Western Australia

Swan and Canning Rivers Management Act 2006

Swan and Canning Rivers Management Regulations 2007

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Swan and Canning Rivers Management Regulations 2007

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Swan and Canning Rivers Management Regulations 2007

Part 1 — Preliminary

1. Citation

These regulations are the *Swan and Canning Rivers Management Regulations 2007*.

Note:

Under the *Interpretation Act 1984* section 25(3), these regulations take effect on the day on which the *Swan and Canning Rivers Management Act 2006* section 136 commences.

2. Terms used

In these regulations, unless the contrary intention appears —

aircraft —

(a) means a machine that can derive support in the atmosphere from buoyancy or the reactions of the air; but

(b) does not include a hovercraft;

aircraft activity means all or any of the following —

(a) the landing or touching down of an aircraft;

(b) the take-off of an aircraft;

(c) the standing, parking, docking or mooring of an aircraft;

(d) the embarkation of passengers onto or disembarkation of passengers from an aircraft;

(e) the loading of freight onto or the unloading of freight from an aircraft;

(f) the refuelling, servicing or repair of an aircraft;

commercial purpose means the purpose of sale or any other purpose that is directed to financial gain or reward;

commercial use means a use that is directed to financial gain or reward;

exhibit, in relation to a sign, includes —

(a) erect, place, stick, paint, stencil or affix at, on or to any place or thing; or

(b) display on a vehicle, vessel or inflatable object,

so as to be visible to a person in a public place;

former clause 30A means the Metropolitan Region Scheme clause 30A as in force from time to time before 31 March 2025;

leaseholder means a person who holds a lease for land within the Riverpark or development control area;

maintenance dredging, in waters in the Riverpark or development control area, means dredging that is necessary for the maintenance of access by vessels to marinas and jetties in the Riverpark or development control area;

permit means a permit granted under regulation 29;

private property means freehold land other than land owned by a Schedule 5 authority;

public place includes any thoroughfare, pedestrian mall or place which the public are allowed to use, whether or not the thoroughfare or place is on private property;

section means a section of the Act;

sign means any placard, notice, model, board, device or representation, including any hoarding, bunting or flag, used wholly or partly for the purposes of advertising or promoting any thing or for an announcement or direction;

spectator event means an event held in the Riverpark or development control area, intended to attract spectators or participants or provide entertainment;

structure means any building, shelter, equipment, fence, path, jetty, mooring or other thing that is fixed to land or to anything that is fixed to land;

undertake, works, acts or activities, includes to cause the works, acts or activities to be undertaken;

vehicle means any thing used or capable of being used to transport people or things by air, road or rail;

vessel means any thing used or capable of being used to transport people or things by water.

[Regulation 2 amended: Gazette 28 Aug 2012 p. 4132-3; SL 2023/14 r. 4; SL 2024/253 r. 4.]

Part 2 — Development and regulation of related works, acts and activities

Division 1 — Development

*[**3.** Deleted: Gazette 28 Aug 2012 p. 4133.]*

4. Exclusions from development as defined in Act s. 3(1)

The following works, acts and activities do not constitute development for the purposes of the definition of that term in section 3(1) —

(a) the exhibition of a sign, including a traffic control sign or device;

(b) repairs to or maintenance of an existing structure which —

(i) are not related to a material change in the use of any part of the structure; and

(ii) do not alter the structure's function or appearance;

(c) the carrying out of work inside a building which is not related to a material change in the use of any part of the building and does not alter its external appearance;

(d) works, acts and activities urgently required to avoid or mitigate danger to public safety or significant damage to property or the environment;

(e) works, acts and activities undertaken —

(i) by a Schedule 5 authority for the purpose of controlling erosion; or

(ii) by any other person for the purpose of controlling erosion on private property that is contiguous with the River reserve;

(f) the placement of temporary structures, including structures associated with spectator events, for a period

not exceeding 6 months, and the removal of those structures;

(ga) works, acts and activities by leaseholders that are of a value less than $500 000;

(g) works, acts and activities by Schedule 5 authorities that are not for commercial purposes or use and —

(i) are carried out in accordance with a management programme; or

(ii) are of a value of less than $5 000 000;

(h) acts and activities that do not involve the erection, construction, demolition, alteration or carrying out of any building, excavation, or other works, in, on, over or under land or waters;

(i) fire hazard reduction (other than fire hazard reduction referred to in paragraph (j)), including the creation of access tracks for the purpose of fire hazard reduction;

(j) fire control in the course of fighting a fire, including the making of fire breaks, providing access, burning or other means used to reduce fire hazards;

(ja) aircraft activities;

(k) maintenance dredging in waters in the Riverpark or development control area;

(l) scientific studies.

[Regulation 4 amended: Gazette 28 Aug 2012 p. 4133; SL 2023/14 r. 5; SL 2024/35 r. 4.]

5. Development that CEO may approve (Act. s. 85(1))

The following works, acts and activities are prescribed for the purposes of section 85(1) —

(a) works that are not for commercial use and are carried out on private property;

(b) the placement of temporary structures, including structures associated with spectator events, for a period exceeding 6 months but not exceeding 18 months, and the removal of those structures.

[Regulation 5 amended: Gazette 28 Aug 2012 p. 4133.]

6. Form prescribed (Act s. 72)

Schedule 2 Form 1 is prescribed for the purposes of section 72.

[Regulation 6 amended: Gazette 28 Aug 2012 p. 4134.]

7. Form prescribed (Act s. 89(4))

Schedule 2 Form 2 is prescribed for the purposes of section 89(4).

[Regulation 7 amended: Gazette 28 Aug 2012 p. 4134.]

Division 2 — Regulation of works, acts and activities that are not "development"

8. Application of this Division

This Division does not apply to —

(a) anything done in accordance with an approval for the purposes of section 70; or

(b) anything done in accordance with a determination of the Western Australian Planning Commission under the Metropolitan Region Scheme clause 45 or former clause 30A; or

(c) anything done in accordance with a licence agreement; or

(d) anything that may lawfully be done because of section 69(4).

