



Western Australia

Swan and Canning Rivers Management Act 2006

# **Swan and Canning Rivers Management Regulations 2007**

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Western Australia

## Swan and Canning Rivers Management Regulations 2007

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**Defined terms**





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at 23 November 2012

Western Australia

Swan and Canning Rivers Management Act 2006

## Swan and Canning Rivers Management Regulations 2007

### Part 1 — Preliminary

#### 1. Citation

These regulations are the *Swan and Canning Rivers Management Regulations 2007*<sup>1</sup>.

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 —

**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;

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**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 in Gazette 28 Aug 2012 p. 4132-3.]*



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

### Division 1 — Development

[3. Deleted in Gazette 28 Aug 2012 p. 4133.]

**4. Act s. 3(1) development, exclusions from**

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 change of 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 change of 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;

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

**Division 1** Development

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- (ga) works, acts and activities by leaseholders that are of a value less than \$50 000;
- (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 \$500 000;
- (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;
- (k) maintenance dredging in waters in the Riverpark or development control area;
- (l) scientific studies.

*[Regulation 4 amended in Gazette 28 Aug 2012 p. 4133.]*

**5. Development that Trust 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 in 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 in 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 in 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 anything done in accordance with —

- (a) an approval for the purposes of section 70; or
- (b) a determination of the Western Australian Planning Commission under the Metropolitan Region Scheme clause 30A.

*[Regulation 8 amended in Gazette 28 Aug 2012 p. 4134.]*

**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: 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

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

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

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- (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 Trust 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<sup>2</sup>; 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.
- (3) The Trust may transfer a permit granted for the purposes of this regulation from one person to another.
- (4) The Trust may —
- (a) remove any sign exhibited in contravention of this regulation; and
  - (b) dispose of the sign so removed as it thinks fit.

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

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

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

*[Regulation 9 amended in Gazette 28 Aug 2012 p. 4134.]*

**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: 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 in Gazette 28 Aug 2012 p. 4134.]*

**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: 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 Trust written notification of the emergency works, acts or activities;

or

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

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

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- (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 in Gazette 28 Aug 2012 p. 4134.]*

**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: 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: a fine of \$5 000.

*[Regulation 12 amended in Gazette 28 Aug 2012 p. 4135.]*

**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: a fine of \$5 000.

*[Regulation 13 amended in Gazette 28 Aug 2012 p. 4135.]*

**14A. Leaseholders, restrictions on works by**

- (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, 12 or 15.
- (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: a fine of \$5 000.

*[Regulation 14A inserted in Gazette 28 Aug 2012 p. 4135.]*

**14. Sch. 5 authorities, restrictions on works by**

- (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, 12 or 15.
- (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: a fine of \$5 000.

*[Regulation 14 amended in Gazette 28 Aug 2012 p. 4136.]*

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

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

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**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: a fine of \$5 000.

*[Regulation 15 amended in Gazette 28 Aug 2012 p. 4136.]*

**16A. Aircraft activity, restrictions on**

(1) In this regulation —

**aircraft** means a machine that can derive support in the atmosphere from buoyancy or the reactions of the air but 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.

(2) 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 has —
- (i) a licence to do so granted under section 32; or
  - (ii) a permit to do so.

Penalty: a fine of \$5 000.

*[Regulation 16A inserted in Gazette 28 Aug 2012 p. 4136.]*

**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 in 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 in 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 anything done in accordance with —

- (a) an approval for the purposes of section 70; or
- (b) a determination of the Western Australian Planning Commission under the Metropolitan Region Scheme clause 30A.

*[Regulation 16 amended in Gazette 28 Aug 2012 p. 4137.]*

**17. Commercial acts and activities, restrictions on**

- (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: 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 or permit granted under the *Conservation and Land Management Act 1984* section 101; or
    - (ii) in accordance with a licence granted under the *Fish Resources Management Regulations 1995* Part 11 Division 1, 4 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 in Gazette 28 Aug 2012 p. 4137.]*

**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: 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.

**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: 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.

**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: a fine of \$5 000.

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- (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).

