



*Swan and Canning Rivers Management Act 2006*

**PART 5**

**DETERMINATION OF DEVELOPMENT APPLICATION**

FILE NUMBER : SRT6105  
APPLICANT : Erceg Management on behalf of Mandoon Estate Pty Ltd  
APPLICANT'S ADDRESS : 320 Lord Street Perth 6000  
LANDOWNER : Swan River Trust  
LAND DESCRIPTION : Swan River, Lot 305 on Plan 47453 (Reserve 48325)  
Henley Brook and Lot 216 on Diagram 80583 Middle  
Swan Road, Caversham, Mandoon Estate  
DEVELOPMENT : Construction of Commercial Jetty  
VALID FORM 1 RECEIVED : 15 October 2014  
DETERMINATION : Dated 19 September 2014

**APPROVAL WITH CONDITIONS**

The application to commence development in accordance with the plans received by the Swan River Trust (the Trust) on 15 October 2014 is APPROVED subject to the following conditions:

1. Approval to implement this decision is valid for two (2) years from the date of the approval. If the development has not been substantially commenced within this period, a new approval will be required before commencing or completing the development.

**Prior to commencement of works**

2. Prior to commencement of works, the applicant shall submit further detailed drawings showing the exact design and location of the commercial jetty, to the satisfaction of the Swan River Trust, on advice from the Department of Transport, Department of Water and City of Swan (see *Advice Notes 1 – 3*).
3. Prior to commencement of works, the applicant shall submit a schedule of colours, materials and finishes, to be approved by the Swan River Trust.
4. Prior to commencement of works, the applicant shall obtain a jetty licence from the Department of Transport, Coastal Facilities, prior to any works commencing (see *Advice Note 4*).
5. Prior to the commencement of works, the applicant shall enter into a new lease with the Swan River Trust to obtain access over Lot 216.
6. The applicant shall be responsible for all legal costs associated with the preparation of the required lease.

7. Prior to the commencement of works, a foreshore management plan for the portion of Lot 216 that is to be immediately impacted by both the jetty, and the provision of access to it, shall be prepared to the satisfaction of the Swan River Trust (see *Advice Note 5*).
8. Prior to the commencement of works, a construction management plan to manage environmental impacts associated with the development shall be prepared to the satisfaction of the Swan River Trust (see *Advice Note 6*).
9. The applicant shall notify the Swan River Trust in writing not less than thirty (30) days prior to the commencement of works.

#### **During works**

10. The works shall be constructed in accordance with the final plans approved under **Conditions 2 and 3**.
11. The approved construction management plan required under **Condition 8** shall be implemented.
12. No building materials, rubbish or any other deleterious matter shall be allowed to enter the river as a result of the development.
13. Upon completion of the development, all waste materials shall be removed and the site cleaned-up to the satisfaction of the General Manager, Swan River Trust.

#### **Ongoing**

14. The newly constructed jetty shall remain accessible to the public from the land and from the river.
15. The foreshore management plan required under **Condition 7** shall be implemented.

#### **ADVICE TO APPLICANT**

1. The final drawings required under **Condition 2** shall demonstrate that the commercial jetty is located a minimum distance of 50 metres from the existing Sandalford jetty and will result in minimal disturbance to the foreshore vegetation. In addition, it should be suitably designed and located so that an additional public vessel can utilise the facility while a commercial vessel is secured to it.
2. All drawings of the jetty design submitted under **Condition 2** must each be signed/certified by an experienced maritime engineer that the design is in accordance with AS3962-2001 Guidelines for the Design of Marinas.
3. The design drawings submitted under **Condition 2** are to specify the maximum design vessel length for this jetty.
4. In relation to **Condition 4**, the maximum design vessel length is to be specified in the jetty licence.
5. The Foreshore Management Plan required under **Condition 7** is required to assist with the identification of appropriate planning and management strategies for the foreshore reserve. The Plan shall address, but not be limited to: appropriate erosion control measures, the identification and protection of existing vegetation, revegetation and landscaping, and management of access through Lot 216.

6. The Construction Management Plan required under **Condition 8** shall address, but not be limited to:
- storage of materials and equipment on the site including location;
  - on-site waste management and storage (temporary or otherwise);
  - protection of existing vegetation;
  - prevention of rubbish, litter, debris, sediment and other materials entering the river;
  - method of installation of piles;
  - type of equipment and machinery required;
  - method of preventing silt plumes during construction work, including the use of silt curtains where appropriate;
  - complaints and incidents;
  - public access closure or restrictions;
  - vehicle parking requirements in foreshore;
  - other mechanisms to protect the water quality of the river;
  - approximate programme of works;
  - hours of operation, timeframes and responsibility for tasks identified; and
  - complaints and incidents.
7. The applicant is advised that it is an offence under the *Swan and Canning Rivers Management Regulations 2007* to destroy, pull up, cut back or injure any tree, shrub, aquatic plant or other perennial plant that is in the Swan River Trust Development Control Area, except with the approval of the Swan River Trust.
8. As the proposed jetty structure will be publicly accessible, the applicant is advised to obtain continuing suitable insurance in respect of all sums for which they become legally liable to pay compensation in respect to:
- a. bodily injury, including death and illness; and
  - b. damage to property, including loss of property, occurring as a result of an accident or happening in connection with use of the jetty structure.
9. The Department of Aboriginal Affairs advises that the proposal is located within Aboriginal site DAA 3536 (Swan River). As the proposal is for a new structure, and not a replacement of an existing one, there is some potential that an approval under the *Aboriginal Heritage Act 1972* will be required. Please contact the Department of Aboriginal Affairs to discuss the proposal in detail. It is also recommended that the South West Aboriginal Land and Sea Council (SWALSC) is notified of the proposed works and are invited to comment on the proposed activities.
10. The Department of Water advises that the jetty may be prone to flood damage in times of major river flooding due to the depth of flow and flow velocities that will be experienced.

  
HON. ALBERT P JACOB JP MLA  
MINISTER FOR ENVIRONMENT; HERITAGE

Date: 9/6/15



FILE No. : SRT6105

TRUST MEETING : 14 April 2015

## SWAN RIVER TRUST REPORT

PROPOSAL : Construction of a commercial jetty

COST : \$90,000

LOCATION : Swan River, Lot 305 on Plan 47453 (Reserve 48325) Henley Brook and Lot 216 on Diagram 80583 Middle Swan Road, Caversham (Mandoon Estate)

APPLICANT : Erceg Management on behalf of Mandoon Estate Pty Ltd

OWNER : Swan River Trust

LOCAL GOVERNMENT : City of Swan

MRS ZONE : Waterway, Parks and Recreation

DECISION TYPE : Part 5, *Swan and Canning Rivers Management Act 2006* – Ministerial Determination

ATTACHMENTS : *1: Location Map*  
*2: Aerial Photograph (from applicant's submission)*  
*3: Revised City of Swan advice dated 20 March 2015*  
*4: Department of Transport advice dated 5 November 2014*  
*5: Original jetty proposal*  
*6: Revised jetty proposal*  
*7: Photographs of the existing Sandalford Estate jetty (from applicant's submission)*  
*8: Department of Transport advice dated 28 April 2014*  
*9: Land and Waterway Use Plan – Map 12*

RECOMMENDATION : **APPROVAL WITH CONDITIONS**

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## REPORT

### 1.0 INTRODUCTION

- 1.1 The Swan River Trust (the Trust) has received an application from Rowe Group, representing Erceg Management on behalf of Mandoon Estate Pty Ltd, for the construction of a commercial jetty within the Swan River at the interface of Lot 216 Middle Swan Road, Caversham (**Attachments 1 and 2**).
- 1.2 The commercial jetty is proposed to service the newly constructed function and agro-tourism centre at Mandoon Estate, located on Lot 10 and 215 Harris Road, which abuts the aforementioned Lot 216.



- 1.3 There is an existing commercial jetty in this locality that is maintained and operated exclusively by the neighbouring Sandalford Estate.
- 1.4 The proposed jetty is located wholly within the Trust's Development Control Area (DCA). The application is therefore being processed pursuant to Part 5 of the *Swan and Canning Rivers Management Act 2006*. The Trust will provide a recommendation on the proposal to the Minister for Environment.

## 2.0 CONSULTATIONS

### City of Swan

- 2.1 The City of Swan (the City) initially recommended refusal of the proposal as the proposed development creates the potential of erosion from propeller wash to the City's Lot 7528 (John George Walk Trail) and there is an existing jetty which is capable of joint use.
- 2.2 On 20 March 2015, the City wrote to the Trust (see **Attachment 3**) advising that it had reconsidered the proposal and was now prepared to support the proposal as it had discovered the existing Sandalford Estate jetty was not available for joint use.
- 2.3 The City is supportive of tourism in the Swan Valley and advises that the frequency of use would not impact on foreshore erosion.
- 2.4 The City advises that if the proposal is approved, it is recommended the applicant design and implement erosion control measures to Lot 7528 to the satisfaction of the Trust and the City (It should be noted that Lot 7528 is the foreshore reserve on the opposite side of the Swan River in this location, featuring the John George Walk Trail, and is vested with the City).