[Regulation 8 inserted: SL 2023/63 r. 4; amended: SL 2024/253 r. 5.]

9. Signs, restrictions on exhibiting

(1) A person must not, unless the person has a permit to do so, exhibit a sign in the Riverpark or development control area.

Penalty for this subregulation: a fine of $5 000.

(2) Subregulation (1) does not apply to the following signs —

(a) a sign exhibited with the approval of a Schedule 5 authority that owns or has the care, control and management of the land on which the sign is exhibited if —

(i) the approval was given prior to the coming into operation of these regulations; and

(ii) the sign is not changed;

(b) a sign exhibited by a Schedule 5 authority;

(c) a sign exhibited in accordance with a requirement of a written law;

(d) a sign in relation to directions, or the construction, maintenance or use of roads, exhibited with the approval of the Commissioner of Main Roads;

(e) a sign exhibited for the duration of any works or activities for the purpose of giving advice or directions concerning matters of access or safety;

(f) a sign within a building;

(g) a sign providing a warning about security arrangements protecting premises or a facility;

(h) a sign exhibited on a notice board approved by the CEO for that purpose;

(i) a sign that complies with the requirements of a local law or local planning scheme relating to signs in the relevant part of the Riverpark or development control area and is —

(i) a newspaper or magazine poster; or

(ii) a sign exhibited on a shop window; or

(iii) a sign exhibited on street furniture or a bus shelter or seat; or

(iv) an election sign; or

(v) a real estate or property disposal sign; or

(vi) a community information sign; or

(vii) a direction sign; or

(viii) a name plate; or

(ix) a portable A frame sign or sandwich board not exceeding 1 m^2; or

(x) a sign on a vehicle or vessel;

(j) a sign exhibited —

(i) on land outside of the River reserve that is owned by or under the care, control and management of a Schedule 5 authority; and

(ii) in accordance with the approval or permission of that Schedule 5 authority; and

(iii) in the course of a spectator event;

(k) a sign exhibited in the River reserve in accordance with a permit granted under regulation 26;

(l) a sign exhibited on a vehicle or vessel that —

(i) identifies the manufacturer or type of vehicle or vessel, or is the name of the vehicle or vessel; or

(ii) is within the Riverpark or the development control area for the purpose of delivering goods or services to an activity being lawfully undertaken within the Riverpark or the development control area; or

(iii) is generally or principally intended for use in an event for which permission is required under the *Navigable Waters Regulations 1958* regulation 51C; or

(iv) is used for public transport or as a licensed taxi;

(m) a sign exhibited on clothing or personal items worn or carried by an individual.

(2A) In regulation 9(2)(i) —

local planning scheme includes the Swan Valley Planning Scheme in force under the *Swan Valley Planning Act 2020*.

(3) The CEO may transfer a permit granted for the purposes of this regulation from one person to another.

(4) The CEO may —

(a) remove any sign exhibited in contravention of this regulation; and

(b) dispose of the sign so removed as the CEO thinks fit.

(5) If the CEO removes or disposes of a sign under subregulation (4), the CEO may recover the cost of the removal or disposal in a court of competent jurisdiction from the owner of the sign.

[Regulation 9 amended: Gazette 28 Aug 2012 p. 4134; 19 Jun 2015 p. 2097-8 and 2100; SL 2021/131 r. 4; SL 2023/14 r. 12.]

10. Repair and maintenance of existing structure, restrictions on

(1) In this regulation —

park means —

(a) land reserved under the *Land Administration Act 1997* Part 4; or

(b) a nature reserve or marine reserve as those terms are defined in the *Conservation and Land Management Act 1984*; or

(c) land owned by a Schedule 5 authority;

repairs to or maintenance of a structure, means repairs or maintenance that, but for regulation 4(b), would constitute development.

(2) A person must not, unless the person has a permit to do so, undertake in the Riverpark or development control area repairs to or maintenance of an existing structure.

Penalty for this subregulation: a fine of $5 000.

(3) This regulation does not apply to —

(a) repairs to or maintenance of a structure that is wholly within private property; or

(b) repairs to or maintenance of a structure that is wholly within a park, if the repairs are undertaken by a Schedule 5 authority that owns or has the care, control and management of the park; or

(c) repairs to or maintenance of a structure that is partly within private property and partly within a park, if the repairs are undertaken by a Schedule 5 authority that owns or has the care, control and management of the park; or

(d) works referred to in regulation 4(c).

[Regulation 10 amended: Gazette 28 Aug 2012 p. 4134; SL 2023/14 r. 12.]

11. Emergency works etc., restrictions on

(1) In this regulation —

emergency works, acts or activities means works, acts or activities that, but for regulation 4(d), would constitute development.

(2) A person must not, unless the person has a permit to do so, undertake any emergency works, acts or activities in the Riverpark or development control area.

Penalty for this subregulation: a fine of $5 000.

(3) Subject to any conditions and restrictions imposed on the permit, a permit granted for the purposes of this regulation is to be taken to include a permit to carry out any other works, acts or activities that are reasonably necessary for the purposes of carrying out the works, acts or activities in relation to which the permit is granted.

(4) It is a defence to proceedings for an offence under this regulation if —

(a) the person charged with that offence proves that —

(i) the person took all reasonable precautions to avoid the need for the emergency works, acts or activities; and

(ii) it was not reasonably practicable to obtain a permit before undertaking the emergency works, acts or activities; and

(iii) as soon as was reasonably practicable the person gave the CEO written notification of the emergency works, acts or activities;

or

(b) the person charged with that offence proves that the person applied for a permit in relation to the emergency works, acts or activities, and the court is of the opinion that the permit should have been granted.

[Regulation 11 amended: Gazette 28 Aug 2012 p. 4134; 19 Jun 2015 p. 2100; SL 2023/14 r. 12.]

12. Erosion control, restrictions on

(1) In this regulation —

works means works that, but for regulation 4(e), would constitute development.

(2) A person must not, unless the person has a permit to do so, undertake or cause to be undertaken on land that is in the development control area, works for the purpose of controlling erosion on private property that is contiguous with the River reserve.

