west of the stage. (Advice Note 4)

ADVICE

1. Notification of commencement of works and submission of documents required as a condition of this approval can be emailed to rivers.planning@dbca.wa.gov.au.
2. Regarding Condition 6, lighting should be designed to only illuminate the necessary infrastructure/landmark and not result in light spill to the river or vegetation. The use of glare shields and other methods to direct light and reduce spill are encouraged. It is recommended that a light spill diagram is prepared to support the lighting plan. Light spill to the river and vegetation within the Conservation and Protection Zone should be no more than 0.01-0.03 lux (moonlight), where possible, to ensure no adverse ecological consequences.

	<p>3. The applicant is to consult with the City of Swan to ensure that the wastewater treatment irrigation area associated with the winery does not conflict with the areas to be used for the proposed events.</p> <p>4. The riverbank management plan is to include details of stage setup and pack down that ensures that the bank and fringing vegetation is not damaged. Additionally, the management plan is to include revegetation and stabilisation of the bank to the specifications of the Department of Biodiversity, Conservation and Attractions and implemented each winter following events season.</p>
(5) Water Corporation	No objection. WC advised that due to the potential increase in peak water demand during events, upgrading of the current system may be required to prevent existing customers being affected by events. WC requested that the proponent needs to provide the proposed peak demands so that it can be determined if upgrades are required.
(6) Department of Primary Industries and Regional Development	<p>No objection. Raised the following concerns:</p> <ul style="list-style-type: none"> - proposed use is not incidental to vineyards and winery but separate commercial activity; - time period of season unclear; - biosecurity and land degradation risks associated with 7,500 parking bays not addressed; - risks to biosecurity by importing weeds, pests and diseases to property; - vehicles will compact the surface and subsoils, reducing water infiltration and affecting root growth; - management actions can be implemented to reduce risks and potential for adverse impact on soil; - neighbours to be notified of events so that they can plan spraying operations.
(7) Department of Fire and Emergency Services (DFES)	<p>Not supported 2 July 2021. Modifications were requested by DFES in relation to Off-site Car Parking, Vegetation Classification, Management and Bushfire Protection Measures, Bushfire Protection Criteria, Location, Siting and Design, Vehicular Access and Water Supply not sufficient for major events.</p> <p>On 16 August 2021, the Applicant's bushfire consultant provided a Modified BMP to the City of Swan including a document that shows how matters raised by DFES are addressed. These documents were provided to DFES for comment. In its referral response, DFES outlined the following relevant requirements that need to be addressed:</p> <ul style="list-style-type: none"> i) a Landscape Management Plan is required for vegetation areas 2, 3,4,6 and 10 as indicated in the Bushfire Management Plan to indicate post-development management and this is also to address Area 10 where there appears to be conflict between vegetation clearing and environmental protection of the Swan River bank; ii) the APZ should surround the proposed stage, seating area and areas accessible to the public during a major event; iii) the internal public roads are to be upgraded to public road standards in accordance with the requirements of Table 6, Column 1 of the Guidelines for Planning in Bushfire Prone Areas (Guidelines), which requires a 6m minimum trafficable surface;

	<p>iv) a dedicated Fire Service Access Route (FSAR) is to be provided between Dale Road and the stage area in accordance with the Guidelines; and</p> <p>v) a fire hydrant or water supply is to be provided within 90m from the stage area.</p>
Comments from public during advertising	
(8)	Objection. Raised noise issue and finish time of 10:30 should be 8:30
(9)	No objection
(10)	Objection. Proposal is inconsistent with Priority Agriculture Zone. Raised noise issue. Antisocial behaviour.
(11)	Objection. Past events were poorly managed. Raised traffic issues.
(12)	Objection. Antisocial behaviour. Raised noise and traffic issues.
(13)	Objection. Antisocial behaviour. Raised noise issues.
(14)	No objection
(15)	Objection. Raised land use issues with rural area, noise, traffic, amenity, toilet facilities, safety and emergency management.
(16)	Objection. To the proposed scale and requested a reduced scale. Raised noise (suggests that noise may impact on horses and cattle breeding programs), traffic and antisocial behaviours issues. Suggests that only 2 events per season be held, maximum of 5000 persons, approval time limit 5 years.
(17)	Objection. To the proposed scale and requested a reduced scale. Raised the following issues – incompatible with the planning framework, traffic and parking issues, bushfire and evacuation issues, impact on Swan River and Jane Brook. Any approval should include monitoring and management requirements such as acoustic modelling at each event, traffic management plan, security measures, surveys at each calendar year to determine impact on neighbours.