### Department of Aboriginal Affairs

- 2.5 The Department of Aboriginal Affairs (DAA) advises that the proposal is located within Aboriginal site DAA 3536 (Swan River).
- 2.6 DAA considers that as the proposal is for a new structure, and not a replacement of an existing one, there is some potential that an approval under the *Aboriginal Heritage Act 1972* will be required.
- 2.7 DAA does not have sufficient information to definitively conclude whether such an approval is required and recommends the prospective developer meet with DAA to discuss the proposal in detail.

### Department of Transport – Maritime Planning and Property Services

- 2.8 The Department of Transport (DoT) Maritime Planning and Property Services branches provided a consolidated response (see **Attachment 4**).
- 2.9 DoT advises it has no in principle objection to the proposal proceeding subject to a series of standard conditions.
- 2.10 DoT notes however the location of the proposed jetty within close proximity to an existing jetty (the Sandalford Estate facility), which may cause navigational issues for vessels using both jetties. Based on the proposed usage (predominantly accommodating large cruise vessels) the location of the proposed jetty needs to be a minimum distance of 50 metres from the existing jetty.

### Department of Water

- 2.11 The Department of Water (DoW) in carrying out its role in floodplain management notes that the general area is affected by flooding with the 100 year ARI flood level estimated to be 6.8m AHD. The proposed jetty is located within the floodway.

- 2.12 DoW has no objections to the proposed jetty but notes that the jetty may be prone to flood damage in times of major river flooding due to the depth of flow and flow velocities that will be experienced.

### **Swan River Trust – Riverpark Management**

- 2.13 Riverpark Management provided the following comments and recommendations, regarding both the jetty proposal and the possible future management of the adjoining Lot 216:

- *Mandoon Winery is open to the public and its patronage draws on the local community, Perth-wide and national and international visitors.*
- *The Riverpark foreshore area adjacent to Mandoon and the river consists of stands of eucalypts on the steeper back slope, some minor scrubs, a single line of trees adjacent to the river and large cleared areas with grass groundcover. A large disused and drained dam structure is located in this area.*
- *Riverpark management is limited at this time, consisting of fuel load management through slashing the ground cover.*
- *The area is not directly accessible from the land side by the public, unless using the Mandoon or adjacent Sandalford Winery.*
- *Observations from a site visit, and the fact that daily boat tours to Sandalford Estate, occupies the current jetty 3-4 hours per day, an extra jetty nearby could be considered.*
- *Sharing the existing jetty from a pragmatic perspective would require one of the vessels not using it to find an alternative anchorage or mooring site impacting on river users due to the narrow nature of the river here in relation to the size of the commercial vessels conducting river cruises.*
- *The proposed jetty needs to be set a distance of over 50 metres from the current one to allow for more than one ferry boat/other boats.*
- *If a new jetty is approved, ideally it should not be exclusive to Mandoon but public boats should also be allowed to access. Mandoon should have the "right of first refusal" and how other boats access the jetty to be sorted between Mandoon and the boats. Potential access by more than one boat could however affect the design of the proposed jetty allowing for multiple boat access.*
- *The foreshore reserve is managed by the Trust and minimally an access/easement lease would be required by Mandoon to access the foreshore and the jetty, as well as maintain the area around it. This may present an opportunity to lease part or whole of Lot 216 to Mandoon, if it creates value, opportunity to their business, then should be explored further. Such a lease would have appropriate conditions such as what infrastructure (if any) and activities would be allowed; how the foreshore and vegetation will be managed etc. Such a venture would have benefits - reduce the Trust's cost and involvement and allow Mandoon to create more value from its product/service offering to the public.*
- *There may also be an opportunity for the Trust to generate lease fees to assist with maintaining natural and amenity values of the Riverpark.*
- *This opportunity was briefly shared with the proponent's agent, who suggested we have this discussion when the access lease and maintenance is discussed, and it strongly recommended this be explored.*



### 3.0 PUBLIC COMMENT – SUBMISSIONS ON DRAFT REPORT

- 3.1 In accordance with the requirements of Part 5 of the *Swan and Canning Rivers Management Act 2006* a copy of the draft report and proposed recommendation has been provided to the applicant, the local government and referral agencies. A copy was also published on the Trust website for a period of three weeks between 17 April 2015 and 11 May 2015 with an invitation for public submissions.
- 3.2 At the close of the public comment period four submissions had been received. One was from the applicant's agent advising it was satisfied with the content of the draft report and accepting of the recommended conditions. The other three were from the City, DAA and DoW.
- 3.3 The City advised it supports the recommendation but again requested that a condition be included requiring the applicant design and implement erosion control measures to Lot 7528, which is the opposite riverbank to the subject site. This issue, as discussed in section 8.18 and 8.19, was considered by the Trust at its meeting of 14 April 2015 and was decided to be beyond the scope of this proposal. Accordingly no changes to the Trust's report are required.
- 3.4 DAA requested that advice note 9 be expanded to include the recommendation that the South West Aboriginal Land and Sea Council (SWALSC) is notified of the proposed works and are invited to comment on the proposed activities. Advice note 9 has been modified to include this recommendation.
- 3.5 DoW advised that it provided comments on the original design but the report now indicates a new floating pontoon style structure is proposed. DoW advised it would be concerned if the pontoon was able to rise up and disengage from the support piles during times of major flooding and become mobile as it would have the potential to cause damage and/or create a blockage downstream. It recommended that this issue be further considered during the detailed design of the jetty structure. Accordingly condition 2 has been modified to require DoW be consulted regarding the final design of the jetty.

### 4.0 REQUEST FOR FURTHER INFORMATION

- 4.1 The applicant was advised of both DAA's and DoT's advice during the initial consultation process. At the time, the City's advice had not been received. In response, the applicant proposed a new location approximately 65 metres north-east of the existing Sandalford Estate jetty that is generally devoid of existing vegetation and would reduce any requirement for clearing, and would also address DoT's navigational safety issues.
- 4.2 More detailed engineering drawings were also requested by Trust officers that detailed the piling that would be required to support the proposed jetty structure. The applicant submitted revised plans on 23 January 2015, thereby changing the proposal from a piled timber jetty of the same dimensions and materials of the existing Sandalford Estate jetty, to a more modern floating pontoon and gangway clad in timber decking. The original proposal is included as **Attachment 5** and the revised proposal is included as **Attachment 6**.
- 4.3 The applicant has advised on numerous occasions however that it is open to considering both alternate methods of construction and ultimate built form, to ensure that the potential disturbance to the river system is minimised.
- 4.4 The amended plans were not re-referred to the agencies originally consulted as at the time it was considered the changes were not relevant to the advice and recommendations received.



## 5.0 RELEVANT POLICIES

- ◆ State Planning Policy 2.10 – *Swan-Canning River System*
- ◆ SRT/D21 – *Jetty Structures*
- ◆ SRT/EA1 – *Conservation, Land Use and Landscape Preservation*
- ◆ SRT/E3 – *Flood Prone Land*
- ◆ SRT/E5 – *Heritage*

## 6.0 ENVIRONMENTAL AND PLANNING CONSIDERATIONS

- ◆ *Jetty Structures Policy and use of the River Reserve*
- ◆ *State Planning Policy 2.10 – Swan-Canning River System*
- ◆ *Jetty licence*
- ◆ *Design and visual amenity*
- ◆ *Environmental protection*
- ◆ *Flood prone land*
- ◆ *Land and Waterway Use Plan*

## 7.0 BACKGROUND

- 7.1 As discussed, the immediate area contains an existing commercial jetty located within the Swan River at the interface of Lot 216 Middle Swan Road, Caversham that is currently owned and operated by Sandalford Estate (see **Attachment 7**). The jetty is used by a commercial ferry operator to deliver and collect patrons to and from the Sandalford Estate Winery.
- 7.2 The jetty was constructed by Sandalford Estate in the 1960s and has been maintained and upgraded since that time.
- 7.3 Sandalford Estate does not have a riverbed lease granting it exclusive use (i.e. technically it should be publicly accessible) however its jetty licence does provide it with exclusive commercial use.
- 7.4 The applicant has previously requested that DoT issue a revised jetty licence that grants joint use and maintenance over the existing jetty structure, however DoT has advised that this is not possible unless Sandalford Estate provides consent (see **Attachment 8**).
- 7.5 As this consent has not been forthcoming for some time, the applicant has now lodged a Part 5 application to construct its own facility for use by its patrons via a commercial ferry operation.
- 7.6 Following preliminary discussions with Trust officers prior to the lodgement of an application, the original proposal was for a jetty to be constructed adjacent to the existing Sandalford Estate jetty, of similar materials and finishes. This was proposed to ensure any visual impact was minimised, where it might appear the newly constructed jetty was actually an extension of the existing jetty.
- 7.7 Following DoT's advice that any new facility would need to be located at least 50 metres away however, the applicant decided to redesign the facility as it was no longer necessary for it to visually match the existing facility. In addition the applicant advises that the revised design will minimise the potential for disturbance to the riverbed as a result of piling, and present a more modern style.
- 7.8 The applicant advises that the commercial jetty is proposed "*in order to allow Mandoon Estate to widen the services provided, encouraging use of the newly constructed function and agro-tourism centre and tourism within the Swan Valley*

more widely. It is envisaged that the additional jetty will serve the wider community, where joint access would be subject to scheduling of births [sic].”