Penalty for this subregulation: a fine of $5 000.

(3) A Schedule 5 authority must not undertake on land that is in the Riverpark or development control area, works for the purpose of controlling erosion unless —

(a) the works comprise repairs or maintenance of a structure for erosion control; or

(b) the authority has a permit to do so.

Penalty for this subregulation: a fine of $5 000.

[Regulation 12 amended: Gazette 28 Aug 2012 p. 4135; SL 2023/14 r. 12.]

13. Temporary structures, restrictions on placing etc.

(1) In this regulation —

temporary structure means a temporary structure, the erection or placement of which would, but for regulation 4(f), constitute development of a kind described in paragraph (a) of the definition of that term in section 3(1).

(2) A person must not place or remove a temporary structure, including a structure associated with a spectator event, in the Riverpark or development control area unless —

(a) the temporary structure relates to an act or activity referred to in regulation 17(2)(b); or

(b) the person has a permit to do so.

Penalty for this subregulation: a fine of $5 000.

[Regulation 13 amended: Gazette 28 Aug 2012 p. 4135; SL 2023/14 r. 12.]

14A. Restrictions on works by leaseholders

(1) In this regulation —

works means works that, but for regulation 4(ga), would constitute development, but does not include works, acts or activities referred to in regulation 9, 10, 11, 12, 13, 15 or 16B.

(2) A leaseholder must not undertake any works in the Riverpark or development control area unless the leaseholder has a permit to do so.

Penalty for this subregulation: a fine of $5 000.

[Regulation 14A inserted: Gazette 28 Aug 2012 p. 4135; amended: SL 2023/14 r. 12; SL 2024/35 r. 5.]

14. Restrictions on works by Schedule 5 authorities

(1) In this regulation —

works means works that, but for regulation 4(g), would constitute development, but does not include works, acts or activities referred to in regulation 9, 10, 11, 12, 13, 15 or 16B.

(2) A Schedule 5 authority must not undertake any works in the Riverpark or development control area unless —

(a) the works are of a value less than $10 000; or

(b) the authority has a permit to do so.

Penalty for this subregulation: a fine of $5 000.

[Regulation 14 amended: Gazette 28 Aug 2012 p. 4136; SL 2023/14 r. 12; SL 2024/35 r. 6.]

15. Fire hazard reduction, restrictions on

(1) In this regulation —

fire hazard reduction means an activity that, but for regulation 4(i), would constitute development.

(2) A person must not, unless the person has a permit to do so, undertake fire hazard reduction in the Riverpark or development control area unless the fire hazard reduction is carried out —

(a) in accordance with a management programme; or

(b) in the course of fighting a fire.

Penalty for this subregulation: a fine of $5 000.

[Regulation 15 amended: Gazette 28 Aug 2012 p. 4136; SL 2023/14 r. 12.]

16A. Restrictions on aircraft activity

A person must not undertake any aircraft activity in the Riverpark or development control area unless —

(a) the activity is urgently required to avoid or mitigate danger to public safety or significant damage to property or the environment; or

(b) the person holds a permit to carry out the activity.

Penalty: a fine of $5 000.

[Regulation 16A inserted: SL 2023/14 r. 6; amended: SL 2023/63 r. 5.]

16B. Maintenance dredging, restrictions on

A person must not, except in accordance with a permit, undertake maintenance dredging in waters in the Riverpark or development control area.

Penalty: a fine of $5 000.

[Regulation 16B inserted: Gazette 28 Aug 2012 p. 4137.]

16C. Scientific studies, restrictions on

A person must not, except in accordance with a permit, undertake any scientific studies in the Riverpark or development control area.

Penalty: a fine of $5 000.

[Regulation 16C inserted: Gazette 28 Aug 2012 p. 4137.]

Part 3 — Protection of Riverpark and development control area

16. Application of this Part

This Part does not apply to —

(a) anything done in accordance with an approval for the purposes of section 70; or

(b) anything done in accordance with a determination of the Western Australian Planning Commission under the Metropolitan Region Scheme clause 45 or former clause 30A; or

(c) anything done in accordance with a licence agreement; or

(d) anything that may lawfully be done because of section 69(4).

[Regulation 16 inserted: SL 2023/63 r. 6; amended: SL 2024/253 r. 6.]

17. Restrictions on commercial acts and activities

(1) A person must not, unless the person has a permit to do so, undertake or cause to be undertaken an act or activity in the Riverpark or development control area if the act or activity is undertaken for a commercial purpose.

Penalty for this subregulation: a fine of $5 000.

(2) This regulation does not apply to an act or activity that —

(a) involves the erection, construction, demolition, alteration or carrying out of any building, excavation, or other works, in, on, over or under land or waters (in which case a different form of authorisation will be required); or

(b) is undertaken —

(i) in accordance with a licence granted under the *Conservation and Land Management Regulations 2002* regulation 94; or

(ii) in accordance with a licence granted under the *Fish Resources Management Regulations 1995* Part 11 Division 1 or 5; or

(iii) in accordance with a permit granted under regulation 26; or

(iv) in the course of an event referred to in regulation 26(4).

[Regulation 17 amended: Gazette 28 Aug 2012 p. 4137; 19 Jun 2015 p. 2098; SL 2023/14 r. 12; SL 2023/63 r. 7.]

18. Banks of waters, protection of

(1) A person must not, unless the person has a permit to do so, do or cause the doing of anything that is likely to bring about the collapse or movement of any part of the banks of waters in the Riverpark or development control area.

Penalty for this subregulation: a fine of $5 000.

(2) Without limiting subregulation (1), a reference in that subregulation to the doing of anything includes —

(a) the removal of any tree, shrub or other plant; and

(b) causing or permitting grazing by livestock.

[Regulation 18 amended: SL 2023/14 r. 12.]

19. River bed, restrictions on digging in

(1) A person must not, unless the person has a permit to do so, dig in the bed or subsoil beneath any waters in the Riverpark.

Penalty for this subregulation: a fine of $5 000.