Extract from the Swan Valley Planning Act 2020 relevant to the Nicola Estate proposal are highlighted below:

5. Objects of Act

- (1) The objects of this Act are —
- (a) to protect the Swan Valley as a productive agricultural area within the Perth metropolitan region; and
 - (b) to maintain the rural character and conserve the heritage of the Swan Valley; and
 - (c) to ensure that horticulture, viticulture, hobby farming and equestrian activities remain the principal land uses in the Swan Valley; and
 - (d) to discourage land uses in the Swan Valley that are incompatible with its rural character and the principal land uses referred to in paragraph (c); and
 - (e) to ensure that tourism and hospitality in the Swan Valley are consistent with the objects in paragraphs (a) to (d); and
 - (f) other than in the Herne Hill townsite, to prevent new residential development in the Swan Valley except for single houses on single lots in keeping with the rural character of the Swan Valley; and
 - (g) to avoid overstocking, clearing of natural vegetation, activities causing pollution or degradation of the environment, or any other land management practices detrimental to the Swan Valley; and
 - (h) to protect the natural environment of the Swan Valley, including by reducing nutrient levels in the Swan River; and
 - (i) to ensure that, for all development in the Swan Valley, appropriate consideration is given to building setbacks, retention of vegetation, suitable building materials and boundary fencing; and
 - (j) to ensure that new non-rural development of Swan Valley rural land is designed and located so as to reduce any nuisance or other detrimental impacts that could arise from existing or future uses of other Swan Valley rural land for horticulture or viticulture; and
 - (k) to ensure that development and subdivision in the Swan Valley are only permitted if this does not prevent the objects in paragraphs (a) to (j) from being satisfied.

Extract from the Swan Valley Planning Scheme No. 1 relevant to the Nicola Estate proposal is highlighted below:

10. Aims of Scheme

The aims of the Scheme are to -

- (a) secure long-term agricultural production in the Swan Valley through retention of existing lot sizes, quality soils and areas of existing and potential horticulture, especially viticulture; and
- (b) conserve the rich history and cultural heritage of the Swan Valley through protection of its unique natural landscape and rural character; and

(c) ensure quality agricultural land in the Swan Valley is retained for horticulture and viticulture, with other rural land predominantly used for hobby farming, equestrian activities and associated rural land uses; and

(d) ensure that the use and development of rural land is compatible with horticulture, viticulture, hobby farming, equestrian activities and the rural character of the Swan Valley; and

(e) ensure all development is appropriately located, designed, scaled and landscaped and existing vegetation retained to enhance the unique rural landscape character of the Swan Valley; and