## 8.0 DISCUSSION

### Jetty Structures Policy and use of the River Reserve

- 8.1 Trust Policy SRT/D21 *Jetty Structures* states that jetties, wharves, boat ramps and boatsheds have been part of the Swan and Canning River landscape since the time of early European settlement. These structures provide access to the waterway for the public, water based sporting clubs and for businesses operating commercial ventures on the river system.
- 8.2 It is also recognised that appropriately designed and located community and commercial jetties form an integral part of the river environment and are an important community resource.
- 8.3 Community and commercial jetties provide the general public with a different form of experience and access to the Swan and Canning Rivers. Jetties are also necessary to provide embarkation points for the various ferry services and commercial cruises operating on the rivers and as such are an important recreational tourist resource. The Trust will generally require provision of public access to jetties, although such access may be restricted in certain circumstances depending on planning approvals and lease conditions.
- 8.4 As part of its application, the applicant has considered Trust Policy SRT/D21 and advised that the commercial jetty will:
  - encourage and protect the primary viticulture use of Mandoon Estate and intensify tourism for the locality;
  - be of a sympathetic design and construction to the existing rural character of the locality;
  - be available to the general public for unrestricted use;
  - not increase the level of activity of vessels to such an extent that the general public may be alienated from the waterway;
  - not be gated or fenced;
  - not limit the views of the river available to residents or commercial operations within the locality;
  - result in minimal clearing of native vegetation due to the proposed location of the facility; and
  - not incorporate any signage or lighting.
- 8.5 There are still a number of outstanding issues that require further discussion and resolution, if the jetty structure is approved. These include the size of vessels to use the jetty and the hours of operation. These issues will require further discussion with a future commercial ferry service provider and DoT. The applicant has advised that it requires a decision as to whether a new commercial jetty structure will be supported before some of these details can be finalised.

### State Planning Policy 2.10 – Swan-Canning River System

- 8.6 State Planning Policy 2.10 – *Swan-Canning River System* (SPP 2.10) states that public access to the river and its foreshores should be maintained and enhanced while protecting the river. More specifically, it also states that commercial jetties and similar structures constructed on Crown land or water bed lease areas should provide a community benefit by providing public access to the jetty or similar structure. This includes providing public access around commercial facilities, such as restaurants, or onto commercial jetties (or parts thereof) for added community benefit.



- 8.7 As public access and use of the jetty is proposed to be provided, it is considered that the proposal meets the objectives of SPP 2.10 in this regard and can be supported.

### **Jetty Licence**

- 8.8 A jetty licence, issued by the Chief Executive Officer of DoT, is required under the *Jetties Act 1926*. Prior to issuing a jetty licence, DoT will ensure that the location of the jetty does not interfere with navigation and that the design, construction and maintenance of the jetty is such that it is safe to use.
- 8.9 The applicant is aware that a jetty licence does not provide any tenure over the structure, riverbed or the River Reserve. A jetty licence does not prevent the public having access to the structure and therefore, insuring the structure against public liability is an issue that should be considered by the owner. If the jetty were to be approved, this matter could be addressed through an advice note to the applicant. The applicant has acknowledged the need for such insurance in its application.

### **Design and Visual Amenity**

- 8.10 Trust Policy SRT/D21 requires that jetties are designed such that they are safe for public use. Jetty structures must comply with Australian Standard 3962-2001 *Guidelines for the Design of Marinas* and be certified by a qualified and practising marine engineer. If the structure were to be approved this could be addressed through an appropriate condition.
- 8.11 Trust Policy SRT/D21 states that jetties should be designed to minimise visual impact on the river landscape and be constructed of materials that complement the natural environment and existing landscape.
- 8.12 Trust Policy SRT/EA1 *Conservation, Land Use and Landscape Preservation* states that the design, materials and colour scheme of development adjacent to the river and foreshores should complement and protect the character and landscape setting of the river.
- 8.13 The proposed jetty is now a floating pontoon with timber decking, with a proposed landing of 12 metres in length and 2 metres in width. A 3 metre long, 1.2 metre wide gangway is proposed to connect the landing to the shore.
- 8.14 As previously discussed, the applicant has indicating a willingness to further discuss these issues and refine the design, should the proposal be approved. Accordingly it is recommended that a condition be incorporated requiring the applicant to prepare and submit further detailed designs to the satisfaction of the Trust. Through this mechanism it can be ensured that the facility complements the riverine environment and landscape.

### **Environmental protection (riverbanks, riverbed, waterway and foreshore)**

- 8.15 Trust Policy SRT/EA1 states that development on, and adjacent to, the river should maintain and enhance the quality of the river environment. This includes the riverbanks, riverbed, waterway and foreshore areas.
- 8.16 The construction of the jetty has the potential to disturb the riverbed sediments and create turbidity. A Construction Management Plan would be required to be prepared to the satisfaction of the Trust, to manage the works appropriately. This can be ensured through a condition of approval.
- 8.17 Trust Policy SRT/D21 states that proposed jetties should not cause or create any erosion of the riverbanks. The City did request a condition that the applicant design and implement erosion control measures to Lot 7528 which is the opposite



riverbank to the subject site. It is understood this concern relates to the likely increase in boat traffic if the jetty is approved and constructed, and subsequent effect on the riverbank.

- 8.18 It is considered that the requirement to undertake erosion control measures on a nearby site due the potential impact of increased boat traffic is unreasonable in this instance. The impact of boat traffic should be managed by other means such as reduced speed limits where appropriate and erosion control measures should be appropriately designed and implemented by land managers where needed. Accordingly it is recommended that this condition not be included.
- 8.19 The applicant did commit to preparing a foreshore management plan as part of its application. This plan should focus on the area of Lot 216 immediately affected by the proposed jetty structure and the area to be formally established for future pedestrian access.

#### **Flood prone land**

- 8.20 SPP 2.10 and Trust Policy SRT/EA3 *Flood Prone Land* state that development should not be permitted where it will restrict the flow of water during flood events.
- 8.21 The proposed jetty is located within the 100 year ARI floodway area. Advice obtained from DoW indicates that although the jetty structure is located in the floodway, it has no objection to the proposal.
- 8.22 It is recommended however that an advice note be included stating that the jetty may be prone to flood damage in times of major river flooding due to the depth of flow and flow velocities that will be experienced.

#### **Land and Waterway Use Plan**

- 8.23 As part of the *Draft River Protection Strategy for the Swan Canning Riverpark*, the Trust developed a *Land and Waterway Use Plan* as a planning framework for the Riverpark and to guide planning and decision making. Proposed development and land and waterway use/activities are to be assessed in the context provided by the *Land and Waterway Use Plan*, which maps appropriate land use for each stretch of the river. The *Land and Waterway Use Plan* also takes into consideration areas of visual influence and view corridors beyond the DCA boundary. The subject site is outlined in Map 12 (**Attachment 9**).
- 8.24 The development is proposed in a waterway that is classified as a 'Conservation over water' zone. The conservation zone applies to those areas of water and/or foreshore in which conservation was identified as the dominant purpose. While some unstructured recreational activities and associated facilities and interpretative facilities may be appropriate in this zone, these would be subject to careful siting and control so as not to prejudice the area's conservation value.
- 8.25 While the proposed jetty does not relate to the conservation values of the area itself, it can be managed appropriately so as to not impact on the area's conservation values. This can be achieved through appropriate conditions controlling the ultimate design and siting as well as the ongoing management of the area through access and lease arrangements over Lot 216. Given the nearby commercial facilities abutting the foreshore reserve, a new jetty to service these facilities is reasonable and in keeping with the existing use and character of the locality.

#### **Conclusion**

- 8.26 While it would be preferable for the existing jetty to be shared by both of the commercial operators in the locality, DoT has advised that there is no mechanism to review the existing jetty licence without the licence holder's consent.

- 8.27 It has become apparent however that even if the existing jetty could be shared, it would be very difficult to administer successfully due to the small size of the existing facility that limits its practical use to one vessel at a time.
- 8.28 Provided the construction of the jetty is managed appropriately to protect the waterway, riverbanks, the foreshore and existing vegetation, it is unlikely to result in any negative environmental impacts.
- 8.29 The proposed commercial jetty will provide improved access to the foreshore reserve at Lot 216 for both fee-paying customers and the general public.
- 8.30 For these reasons, it is recommended that the proposal be recommended for approval subject to appropriate conditions and advice.

### **RECOMMENDATION – APPROVAL WITH CONDITIONS**

That the Trust advises the Minister for Environment that it recommends approval for the construction of a commercial jetty at Lot 305 on Plan 47453 (Reserve 48325) Henley Brook and Lot 216 on Diagram 80583 Middle Swan Road, Caversham as described in plans received by the Trust on 15 October 2014, and subsequent information received 20 November 2014 and 23 January 2015, subject to the following conditions:

- 1. Approval to implement this decision is valid for two (2) years from the date of the approval. If the development has not been substantially commenced within this period, a new approval will be required before commencing or completing the development.

#### **Prior to commencement of works**

- 2. Prior to commencement of works, the applicant shall submit further detailed drawings showing the exact design and location of the commercial jetty, to the satisfaction of the Swan River Trust, on advice from the Department of Transport, Department of Water and City of Swan (see *Advice Notes 1 – 3*).
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- 9. The applicant shall notify the Swan River Trust in writing not less than thirty (30) days prior to the commencement of works.

#### **During works**

- 10. The works shall be constructed in accordance with the final plans approved under **Conditions 2 and 3**.