(2) Subregulation (1) does not apply to —

(a) digging for the purpose of taking worms or invertebrates (although regulation 20 may apply); or

(b) anchoring vessels.

[Regulation 19 amended: SL 2023/14 r. 12.]

20. Worms etc., restrictions on digging for etc.

(1) A person must not, unless the person has a permit to do so —

(a) dig for worms or other invertebrates in the Riverpark; or

(b) take worms or other invertebrates from the Riverpark if the worms or other invertebrates were obtained by digging.

Penalty for this subregulation: a fine of $5 000.

(2) This regulation does not apply —

(a) if —

(i) the worms or other invertebrates are dug up in the bed or subsoil beneath any waters that is at least 5 m from any river bank and any vegetation; and

(ii) any other material dug from the bed or subsoil is returned to the location from which it was taken;

or

(b) in an area that is a park or reserve established under the *Conservation and Land Management Act 1984* (in which case, authorisation is required under that Act).

[Regulation 20 amended: SL 2023/14 r. 12.]

21. Vegetation, protection of

(1) A person must not, unless the person has a permit to do so, destroy, pull up, cut back or injure any tree, shrub, aquatic plant

or other perennial plant that is in the Riverpark or development control area.

Penalty for this subregulation: a fine of $5 000.

(2) Nothing in subregulation (1) applies to anything done —

(a) in the normal operations of a farm, orchard, plantation, vineyard or other commercial agricultural operation; or

(b) for the purpose of routine maintenance of any reserve under the *Land Administration Act 1997* or the *Conservation and Land Management Act 1984*, land owned by a Schedule 5 authority or any garden or grassed area; or

(c) by way of removal of plants usually regarded as weeds; or

(d) by way of fire control in the course of fighting a fire, including the making of fire breaks, providing access, burning or other means used to reduce fire hazards; or

(e) by way of fire hazard reduction carried out in accordance with a management programme; or

(f) in the creation of access tracks for fire hazard reduction in accordance with a management programme.

[Regulation 21 amended: SL 2023/14 r. 12.]

22A. Vessels unattended, and moorings, on land, restrictions on

(1) A person must not leave a vessel unattended for 8 hours or more above the high water mark in the Riverpark or development control area unless —

(a) the vessel is stored in a facility approved under Part 5 of the Act or by permit for that purpose; or

(b) the person has a permit to do so.

Penalty for this subregulation: a fine of $5 000.

(2) A person must not, unless the person has a permit to do so, place above the high water mark in the Riverpark or development control area an object for securing vessels.

Penalty for this subregulation: a fine of $5 000.

[Regulation 22A inserted: Gazette 28 Aug 2012 p. 4137-8; amended: Gazette 19 Jun 2015 p. 2098; SL 2023/14 r. 12.]

22. Launching vessels from trailers, restrictions on

(1) In this regulation —

permitted launching place means —

(a) a boat ramp —

(i) approved under the *Swan River Trust Act 1988* [1] or the *Swan and Canning Rivers Management Act 2006*; or

(ii) that was in existence at the commencement of the *Swan River Trust Act 1988* [1], and has not been altered in contravention of that Act or the *Swan and Canning Rivers Management Act 2006*,

and that is licensed to be used under the *Jetties Act 1926* section 7; or

(b) an area that is between 2 signs for the time being erected or established by authority of the CEO and inscribed with words indicating that the launching of vessels from trailers is permitted and each having an arrow pointing generally towards the other sign;

trailer means a vehicle without its own motive power that is built to be towed, or is towed, by a vehicle.

(2) A person must not, unless the person has a permit to do so, launch a vessel directly from a trailer into any waters in the

Riverpark or development control area except at a permitted launching place.

Penalty for this subregulation: a fine of $5 000.

[Regulation 22 amended: Gazette 19 Jun 2015 p. 2098; SL 2023/14 r. 12.]

23. Living on vessels, restrictions on

A person must not use a vessel in waters in the development control area as living accommodation unless —

(a) the vessel is moored in an area approved by the CEO for the purposes of this regulation; or

(b) the person does not use the vessel as living accommodation for —

(i) a period of more than 6 consecutive days; or

(ii) more than 10 days (which do not include any period of more than 6 consecutive days) in any period of 30 consecutive days that includes the period in which the offence is alleged to have been committed.

Penalty: a fine of $5 000.

[Regulation 23 amended: Gazette 19 Jun 2015 p. 2100.]

*[**24.** Deleted: SL 2024/35 r. 7.]*

25. Litter

(1) In this regulation —

litter has the meaning given to that term by the *Litter Act 1979*.

(2) A person must not deposit litter, or cause litter to be deposited, in the Riverpark unless the litter is deposited in a place or receptacle set aside or provided for that purpose.

Penalty for this subregulation: a fine of $5 000.

(3) A person must not deliberately break any glass, metal or earthenware object in the Riverpark.

Penalty for this subregulation: a fine of $5 000.

[Regulation 25 amended: SL 2023/14 r. 12.]

26. Spectator events in River reserve, holding etc.

[(1) deleted]

(2) A person must not, unless the person has a permit to do so, organise or hold a spectator event within the River reserve, or promote such an event.

Penalty for this subregulation: a fine of $5 000.

(3) A permit for the purposes of this regulation may include a permit to exhibit signs in a manner and form specified in the permit.

(4) Subregulation (2) does not apply —

(a) in relation to an event for which permission is required under the *Navigable Waters Regulations 1958* regulation 51C; or

(b) in relation to an event on land owned by or under the care, control and management of a Schedule 5 authority.

[Regulation 26 amended: Gazette 28 Aug 2012 p. 4138; SL 2023/14 r. 12.]

Part 4 — Permits

27. Permit for emergency works etc. (r. 11), application for

(1) In this regulation —

in writing includes by fax or electronic mail;

orally includes by telephone, radio or video conference.

(2) An application for a permit for the purposes of regulation 11 may be made to the CEO orally or in writing.

(3) The permit may be given to the applicant orally or in writing.

(4) If the applicant is given a permit orally, the CEO must give the applicant a permit in writing as soon as practicable after giving the permit orally.