**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: 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.

**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 by the Trust for that purpose; or
  - (b) the person has a permit to do so.

Penalty: 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: a fine of \$5 000.

*[Regulation 22A inserted in Gazette 28 Aug 2012 p. 4137-8.]*

**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*<sup>2</sup> 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*<sup>2</sup>, 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

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- (b) an area that is between 2 signs for the time being erected or established by the Trust 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: a fine of \$5 000.

**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 Trust 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.

**24. Trust courtesy moorings, use of**

- (1) In this regulation —

**commercial vessel** means —

- (a) a vessel which is not used solely for pleasure or recreation; or



- (b) a vessel the use of which is made, allowed or authorised in the course of a business or in connection with a commercial purpose;

**length** means the distance from the fore part of the hull to the after part of the hull taken at the upperside of the uppermost weathertight deck or, in the case of an open vessel, at the height of the gunwale;

**Trust courtesy mooring** means a buoy coloured orange and marked with the words “Swan River Trust, Courtesy Mooring, 4 hr limit” situated in the waters of the River reserve.

- (2) A person must not secure a vessel to a Trust courtesy mooring during the period from 7 a.m. to 7 p.m. on any particular day unless the vessel is secured to the mooring for less than —
- (a) 4 consecutive hours; or
- (b) 4 hours in any period of 6 hours.

Penalty: a fine of \$5 000.

- (3) A person must not secure a vessel to a Trust courtesy mooring if the vessel exceeds the maximum length of vessel for that mooring as specified on a sign affixed to the mooring by the Trust.

Penalty: a fine of \$5 000.

*[Regulation 24 amended in Gazette 28 Aug 2012 p. 4138.]*

## **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: a fine of \$5 000.

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

Penalty: a fine of \$5 000.

**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: 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 in Gazette 28 Aug 2012 p. 4138.]*

## 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 Trust 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 Trust must give the applicant a permit in writing as soon as practicable after giving the permit orally.
- (5) The Trust may refuse to accept an application under this regulation and require the application to be made under regulation 28.

### 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 Trust; and
  - (b) provide the information required by the form; and
  - (c) be lodged with the Trust together with any application fee prescribed under these regulations.
- (2) The Trust may require an applicant to provide additional information reasonably related to an application before determining the application.
- (3) The Trust may refuse to consider an application which is not in accordance with subregulation (1) or where an applicant has not complied with subregulation (2).

**29. Grant of permit**

- (1) The Trust 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.

**30. Duration of permit**

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

**31. Conditions and restrictions on permit**

- (1) The Trust may impose conditions and restrictions on a permit.
- (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: a fine of \$5 000.

**32. Clerical amendment of permit**

- (1) The Trust may amend a permit by correcting in the permit a clerical mistake or unintentional error or omission.
- (2) A permit may be amended on application by the holder of the permit or on the initiative of the Trust.

**33. Revoking or suspending permit, Trust's powers as to**

- (1) The Trust may revoke or suspend a permit.
- (2) The grounds for revocation or suspension of a permit are that —
  - (a) the Trust 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.

**34. Revoking or suspending permit, procedure for**

- (1) Before revoking or suspending a permit the Trust must give the holder of the permit a written notice under this regulation.
- (2) The notice must —
  - (a) state details of the proposed action including, in the case of a proposed suspension, the proposed period of suspension; and
  - (b) invite the holder to make representation to the Trust to show why the action should not be taken; and
  - (c) state the period (at least 14 days after the notice is given to the holder) within which representations may be made.
- (3) The representations must be made in writing.
- (4) The Trust may take the proposed action —
  - (a) at any time after the holder of the permit gives the Trust written notice that the holder does not intend to make any representations or further representations; or
  - (b) if such notice is not given, after the end of the period stated in the notice within which representations may be made.
- (5) The Trust must consider any representations properly made by the holder of the permit.
- (6) The Trust must give the holder of the permit written notice of any revocation or suspension of the permit.