11. The approved construction management plan required under **Condition 8** shall be implemented.
12. No building materials, rubbish or any other deleterious matter shall be allowed to enter the river as a result of the development.
13. Upon completion of the development, all waste materials shall be removed and the site cleaned-up to the satisfaction of the General Manager, Swan River Trust.

### Ongoing

14. The newly constructed jetty shall remain accessible to the public from the land and from the river.
15. The foreshore management plan required under **Condition 7** shall be implemented.

### ADVICE TO APPLICANT

1. The final drawings required under **Condition 2** shall demonstrate that the commercial jetty is located a minimum distance of 50 metres from the existing Sandalford jetty and will result in minimal disturbance to the foreshore vegetation. In addition, it should be suitably designed and located so that an additional public vessel can utilise the facility while a commercial vessel is secured to it.
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  - storage of materials and equipment on the site including location;
  - on-site waste management and storage (temporary or otherwise);
  - protection of existing vegetation;
  - prevention of rubbish, litter, debris, sediment and other materials entering the river;
  - method of installation of piles;
  - type of equipment and machinery required;
  - method of preventing silt plumes during construction work, including the use of silt curtains where appropriate;
  - complaints and incidents;
  - public access closure or restrictions;
  - vehicle parking requirements in foreshore;
  - other mechanisms to protect the water quality of the river;
  - approximate programme of works;
  - hours of operation, timeframes and responsibility for tasks identified; and
  - complaints and incidents.



7. The applicant is advised that it is an offence under the *Swan and Canning Rivers Management Regulations 2007* to destroy, pull up, cut back or injure any tree, shrub, aquatic plant or other perennial plant that is in the Swan River Trust Development Control Area, except with the approval of the Swan River Trust.
8. As the proposed jetty structure will be publicly accessible, the applicant is advised to obtain continuing suitable insurance in respect of all sums for which they become legally liable to pay compensation in respect to:
  - a. bodily injury, including death and illness; and
  - b. damage to property, including loss of property, occurring as a result of an accident or happening in connection with use of the jetty structure.
9. The Department of Aboriginal Affairs advises that the proposal is located within Aboriginal site DAA 3536 (Swan River). As the proposal is for a new structure, and not a replacement of an existing one, there is some potential that an approval under the *Aboriginal Heritage Act 1972* will be required. Please contact the Department of Aboriginal Affairs to discuss the proposal in detail. It is also recommended that the South West Aboriginal Land and Sea Council (SWALSC) is notified of the proposed works and are invited to comment on the proposed activities.
10. The Department of Water advises that the jetty may be prone to flood damage in times of major river flooding due to the depth of flow and flow velocities that will be experienced.

**FINAL REPORT ENDORSED**

Signed: \_\_\_\_\_

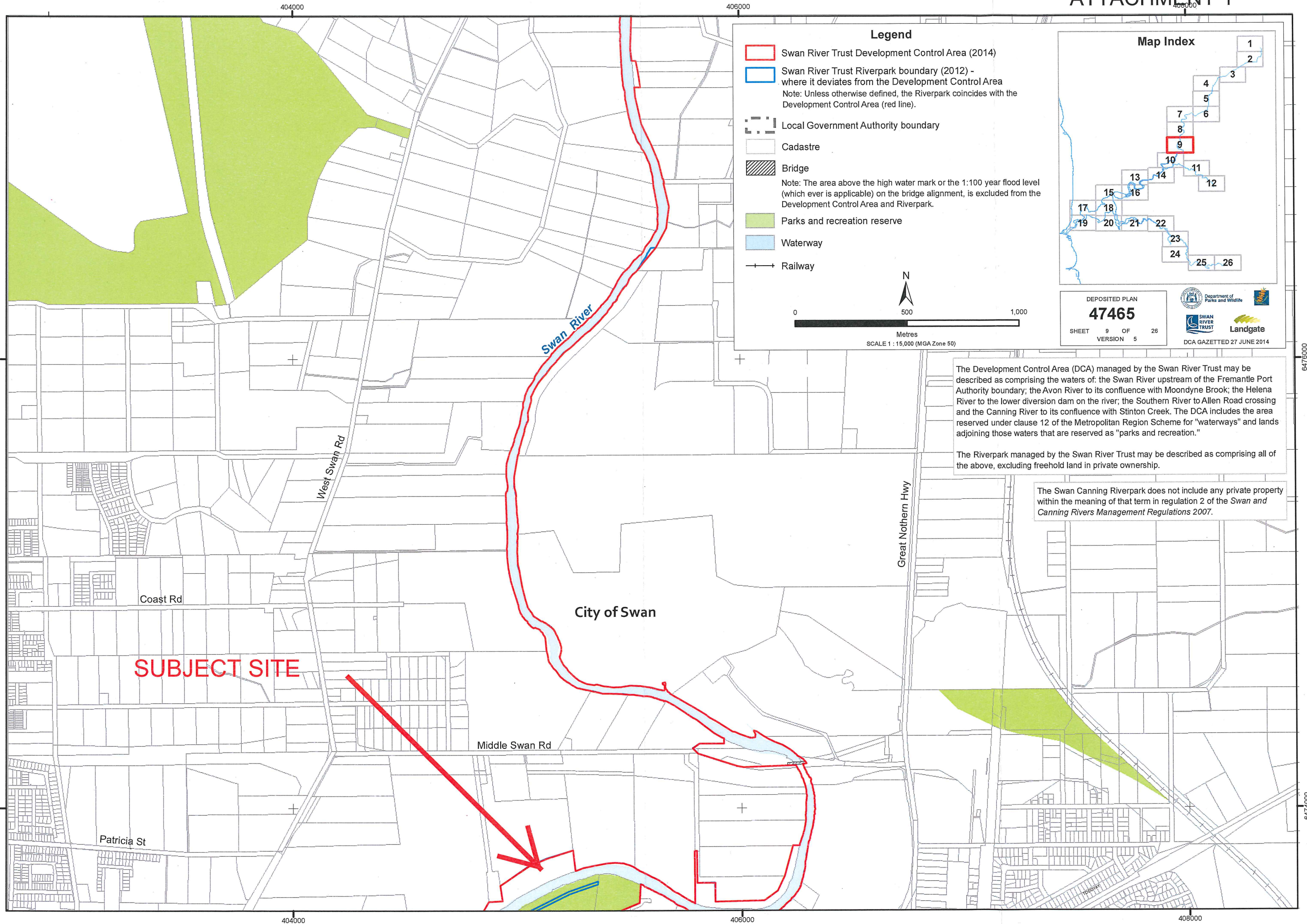


Date: \_\_\_\_\_

4/6/2015

Rod Hughes  
General Manager, Swan River Trust

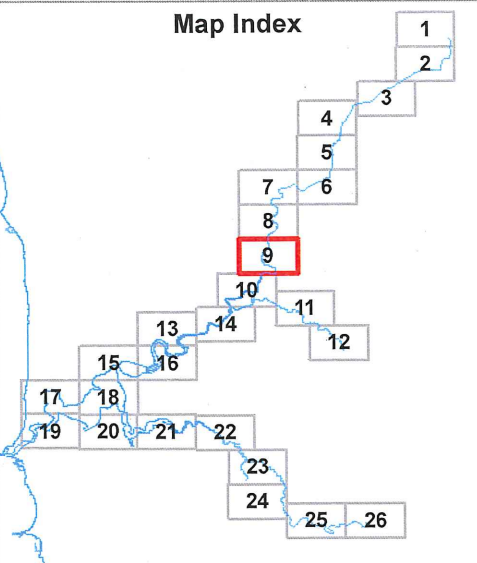




**Legend**

- Swan River Trust Development Control Area (2014)
- Swan River Trust Riverpark boundary (2012) - where it deviates from the Development Control Area  
Note: Unless otherwise defined, the Riverpark coincides with the Development Control Area (red line).
- Local Government Authority boundary
- Cadastre
- Bridge  
Note: The area above the high water mark or the 1:100 year flood level (which ever is applicable) on the bridge alignment, is excluded from the Development Control Area and Riverpark.
- Parks and recreation reserve
- Waterway
- Railway

0 500 1,000  
Metres  
SCALE 1 : 15,000 (MGA Zone 50)



DEPOSITED PLAN  
**47465**  
SHEET 9 OF 26  
VERSION 5

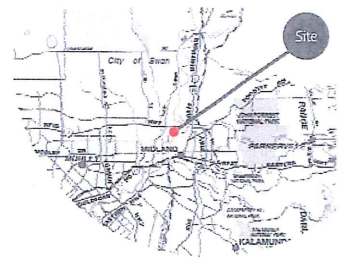
Department of Parks and Wildlife  
SWAN RIVER TRUST  
Landgate  
DCA GAZETTED 27 JUNE 2014

The Development Control Area (DCA) managed by the Swan River Trust may be described as comprising the waters of: the Swan River upstream of the Fremantle Port Authority boundary; the Avon River to its confluence with Moondyne Brook; the Helena River to the lower diversion dam on the river; the Southern River to Allen Road crossing and the Canning River to its confluence with Stinton Creek. The DCA includes the area reserved under clause 12 of the Metropolitan Region Scheme for "waterways" and lands adjoining those waters that are reserved as "parks and recreation."

The Riverpark managed by the Swan River Trust may be described as comprising all of the above, excluding freehold land in private ownership.