(5) The CEO may refuse to accept an application under this regulation and require the application to be made under regulation 28.

[Regulation 27 amended: Gazette 19 Jun 2015 p. 2100.]

28. Permit under these regulations, application for

(1) Except as provided in regulation 27, an application for a permit must —

(a) be made in a form and in the manner approved by the CEO; and

(b) provide the information required by the form; and

(c) be lodged with the CEO together with any application fee prescribed under these regulations.

(2) The CEO may require an applicant to provide additional information reasonably related to an application before determining the application.

(3) The CEO may refuse to consider an application which is not in accordance with subregulation (1) or where an applicant has not complied with subregulation (2).

[Regulation 28 amended: Gazette 19 Jun 2015 p. 2100.]

29. Grant of permit

(1) The CEO may grant, or refuse to grant, a permit to carry out an activity for which a permit is required under these regulations.

(2) A permit may be granted in combination with other permits.

(3) A permit granted in relation to an activity authorises entry to, and use of, land and waters under the care, control and management of the Trust for the purposes of the activity.

[Regulation 29 amended: Gazette 19 Jun 2015 p. 2100; SL 2023/14 r. 7.]

30. Duration of permit

(1) Subject to these regulations, a permit has effect for the period specified in the permit.

(2) The CEO may, by written notice given to the holder of a permit, extend the period for which the permit has effect.

[Regulation 30 amended: SL 2023/14 r. 8.]

31. Conditions and restrictions on permit

(1) The CEO may impose conditions and restrictions on a permit.

(1A) Without limiting subregulation (1), the CEO may impose a condition on a permit that requires the holder to take out and maintain insurance in connection with the activity to which the permit relates.

(2) Conditions and restrictions imposed on a permit must be endorsed on or attached to the written permit.

(3) The holder of a permit who contravenes a condition or restriction imposed on the permit commits an offence.

Penalty for this subregulation: a fine of $5 000.

[Regulation 31 amended: Gazette 19 Jun 2015 p. 2100; SL 2023/14 r. 12; SL 2023/63 r. 8.]

32. Amendment of permit

(1) The CEO may amend a permit by correcting in the permit a clerical mistake or unintentional error or omission.

(2) The CEO may amend a permit to vary any conditions or restrictions imposed on the permit.

Note for this subregulation:

The procedure under regulation 34 applies to an amendment under this subregulation on the initiative of the CEO if the holder of the permit has not consented to the amendment.

(3) A permit may be amended under subregulation (1) or (2) —

(a) on application by the holder of the permit; or

(b) on the initiative of the CEO (with or without the consent of the holder of the permit).

(4) The CEO must give the holder of a permit written notice of an amendment of the permit under subregulation (1) or (2).

[Regulation 32 inserted: SL 2023/14 r. 9.]

33. CEO may revoke or suspend permit

(1) The CEO may revoke or suspend a permit if there are grounds to do so under subregulation (2).

Note for this subregulation:

The procedure under regulation 34 applies to a revocation or suspension under this subregulation.

(2) The grounds for revocation or suspension of a permit under subregulation (1) are that —

(a) the CEO is satisfied that there has been a breach of any of the conditions or restrictions to which the permit is subject; or

(b) information contained in or supporting the application for the permit was false or misleading in a material respect; or

(c) the CEO considers that the continuation of the activity to which the permit relates would adversely affect the ecological and community benefits and amenity of the Riverpark or development control area.

(3) The CEO may revoke a permit if —

(a) the CEO intends to grant another permit to the holder of the permit in relation to the activity to which the permit relates; and

(b) the CEO considers that the other permit will be more appropriate in the circumstances.

Note for this subregulation:

The procedure under regulation 34 applies to a revocation under this subregulation.

(4) The CEO may revoke a permit with the consent of the holder of the permit.

(5) The CEO may revoke the suspension of a permit under subregulation (1) at any time.

(6) The CEO must give the holder of a permit written notice of —

(a) a revocation of the permit under subregulation (1), (3) or (4); or

(b) a suspension of the permit under subregulation (1); or

(c) a revocation of the suspension of the permit under subregulation (5).

(7) A notice under subregulation (6)(b) must specify the period of suspension.

[Regulation 33 inserted: SL 2023/14 r. 9.]

34. Procedure to be followed before certain amendments, revocations and suspensions

(1) This regulation sets out the procedure that must be followed if the CEO proposes to do any of the following (the ***proposed action***) —

(a) amend a permit under regulation 32(2) on the initiative of the CEO, if the holder of the permit has not consented to the amendment;

(b) revoke a permit under regulation 33(1) or (3);

(c) suspend a permit under regulation 33(1).

(2) The CEO must give the holder of the permit a written notice that —

(a) states details of the proposed action including, in the case of a proposed suspension under regulation 33(1), the proposed period of suspension; and

(b) invites the holder to make written representations to the CEO to show why the proposed action should not be taken; and

(c) states the period within which representations may be made.

(3) The period stated in the notice under subregulation (2)(c) must be a period of at least 14 days beginning on the day after the notice is given.

(4) Representations by the holder of the permit must be made in writing.

(5) The CEO must not take the proposed action until after the end of the period stated in the notice under subregulation (2)(c), unless the holder of the permit has —

(a) given written notice to the CEO that the holder does not intend to make representations; or

(b) made written representations to the CEO and given written notice to the CEO that the holder does not intend to make further representations.

(6) Before taking the proposed action, the CEO must consider any representations made by the holder of the permit in accordance with this regulation.

(7) If the CEO decides not to take the proposed action, the CEO must give the holder of the permit written notice of the decision.

Note for this subregulation:

If the CEO decides to take the proposed action, written notice of the amendment, revocation or suspension must be given under regulation 32(4) or 33(6), as the case requires.

[Regulation 34 inserted: SL 2023/14 r. 9.]