**35. Immediate suspension of permit, Trust's powers etc. as to**

- (1) This regulation applies, despite regulation 34 and whether or not action has been commenced under that regulation, if the Trust considers it necessary to suspend a permit 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.

**r. 36**

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- (2) The Trust may, by written notice given to the holder of a permit, immediately suspend the permit until the earlier of the following —
  - (a) the time at which the Trust informs the holder of the Trust's decision under regulation 34;
  - (b) the end of the period of suspension specified in the notice.
- (3) The notice must —
  - (a) specify a period of suspension not exceeding 6 weeks; and
  - (b) state that the holder may make written representations to the Trust about the suspension.
- (4) The Trust must consider any written representations made to it by the holder about the suspension.
- (5) The Trust may revoke the suspension at any time, whether or not in response to any written representations made to it by the holder.

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

Any approval of the Trust given under the *Swan River Trust Regulations 1989*<sup>3</sup> 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 in 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 in 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 in 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 in 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 General Manager 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.

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

- (1) The Trust 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 Trust 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 in Gazette 28 Aug 2012 p. 4139.]*

*[45. Omitted under the Reprints Act 1984 s. 7(4)(e).]*

*[46. Omitted under the Reprints Act 1984 s. 7(4)(f).]*

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## Schedule 1 — Prescribed offences and modified penalties

[r. 37, 38]

<b>Offences</b>	<b>Modified penalty</b>
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(2)	Undertaking aircraft activity without licence or 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. 24(2)	Securing vessel to Trust courtesy mooring for period that is longer than authorised \$200
r. 24(3)	Securing long or commercial vessel to Trust courtesy mooring \$200
r. 25(2)	Littering Riverpark \$200
r. 25(3)	Breaking glass, metal or earthenware in Riverpark \$200

<b>Offences</b>	<b>Modified penalty</b>
r. 26(2) Organising or holding spectator event in River reserve without permit	\$200
r. 31(3) Contravening condition or restriction imposed on permit	\$200

*[Schedule 1 amended in Gazette 28 Aug 2012 p. 4139-40.]*

Form 1

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 — the applicant is required to sign the form at item 8**

The applicant is the person with whom the Swan River Trust 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 of Applicant						
Name of Company (if applicable)						
Contact person						
Postal address						
Town/Suburb		State		Postcode		
Telephone	Work		Home		Mobile	
Facsimile						
Email						

**2. Landowner(s) — landowners are required to sign the form at item 8**

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 as required under section 72(5)(a) of the Act. If there are more than 2 landowners, please provide the additional information on a separate page.

**Details of 1<sup>st</sup> landowner**

Full name						
Company/agency (if applicable)						
Position & ACN/ABN (if applicable)	Position		ACN/ABN No.			
Postal address						
Town/Suburb		State		Postcode		

Details of 2 <sup>nd</sup> landowner (if applicable)					
Full name					
Company/agency (if applicable)					
Position & ACN/ABN (if applicable)	Position		ACN/ABN No.		
Postal address					
Town/Suburb		State		Postcode	

**3. Appointment of an authorised agent — authorised agent is required to sign the form at item 8**

Where the applicant has appointed an authorised agent to act on their behalf, the authorised agent must attach the **written authority** to this application.

Have you appointed an authorised agent to act on your behalf? **YES**  
**NO**

Details of authorised agent					
Full name					
Company/agency (if applicable)					
Position in company/agency (if applicable)					
ACN/ABN (if applicable) /Telephone	ACN/ABN:	Work		Mobile	
Postal address					
Town/Suburb		State		Postcode	



If the development requires a River reserve licence, please tick the appropriate box below.

New licence	
Renewal of a licence	
Modification of an existing licence (i.e. change in area, purpose, etc.)	