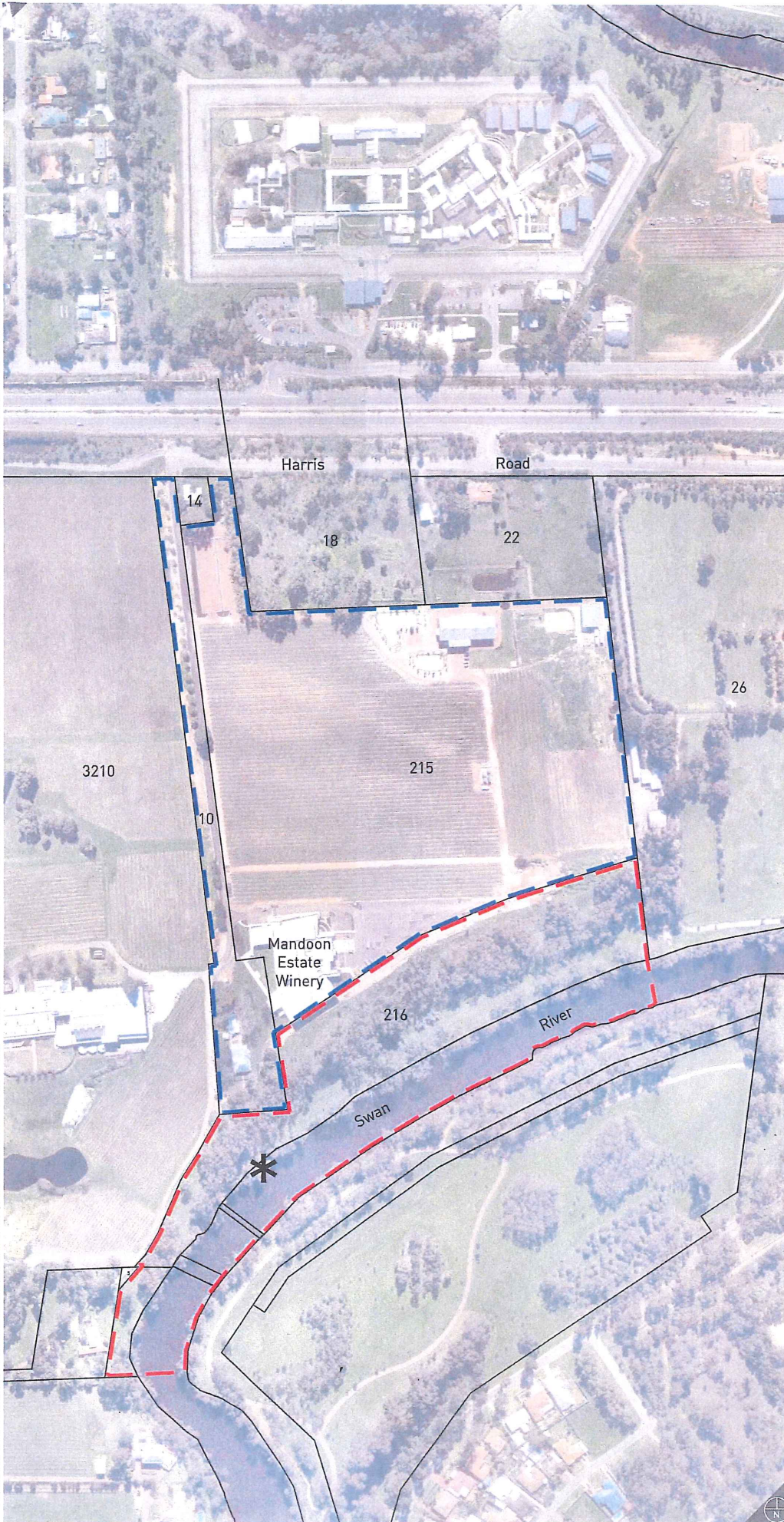
The Swan Canning Riverpark does not include any private property within the meaning of that term in regulation 2 of the *Swan and Canning Rivers Management Regulations 2007*.



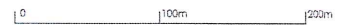


LEGEND

- Subject Site
- Client's Land
- \* Location of Proposed Commercial Jetty



Note: Location of proposed commercial jetty is indicative.



REVISIONS

Rev	Date	Drawn
A	2014.08.25	M. Winfield
A	2014.08.28	M. Sullivan



w: [www.rowegroup.com.au](http://www.rowegroup.com.au)  
 e: [info@rowegroup.com.au](mailto:info@rowegroup.com.au)  
 p: 08 9221 1991

Date Drawn: 2014-08-25  
 Job Ref: 7979  
 Scale: 1:5,000 @ A4  
 Client: Mandoon Pty Ltd  
 Designer: D. Hollingworth  
 Drawn: M. Winfield  
 Projection: MGA60  
 Plan ID: 7979-FIG-07-B  
 Aerial Photography captured and supplied by Neermap

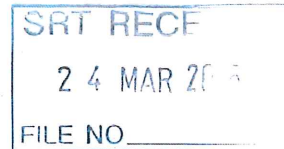
Site Plan

Lot 216 Middle Swan Road and Lot 305 on Deposited Plan 7453, Caversham Figure 3

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Our Ref: DA-723/2014  
Enquiries: Steven Tan  
E-mail: steven.tan@swan.wa.gov.au  
Phone: 9267 9286



20 March 2015

Swan River Trust  
Locked Bag 104  
BENTLEY DELIVERY CENTRE WA 6983

Attention: Glen McLeod-Thorpe

Dear Sir,

**PROPOSED COMMERCIAL JETTY – LOT 2016 MIDDLE SWAN ROAD, CAVERSHAM**

I refer to the previous comments provided on this proposal by the City and the recommendation not to support the proposal. I believe the recommendation was provided based on the facts available at the time. The reason for the initial non-support was based on the notion that the existing jetty at Sandalford was available for joint use.

My Understanding now is that this is not possible as the jetty belongs to Sandalford and Captain Cook patrons are only allowed to visit Sandalford Estate and not Mandon Estate, hence the need for another separate Jetty.

The City is very supportive of Tourism in the valley and would be prepared to support the second jetty if the current jetty is definitely not available for joint usage. The frequency of use would not impact on the foreshore erosion and anything the SRT can do to assist and facilitate tourism would be a positive outcome. I am happy to discuss the matter with you further if required.

In the event the Swan River Trust approves the development, it is recommended that the applicant design and implement erosion control measures to Lot 7528 to the satisfaction of the Swan River Trust and the City of Swan.

Should you have any queries regarding this matter, please do not hesitate to contact me on 9267 9286.

Yours sincerely

E K (Steven) Tan  
**Executive Manager Planning & Development**



2 Midland Square, Midland  
PO Box 196, Midland WA 6936

enquiries 08 9267 9267  
facsimile 08 9267 9444  
sms 0428 520 544



Government of **Western Australia**  
Department of **Transport**

Your ref: SRT6105  
Our ref: DT/09/00055/05  
Enquiries: Iain Appleby

Attn: Glen Mcleod-Thorpe  
Swan River Trust  
PO Box 6829  
EAST PERTH WA 6892

5 November 2014

Dear Glen

**PART 5 – PROPOSED CONSTRUCTION OF COMMERCIAL JETTY – MANDOON ESTATE - LOT 216 ON DIAGRAM 80853 MIDDLE SAWN ROAD, CAVERSHAM AND LOT 305 ON PLAN 47453, HENLEY BROOK**

I refer to your correspondence dated 28 October 2014 regarding the above.

Following a review of the documentation supplied, the Department of Transport, Maritime Planning and Department of Transport, Property Services have no in principle objection to the proposal proceeding subject to:

1. The proponent shall obtain all necessary approvals from the City of Swan, the Swan River Trust, and if appropriate, the Department of Planning;
2. The proponent shall obtain a jetty licence from the Department of Transport, Coastal Facilities prior to any works commencing;
3. All drawings of the jetty design submitted must each be signed/certified by an experienced maritime engineer that the design is in accordance with AS3962-2001 Guidelines for the Design of Marinas;
4. The design drawings are to specify the maximum design vessel length for this jetty;
5. This maximum design vessel length is to be specified in the jetty licence;





Government of **Western Australia**  
Department of **Transport**

6. We note the location of the proposed jetty is within close proximity to an existing jetty which may cause navigational issues for vessels using both jetties. Based on the usage (predominantly accommodating large cruise vessels) the location of the proposed jetty will need to be a minimum distance of 50 metres from the existing jetty. Attached is a location plan showing a suggested site which is 50 metres from the existing jetty and offers ease of access to the land with minimal disruption to the foreshore vegetation.

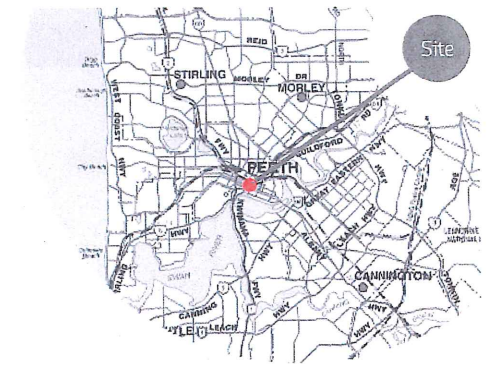
If you have any queries please contact me on 9435 7532 or via email at [ian.appleby@transport.wa.gov.au](mailto:ian.appleby@transport.wa.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Iain Appleby'.