35. Interim suspension of permit while procedure under r. 34 is followed

(1) This regulation applies if —

(a) the CEO gives the holder of a permit a notice under regulation 34(2) in relation to a proposed revocation or suspension of the permit under regulation 33(1) on the grounds referred to in regulation 33(2)(c); and

(b) the CEO considers it necessary for the permit to be suspended immediately because there is an immediate and serious risk of harm to the ecological and community benefits and amenity of the Riverpark or development control area.

(2) The CEO may, by written notice (an ***interim suspension notice***) given to the holder of the permit, immediately suspend the permit until the earlier of the following —

(a) the day on which the CEO gives the holder written notice of —

(i) the revocation or suspension of the permit under regulation 33(1); or

(ii) the decision not to revoke or suspend the permit under regulation 33(1);

(b) the end of the period of suspension specified in the interim suspension notice.

(3) The interim suspension notice must —

(a) state that the permit is suspended with immediate effect; and

(b) specify a period of suspension not exceeding 6 weeks; and

(c) explain the period for which the suspension has effect under subregulation (2).

(4) The interim suspension notice may form part of the notice given to the holder of the permit under regulation 34(2).

(5) The CEO may revoke the suspension of the permit under subregulation (2) at any time.

(6) The CEO must give the holder of the permit written notice of a revocation of the suspension of the permit under subregulation (5).

[Regulation 35 inserted: SL 2023/14 r. 9.]

36. Approval in force at 25 Sep 2007, saving for

Any approval of the Trust given under the *Swan River Trust Regulations 1989*[2] and of effect immediately prior to the coming into operation of these regulations has effect as if it were a permit under these regulations.

Part 5 — Infringement notices

37. Offences prescribed (Act s. 123)

The offences specified in Schedule 1 are offences for which an infringement notice may be issued under section 123.

[Regulation 37 amended: Gazette 28 Aug 2012 p. 4138.]

38. Modified penalties prescribed (Act s. 123)

The modified penalty to be specified in an infringement notice issued for an offence is the modified penalty set out for that offence in Schedule 1.

39. Infringement notice, form of prescribed (Act s. 123(3))

Schedule 2 Form 3 is prescribed for the purposes of section 123(3)(a).

[Regulation 39 amended: Gazette 28 Aug 2012 p. 4139.]

40. Withdrawal of infringement notice, form of prescribed (Act s. 123(7))

Schedule 2 Form 4 is prescribed for the purposes of section 123(7).

[Regulation 40 amended: Gazette 28 Aug 2012 p. 4139.]

Part 6 — Other matters

41. Continuing offence, penalty for

For each separate and further offence committed by a person under the *Interpretation Act 1984*, the penalty is a fine of $100.

42. Rate of interest prescribed (Act s. 103(4))

The rate of interest for the purposes of section 103(4) is —

(a) the rate of interest prescribed under the *Civil Judgments Enforcement Act 2004* section 8(1)(a); or

(b) 6% per annum,

whichever is the higher rate.

[Regulation 42 amended: Gazette 28 Aug 2012 p. 4139.]

43. Sch. 5 authority proposing to act in conflict with Act, procedure in case of

(1) If a Schedule 5 authority proposes to exercise a power conferred on the Schedule 5 authority by a written law that is in conflict with a provision of the Act (other than a provision of Part 5 of the Act), the Schedule 5 authority must give written notification to the CEO of the proposal —

(a) if the Schedule 5 authority becomes aware of the conflict more than 30 days before the power is to be exercised — at least 30 days before exercising the power; or

(b) otherwise — as soon as practicable after becoming aware of the conflict.

(2) The notification must —

(a) state the particulars of the conflict, including —

(i) the provisions of the Act and the other written law that are in conflict; and

(ii) the situation that has given rise to the conflict;

and

(b) be accompanied by any written advice the Schedule 5 authority has received in relation to the conflict.

(3) In the case of a Schedule 5 authority that is a statutory authority, the notification may be given by the person or body (however described) having the general direction and control of, and the overall responsibility for, the operations of the statutory authority.

(4) This regulation does not affect the law relating to legal professional privilege.

[Regulation 43 amended: Gazette 19 Jun 2015 p. 2099.]

44. River reserve leases (Act s. 29), renewal and sublease of

(1) The CEO may, by way of renewal or further renewal of a lease granted with the approval of the Minister under section 29, grant a lease of land that is part of the River reserve —

(a) for a period not exceeding the term of the lease that is renewed; and

(b) on the terms and conditions to which the lease was subject before its renewal.

(2) The CEO may grant a sublease of a lease granted with the approval of the Minister under section 29 if the terms and conditions of the sublease are consistent with the lease.

[Regulation 44 amended: Gazette 28 Aug 2012 p. 4139; 19 Jun 2015 p. 2100-1.]

45. Act Schedule 2 amended

(1) Under section 13(1), this regulation amends Schedule 2 to the Act.

(2) Delete "47465." and insert:

47465 Version 6.

[Regulation 45 inserted: Gazette 4 Mar 2016 p. 625.]

46. Act Schedule 3 amended

(1) Under section 13(1), this regulation amends Schedule 3 to the Act.

(2) Delete "47465." and insert:

47465 Version 6.

[Regulation 46 inserted: Gazette 4 Mar 2016 p. 626.]

47. Act Schedule 4 amended

(1) Under section 13(1), this regulation amends Schedule 4 to the Act.

(2) In relation to **Reserve 48325** delete "Lot 351 on Deposited Plan 59844," and insert:

Lot 504 on Deposited Plan 408106,

(3) In relation to **Reserve 48325** delete "Lot 301 on Deposited Plan 47451, Lots 302 & 303 on Deposited Plan 47452," and insert:

Lot 301 on Deposited Plan 47451 (excluding the land in Lot 500 on Deposited Plan 416700), Lots 302 & 303 on Deposited Plan 47452 (excluding the land in Lot 500 on Deposited Plan 416700),

[Regulation 47 inserted: Gazette 4 Mar 2016 p. 626; amended: SL 2020/186 r. 4.]

48. Act Schedule 5 amended

(1) Under section 136(2)(a), this regulation amends Schedule 5 to the Act.

(2) After item 9 insert:

10.	The National Trust of Australia (W.A.) established under the *National Trust of Australia (W.A.) Act 1964*.
10A.	The Commissioner of Police appointed under the *Police Act 1892*.