**7. Details of proposed development**

Please provide a written description of the proposed development (refer to the Swan River Trust's 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 what the land is currently used for. _____ _____ _____
Proposed development	Please provide a detailed written description below of the proposed use and development. If there is <b>insufficient space</b> , please <b>provide the required information as an attachment</b> to this application form. _____ _____ _____ _____ _____ _____ _____ _____ _____ _____

**Form 1**

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**8. Signatures**

<b>Signed by applicant</b>		
Applicant signature		
Date		
Print name and position (if signing on behalf of a company or agency)	Name	
	Position	

<b>Signed by landowner/s (if the landowner is not the applicant)</b>		
<b>I consent to this application being made.</b>		
Landowner signature		
Landowner signature		
Date		
Print name and position (if signing on behalf of a company or agency)	Name	
	Position	

<b>Signed by authorised agent (if you are acting for the applicant)</b>		
<b>I have attached a copy of the written authorisation for me to act on behalf of the applicant to this application.</b>		
Authorised agent signature		
Date		
Print name and position (if signing on behalf of a company or agency)	Name	
	Position	



**Form 2**

*Swan and Canning Rivers Management Act 2006*

Section 89(4)

**CLAIM FOR COMPENSATION FOR INJURIOUS AFFECTION**

**TO THE SWAN RIVER TRUST:**

**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 OF THE MINISTER/TRUST\* 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**

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

\$	
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**WHICH SUM IS MADE UP AS FOLLOWS:**


<b>SIGNED</b>	
<b>DATE</b>	

**\* Delete whichever is not applicable**

Form 3

<i>Swan and Canning Rivers Management Act 2006</i>		Infringement Notice No.
<b>Infringement notice</b>		
<b>Alleged offender</b>	Name: Family name _____	
	Given names _____	
	or Company name _____ ACN _____	
	Address: _____ Postcode _____	
<b>Alleged offence</b>	Description of offence: _____	
	<i>Swan and Canning Rivers Management Regulations 2007</i>	
	Date: ____ / ____ /20____ Time: ____ a.m./p.m.	
	Modified penalty: \$ _____	
<b>Officer issuing notice</b>	Name: _____	
	Signature: _____	
	Office: _____	
<b>Date</b>	Date of notice: ____ / ____ /20____	
<b>Notice to alleged offender</b>	<p>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.</p> <p><b>How to pay:</b> <b>By post:</b> Send a cheque or money order (payable to “Swan River Trust”) to:</p> <p style="padding-left: 40px;">The Swan River Trust C/- The Accountant Department of Environment and Conservation GPO Box K822 PERTH WA 6842</p> <p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver’s licence and/or vehicle licence may be suspended.</p>	

**Form 3**

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	<p><b>If you need more time</b> to pay the modified penalty, you can apply for an extension of time by writing to the General Manager of the Swan River Trust at the above postal address.</p> <p><b>If you want this matter to be dealt with by prosecution in court,</b> sign here _____ and post this notice to the General Manager of the Swan River Trust at the above postal address within 28 days after the date of this notice.</p>
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## Form 4

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

**Notes**

- <sup>1</sup> This reprint is a compilation as at 23 November 2012 of the *Swan and Canning Rivers Management Regulations 2007* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Swan and Canning Rivers Management Regulations 2007</i>	25 Sep 2007 p. 4787-831	25 Sep 2007 (see note under r. 1 and <i>Gazette</i> 25 Sep 2007 p. 4835)
<i>Swan and Canning Rivers Management Amendment Regulations 2012</i>	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)**

- <sup>2</sup> Repealed by the *Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006*.
- <sup>3</sup> 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.]*

<b>Defined term</b>	<b>Provision(s)</b>
aircraft.....	16A(1)
aircraft activity.....	16A(1)
commercial purpose.....	2
commercial use.....	2
commercial vessel.....	24(1)
emergency works, acts or activities.....	11(1)
exhibit.....	2
fire hazard reduction.....	15(1)
in writing.....	27(1)
leaseholder.....	2
length.....	24(1)
litter.....	25(1)
maintenance dredging.....	2
orally.....	27(1)
park.....	10(1)
permit.....	2
permitted launching place.....	22(1)
private property.....	2
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)
Trust courtesy mooring.....	24(1)
undertake.....	2
vehicle.....	2
vessel.....	2
works.....	12(1), 14A(1), 14(1)