Iain Appleby  
Senior Planning Project Officer  
Maritime Planning





**LEGEND**  
 — Proposed Jetty  
 — Existing Jetty  
 — Cadastre / Existing Lot Boundary

Note: Final materials and finishes of the proposed commercial Jetty are subject to further detailed design. The final location of the proposed commercial Jetty is subject to survey, and therefore may change.

0 2.5 5 Metres

**REVISIONS**

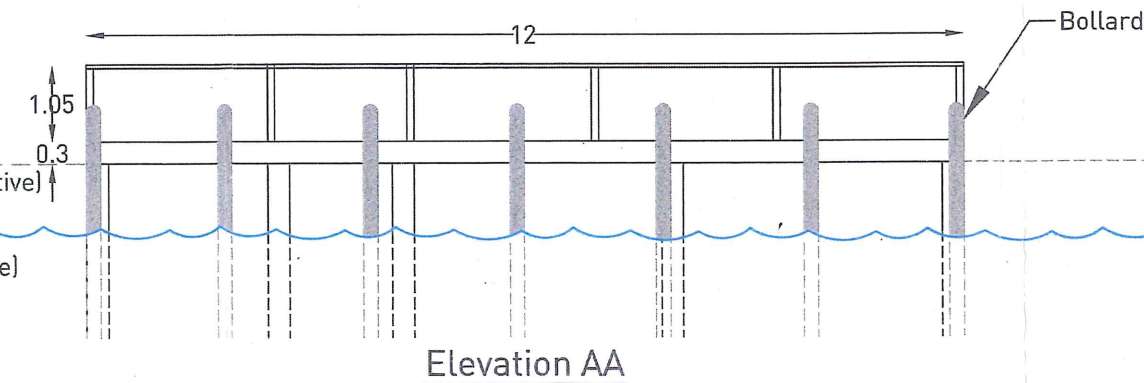
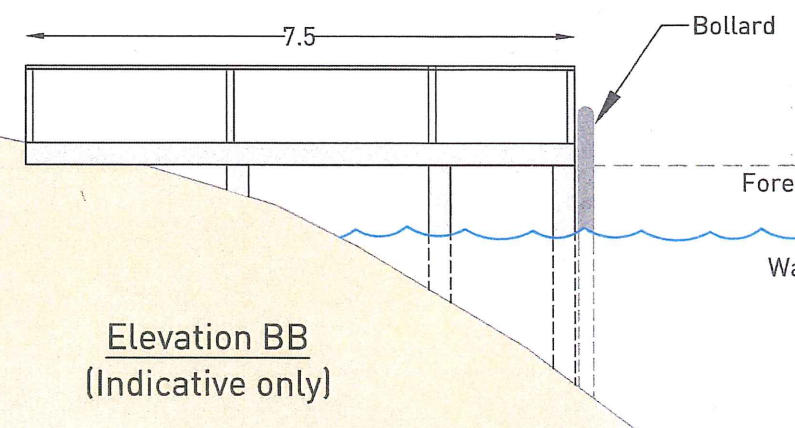
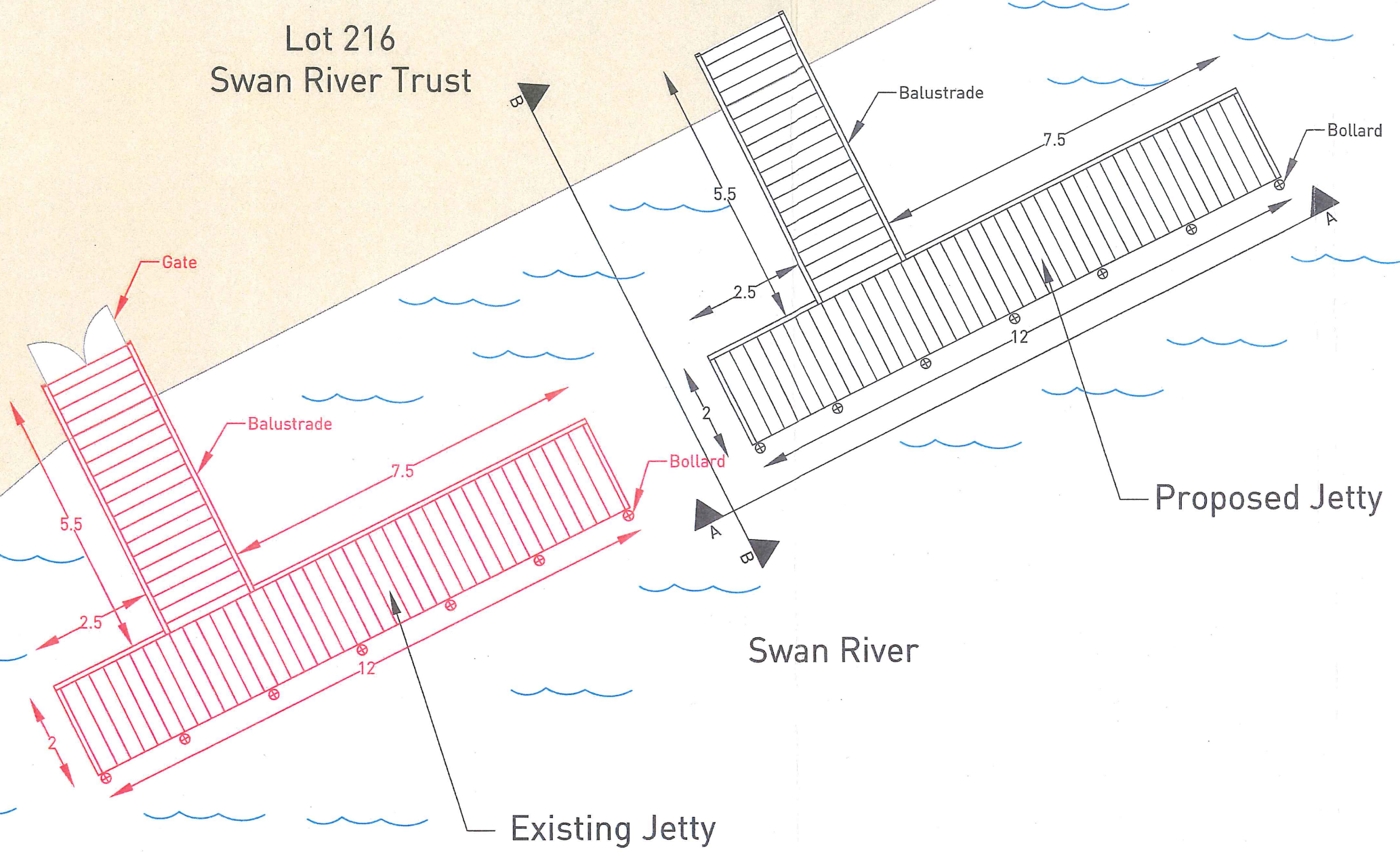
Rev	Date	Drawn
A	2014.07.16	M. Winfield
B	2014.08.28	M. Sullivan



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 e: [info@rowegroup.com.au](mailto:info@rowegroup.com.au)  
 p: 08 9221 1991

Date Drawn: 2014-07-16  
 Job Ref: 7979  
 Scale: 1:100 @ A3  
 Client: Mandoon Pty Ltd  
 Designer: D. Hollingworth  
 Drawn: M. Winfield  
 Projection: MGA50 GDA94  
 Plan ID: 7979-FIG-03-B  
 Cadastre supplied by Watercorp