[Regulation 48 inserted: SL 2023/14 r. 10.]

49. Act Schedule 7 amended

(1) Under section 136(2)(a), this regulation amends Schedule 7 to the Act.

(2) In the item for the Shire of Kalamunda delete "Shire" and insert:

City

(3) Delete the item for the City of Subiaco.

[Regulation 49 inserted: SL 2023/14 r. 10.]

Schedule 1 — Prescribed offences and modified penalties

[r. 37, 38]

Offences		Modified penalty
r. 9(1)	Exhibiting sign without permit	$200
r. 10(2)	Undertaking repairs or maintenance without permit	$200
r. 11(2)	Undertaking emergency work, act or activity without permit	$200
r. 12(2) or (3)	Undertaking works to control erosion without permit	$200
r. 13(2)	Placing or removing temporary structure without permit	$200
r. 14A(2)	Leaseholder undertaking works without permit	$200
r. 14(2)	Schedule 5 authority undertaking works without permit	$200
r. 15(2)	Undertaking fire hazard reduction without permit	$200
r. 16A	Undertaking aircraft activity without permit	$200
r. 16B	Undertaking maintenance dredging without permit	$200
r. 16C	Undertaking scientific studies without permit	$200
r. 17(1)	Undertaking activity for commercial purpose without permit	$200
r. 18(1)	Doing anything likely to bring about collapse or movement of banks	$200
r. 19(1)	Digging in bed or subsoil	$200
r. 20(1)	Digging for or taking worms or invertebrates	$200
r. 21(1)	Destroying or injuring tree, shrub or plant	$200
r. 22A(1)	Leaving vessel unattended on land without permit	$200
r. 22A(2)	Placing object to secure vessel on land without permit	$200
r. 22(2)	Launching vessel from trailer except at permitted launching place	$200
r. 23	Using vessel as living accommodation	$200
r. 25(2)	Littering Riverpark	$200
r. 25(3)	Breaking glass, metal or earthenware in Riverpark	$200
r. 26(2)	Organising or holding spectator event in River reserve without permit	$200

Offences		**Modified penalty**
r. 31(3)	Contravening condition or restriction imposed on permit	$200

[Schedule 1 amended: Gazette 28 Aug 2012 p. 4139-40; 19 Jun 2015 p. 2099; SL 2023/14 r. 11; SL 2023/63 r. 9; SL 2024/35 r. 8.]

Schedule 2 — Forms

[r. 6, 7, 39, 40]

Form 1

Swan and Canning Rivers Management Act 2006

Section 72

APPLICATION FOR APPROVAL OF DEVELOPMENT

1. Applicant details

The applicant is the person with whom the department, on behalf of the Chief Executive Officer, will correspond, unless an authorised agent has been appointed to act on behalf of the applicant, in which case correspondence will be sent direct to the agent.

Name					
Position (if applicable)					
Organisation (if applicable)					
Contact person					
Postal address					
Town/Suburb		State		Postcode	
Telephone	Work		Mobile		
Email					

I give authority for an agent (as identified at item No. 3) to act on my behalf during the assessment of the application. ☐ YES ☐ NO

If 'YES', please provide Agent's details at item No. 3.

Applicant signature		Date	

2. Landowner details

All owner(s) of the land **must sign this application**. Where land is owned by the Crown, or has a management order granted to a local government or other agency, this application must be signed by the relevant landowner or management body as required under section 72(5)(a) of the Act. If there are more than 2 landowners, please provide the additional information and signature(s) on a separate page.

Form 1

Details of first landowner

Name					
Position (if applicable)					
Organisation (if applicable)					
Contact person					
Postal address					
Town/suburb		State		Postcode	

I consent to this application being made.

First landowner signature		Date	

Details of second landowner (if applicable)

Name					
Position (if applicable)					
Organisation (if applicable)					
Contact person					
Postal address					
Town/suburb		State		Postcode	

I consent to this application being made.

Second landowner signature		Date	

Form 1

3. Authorised agent details (if applicable)

The applicant must sign the form and tick the authorisation under item No. 1 to provide authority for an appointed authorised agent to act on their behalf.

Details of authorised agent

Name					
Position (if applicable)					
Company/agency (if applicable)					
ACN/ABN (if applicable)					
Postal address					
Town/suburb		State		Postcode	
Telephone	Work		Mobile		
Email					
Authorised agent signature		Date			

4. Location of proposed development

Certificate of title information	Volume		Folio	
	Diagram/plan/deposit plan no.			
Lot No.(s)				
Location				
Reserve No.(s) (if applicable)				
Street No.(s) and name				
Town/suburb				

Form 1

Nearest road intersection	

5. Details of proposed development

Please provide a written description of the proposed development (refer to the Development Application Guidelines for further details on what information to include in this section).

Estimated cost of development	$
Current use of land	Please describe below how the land is currently used.
Proposed development	Please provide a summary of the proposed use and development. Additional detail should be provided as an attachment to this application form.

[Form 1 inserted: SL 2023/63 r. 10.]

Form 2

Swan and Canning Rivers Management Act 2006

Section 89(4)

CLAIM FOR COMPENSATION FOR INJURIOUS AFFECTION

I, BEING:

Name					
Street Address					
City				Postcode	
Telephone	Work		Home		

AND THE OWNER OF THE FOLLOWING LAND:

House No.				
Street				
Location No.				
Certificate of Title	Volume		Folio	

CONSIDER THAT THE LAND HAS BEEN INJURIOUSLY AFFECTED BY REASON OF THE DECISION DATED □□□□□□□□ IN WHICH AN APPLICATION FOR APPROVAL OF DEVELOPMENT WAS:
(please tick applicable box below)

Refused	
Approved, but in a modified form	
Approved or approved in a modified form, but subject to a condition or restriction unacceptable to me	

Form 2

I CLAIM AS COMPENSATION FOR THAT INJURIOUS AFFECTION THE SUM OF:

$	

WHICH SUM IS MADE UP AS FOLLOWS:

SIGNED	
DATE	

[Form 2 amended: Gazette 19 Jun 2015 p. 2100.]