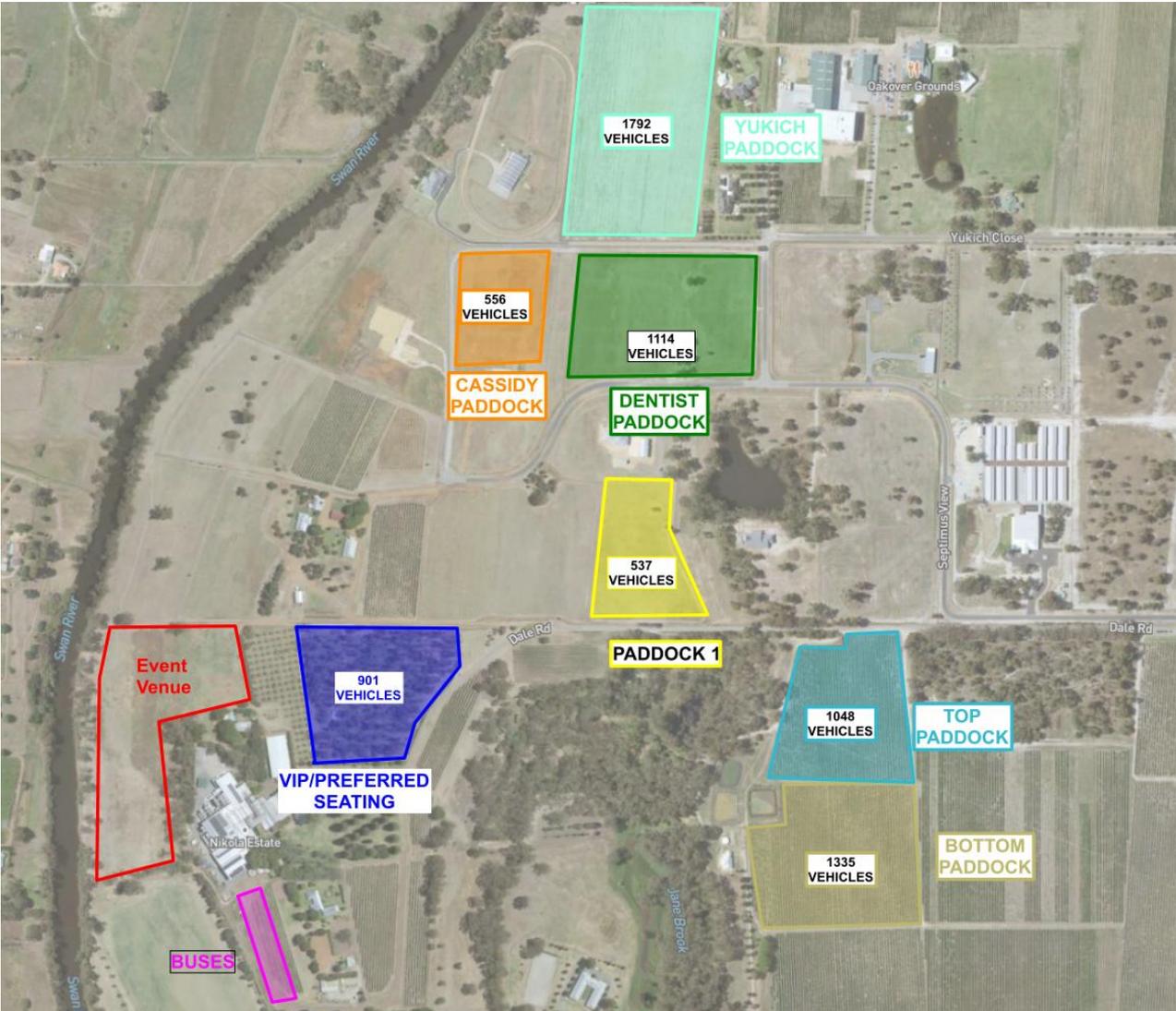
(f) ensure tourism, hospitality and other non-rural development and land use is appropriately located, designed and of a scale that does not impact rural land use for agriculture and Swan Valley rural character and amenity; and

(g) limit residential, commercial and light industrial uses to designated areas and ensure that they do not impact rural land uses or the rural character and amenity of the Swan Valley; and

(h) ensure all residential development is contained within the Herne Hill townsite, except for single houses on single lots in keeping with the rural character of the Swan Valley; and

(i) ensure land use and development in the Swan Valley enhances the natural environment of the Swan River catchment, protects native vegetation, wetlands and waterways and appropriately manages soils and water resources.

Attachment 8 - Proposed Parking Areas



Source: element