Lot 216  
 Swan River Trust



**Proposed Commercial Jetty**

Lot 216 Middle Swan Road and Lot 305 on Deposited Plan 7453  
 Caversham

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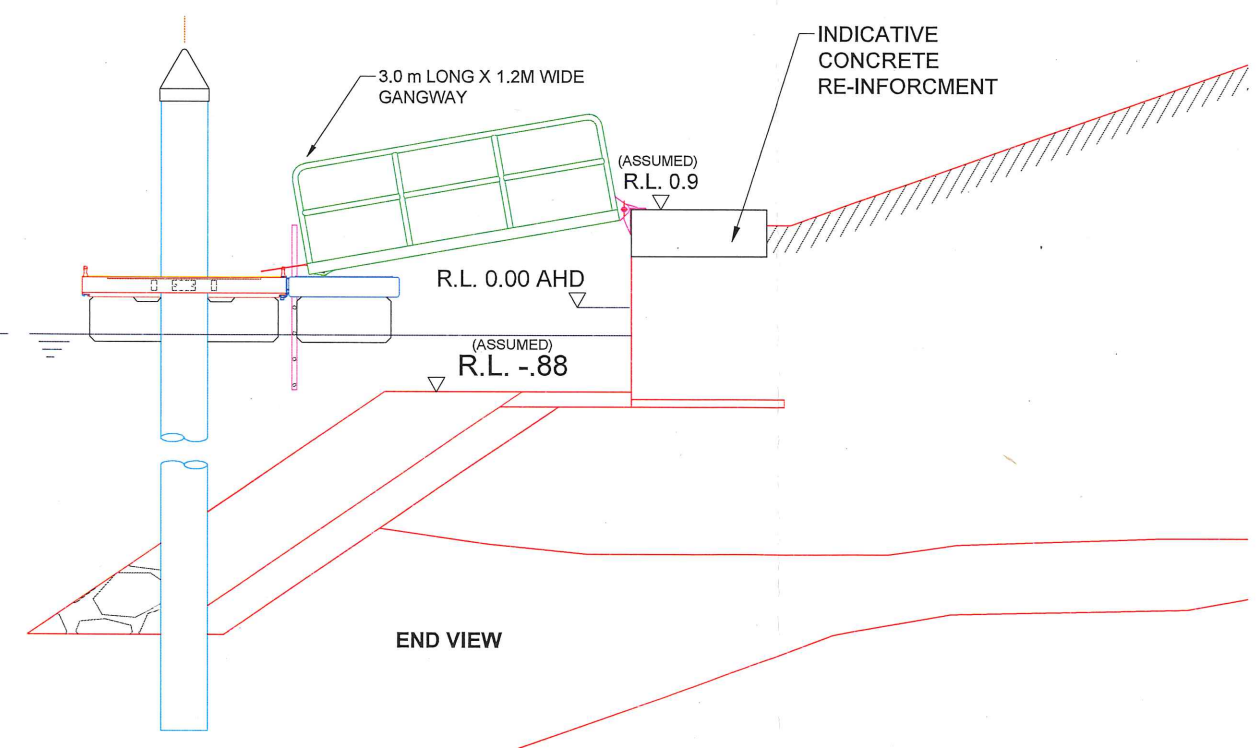
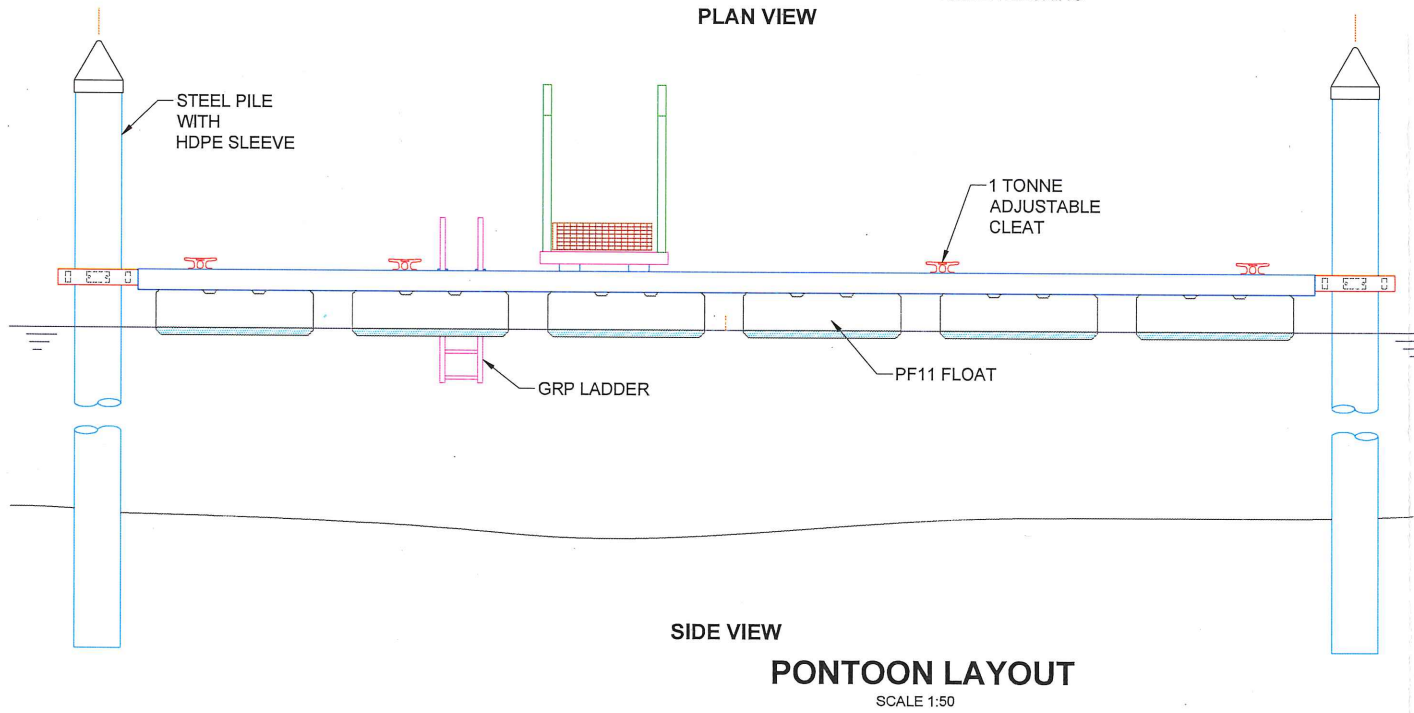
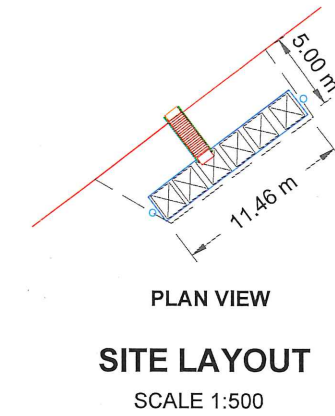
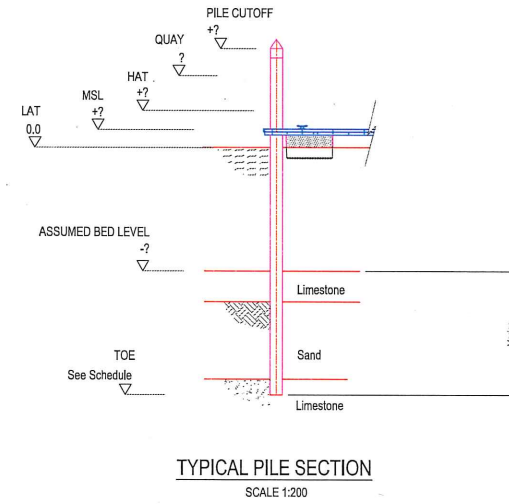
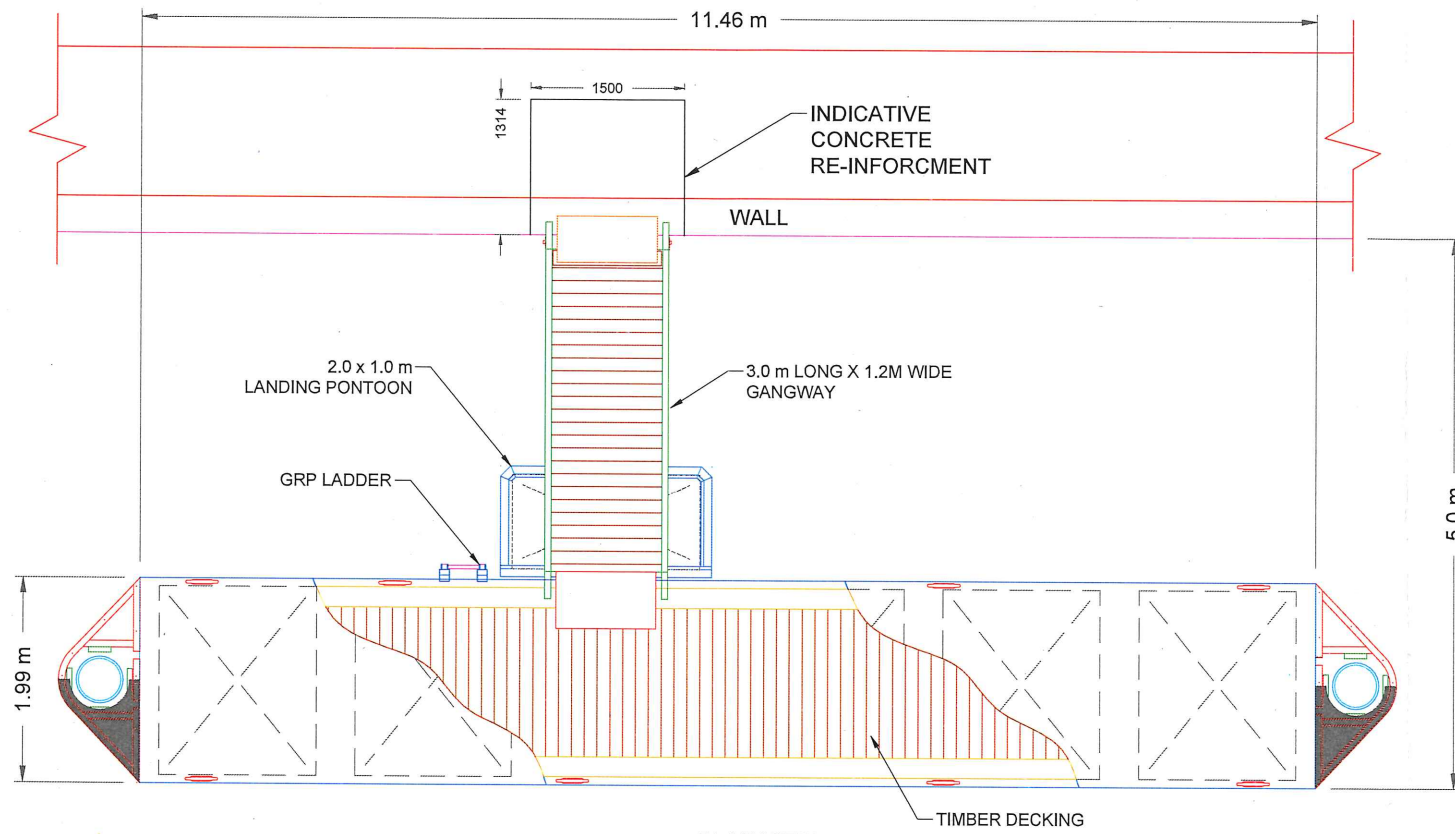
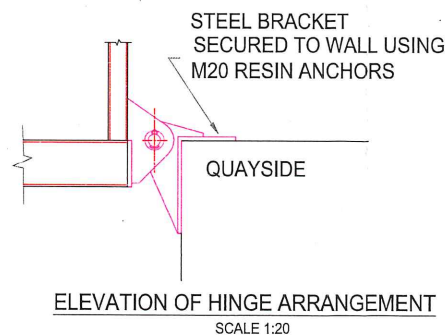
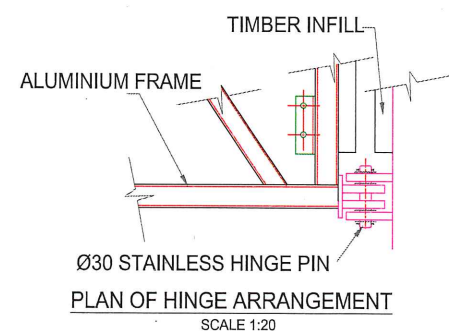