Form 3

Form 3

Swan and Canning Rivers Management Act 2006 **Infringement notice**		Infringement Notice No.
Alleged offender	Name: Family name	
	Given names	
	or Company name _____ ACN	
	Address: _____ Postcode	
Alleged offence	Description of offence:	
	Swan and Canning Rivers Management Regulations 2007	
	Date: / /20 Time: a.m./p.m.	
	Modified penalty: $	
Officer issuing notice	Name:	
	Signature:	
	Office:	
Date	Date of notice: / /20	
Notice to alleged offender	It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice. **How to pay:** **By post:** Send a cheque or money order (payable to "Chief Executive Officer, Department of Parks and Wildlife") to: Department of Parks and Wildlife C/- The Accountant GPO Box K822 PERTH WA 6842 **If you do not pay** the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. Under that Act, some or all of the following action may be taken — your driver's licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold.	

	If you need more time to pay the modified penalty, you can apply for an extension of time by writing to the Chief Executive Officer, Department of Parks and Wildlife at the above postal address. **If you want this matter to be dealt with by prosecution in court**, sign here _____ and post this notice to the Chief Executive Officer, Department of Parks and Wildlife at the above postal address within 28 days after the date of this notice.

[Form 3 amended: Gazette 20 Aug 2013 p. 3858; 19 Jun 2015 p. 2100; SL 2020/166 r. 10.]

Form 4

Swan and Canning Rivers Management Act 2006 **Withdrawal of infringement notice**	Withdrawal No.
Alleged offender	Name: Family name
	Given names
	or Company name _____ ACN
	Address: _____ Postcode
Infringement notice	Infringement Notice No.:
	Date of issue: / /20
Alleged offence	Description of offence:
	Swan and Canning Rivers Management Regulations 2007
	Date: / /20 Time: a.m./p.m.
Officer withdrawing notice	Name:
	Signature:
	Office:
Date	Date of withdrawal: / /20
Withdrawal of infringement notice *[*delete whichever is not applicable]*	The above infringement notice issued against you has been withdrawn. If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. *or* * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Department of Parks and Wildlife C/- The Accountant GPO Box K822 PERTH WA 6842 Signature / /20

[Form 4 amended: Gazette 19 Jun 2015 p. 2100.]

Notes

This is a compilation of the *Swan and Canning Rivers Management Regulations 2007* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Swan and Canning Rivers Management Regulations 2007	25 Sep 2007 p. 4787-831	25 Sep 2007 (see note under r. 1 and *Gazette* 25 Sep 2007 p. 4835)
Swan and Canning Rivers Management Amendment Regulations 2012	28 Aug 2012 p. 4132-40	r. 1 and 2: 28 Aug 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Aug 2012 (see r. 2(b))
Reprint 1: The *Swan and Canning Rivers Management Regulations 2007* as at 23 Nov 2012 (includes amendments listed above)		
Swan and Canning Rivers Management Amendment Regulations 2013	20 Aug 2013 p. 3857-8	r. 1 and 2: 20 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Aug 2013 (see r. 2(b) and *Gazette* 20 Aug 2013 p. 3815)
Swan and Canning Rivers Management Amendment Regulations 2014	27 Jun 2014 p. 2327-8	r. 1 and 2: 27 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Jun 2014 (see r. 2(b))
Swan and Canning Rivers Management Amendment Regulations 2015	19 Jun 2015 p. 2097-101	r. 1 and 2: 19 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b))
Swan and Canning Rivers Management Amendment Regulations 2016	4 Mar 2016 p. 625-6	r. 1 and 2: 4 Mar 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Mar 2016 (see r. 2(b))
Environment Regulations Amendment (Infringement Notices) Regulations 2020 Pt. 5	SL 2020/166 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))
Swan and Canning Rivers Management Amendment Regulations 2020	SL 2020/186 29 Sep 2020	r. 1 and 2: 29 Sep 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Sep 2020 (see r. 2(b))

Citation	Published	Commencement
Swan and Canning Rivers Management Amendment Regulations 2021	SL 2021/131 16 Jul 2021	r. 1 and 2: 16 Jul 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Aug 2021 (see r. 2(b) and SL 2021/124 cl. 2)
Swan and Canning Rivers Management Amendment Regulations 2023	SL 2023/14 24 Feb 2023	r. 1 and 2: 24 Feb 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Feb 2023 (see r. 2(b))
Swan and Canning Rivers Management Amendment Regulations (No. 2) 2023	SL 2023/63 2 Jun 2023	r. 1 and 2: 2 Jun 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Jun 2023 (see r. 2(b) and SL 2023/62 cl. 2)
Swan and Canning Rivers Management Amendment Regulations 2024	SL 2024/35 20 Mar 2024	r. 1 and 2: 20 Mar 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Mar 2024 (see r. 2(b))
Swan and Canning Rivers Management Amendment Regulations (No. 2) 2024	SL 2024/253 11 Dec 2024	r. 1 and 2: 11 Dec 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 31 Mar 2025 (see r. 2(b))

Other notes

[1] Repealed by the *Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006*.

[2] The regulation in these regulations repealing the *Swan River Trust Regulations 1989* was omitted under the *Reprints Act 1984* s. 7(4)(f).

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
aircraft	2
aircraft activity	2
commercial purpose	2
commercial use	2
emergency works, acts or activities	11(1)
exhibit	2
fire hazard reduction	15(1)
former clause 30A	2
interim suspension notice	35(2)
in writing	27(1)
leaseholder	2
litter	25(1)
local planning scheme	9(2A)
maintenance dredging	2
orally	27(1)
park	10(1)
permit	2
permitted launching place	22(1)
private property	2
proposed action	34(1)
public place	2
repairs to or maintenance of	10(1)
section	2
sign	2
spectator event	2
structure	2
temporary structure	13(1)
trailer	22(1)
undertake	2
vehicle	2
vessel	2
works	12(1), 14A(1), 14(1)

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