IMAGE 1. Mandon Estate, Caversham WA



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 Email: enquires@walconmarineaustralia.com.au  
 Web: www.walconmarineaustralia.com.au

Job No.	MAN	CAD Ref.	Sheet	1 of 1
Drawn	BY	Checked	Date	20.01.2015
			Scale	As Shown

A	BY	20.01.15	ADD ADDRESS DETAILS
Rev.	By	Date	Description
Client		MANDOON ESTATE 10 HARRIS ROAD CAVERSHAM W.A.	
Title		WS-3 PONTOON LAYOUT	
Drawing No.		Q MAN - 001	Rev.
			A



# ATTACHMENT 7

Photographs of the existing Sandalford commercial jetty







Government of Western Australia  
Department of Transport

**Coastal Infrastructure Business Unit**

Your ref: 7979  
Our ref:  
Enquiries: Ron Zappara  
Phone: 9435 7646

28 April 2014

Rowe Group  
Level 3, 369 Newcastle Street  
NORTH BRIDGE WA 6003

**Attention: Daniel Hollingworth**

Dear Sir

**Re: Application for Jetty Licence: Mandoon Estate Pty Ltd**

I am in receipt of your letter dated 28 March 2014 in which you reiterate that it's not your client's intention to apply for a new jetty licence under section 7 of the *Jetties Act 1926 (Act)* but to apply for a licence for the 'maintenance and use of a jetty', being the jetty structure that is already the subject of a jetty licence granted by the Minister of the Crown on 30 July 1979 to Sandalford Wines Pty Ltd ('Jetty Licence').

Having granted the Jetty Licence for the jetty on such terms thought fit at the time, there is no provision for the Director General of the Department of Transport (the successor to the Minister in the Act) to unilaterally amend the terms of the Jetty Licence. Nor are there good grounds to cancel the Jetty Licence.

You have drawn attention to the Swan River Trust Policy SRT/D21 (Policy). As meritorious as this Policy is with regards to facilitating public access to jetty structures located in the Swan and Canning Rivers, the Policy was adopted in 2010 and contemplates approval requirements for new jetty structures. As you will be aware the construction of a new jetty would under section 7(3) of the Act also requires that your client obtain approval under section 70 of the *Swan and Canning Rivers Management Act 2006*.

In the circumstances, the Director General, is simply not empowered to grant your client a jetty licence to maintain and use Sandalford's existing jetty. It's really incumbent on your client to first obtain Sandalford Wines consent to such an arrangement.

Your attention is drawn to section 7A of the Act which provides:-

A person whose application for a licence under section 7 has been —

(a) refused; or

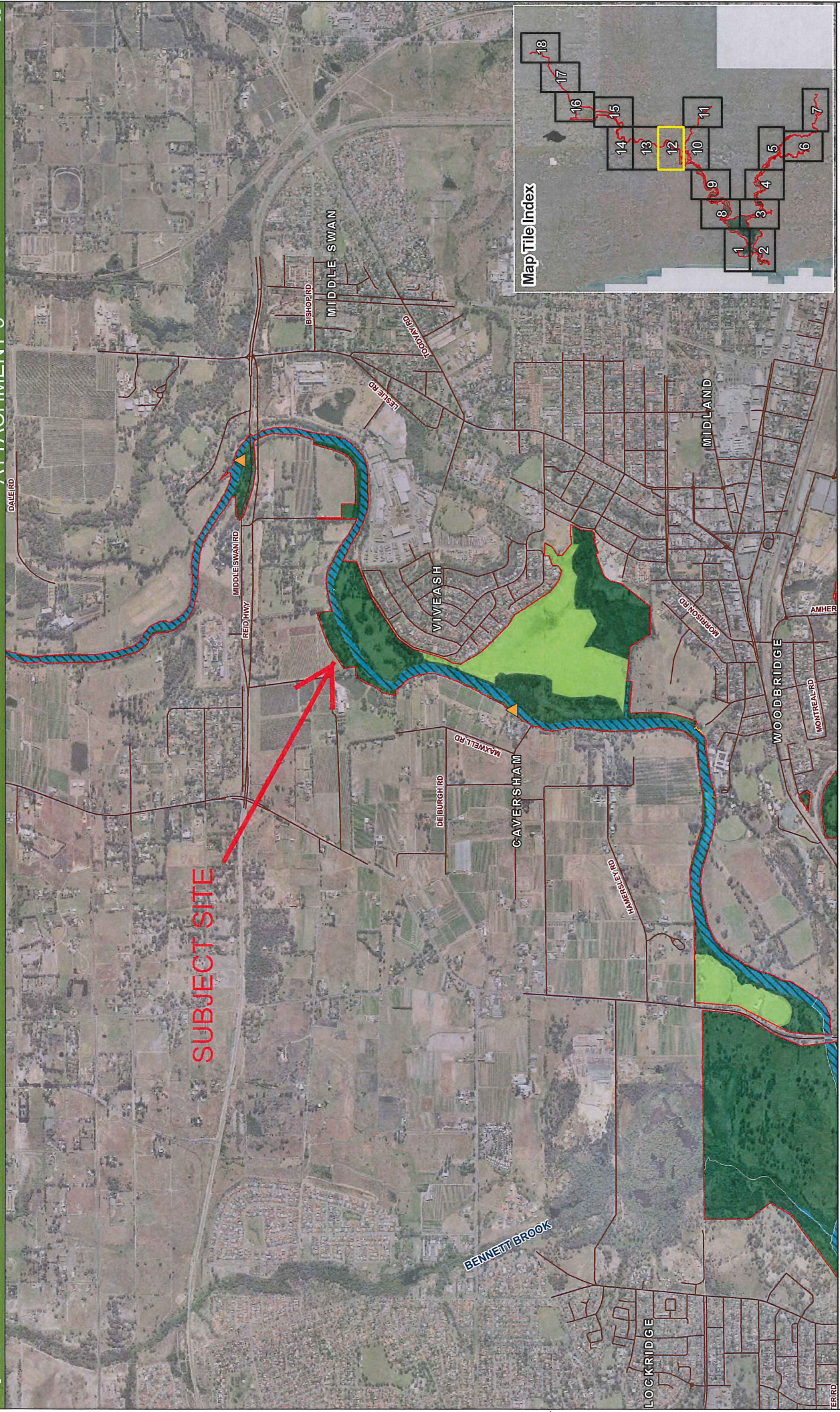
(b) granted subject to terms or conditions which are unacceptable to the applicant,  
may apply to the State Administrative Tribunal for a review of the decision.

Yours Sincerely

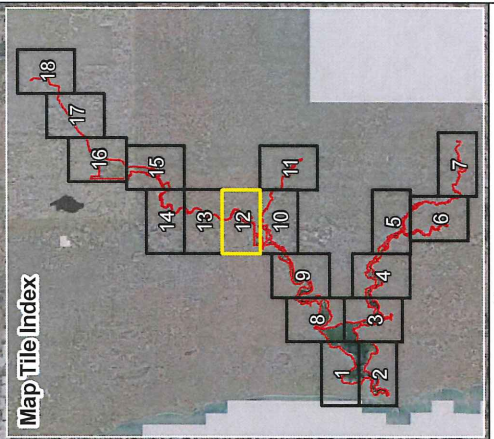
A handwritten signature in black ink, appearing to read 'Ron Zappara', written in a cursive style.

Ron Zappara  
Manager, Property Services  
Coastal Facilities Management





Map Title Index



Scale: 0, 0.25, 0.5, 1 Kilometres

- Legend**
- DCA Boundary
  - LGA Boundary
  - Jetties
  - Ramps
  - Roads
  - Conservation over Land
  - Conservation over Water
  - Riverscape
  - Waterways Controlled
  - Waterways General
  - Mooring Areas
  - Marine Facilities
  - Activity Nodes
  - Local Facilities

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