

Western Australia

Swan River Trust Regulations 1989

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Western Australia

Swan River Trust Regulations 1989

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Swan River Trust Regulations 1989

1. Citation

These regulations may be cited as the *Swan River Trust Regulations 1989*¹.

2. Commencement

These regulations shall come into operation on the day on which the *Swan River Trust Act 1988* comes into operation^{1,2}.

3. Exclusions from definition of “development”

- (1) The following works, acts and activities do not constitute development for the purposes of the definition of “development” in section 3 of the Act —
 - (a) the erection of a sign, including a traffic control sign or device, by a public authority or a local government authority;
 - (b) the erection of a sign within a building;
 - (c) the carrying out of routine work by a public authority or a local government authority including routine work on —
 - (i) a jetty, navigational aid, or marine installation;
 - (ii) electrical power lines or cables or any building used or associated with the supply, conversion, transformation or control of electricity;

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- (iii) a drain or pipe that is part of a drainage scheme under the control of the authority;
 - (iv) a road, bridge or railway;
 - (v) land (including buildings and improvements thereon) set aside for public use;
- or
- (d) 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.
- (2) In subregulation (1) “**routine work**” means work for purposes of repair, maintenance, or upkeep and includes work for the purposes of —
- (a) the control of vermin and noxious weeds; and
 - (b) fire control, other than the making of fire breaks or burning to reduce fire hazard,
- but does not include dredging.

3A. Inclusions in the definition of “development”

- (1) In this regulation —
- “**aircraft**” means a machine that can derive support in the atmosphere from the reactions of the air.
- (2) Except in an emergency, the following acts or activities constitute development for the purposes of the definition of “development” in section 3 of the Act —
- (a) the landing or touching-down of an aircraft;
 - (b) the take-off or ascent 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 refueling, servicing or repair of an aircraft.

[Regulation 3A inserted in Gazette 22 Jan 1999 p. 220-1.]

4. Protection of banks of waters

- (1) A person shall not, except with the approval of the Trust, 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 management area, including the removal of any tree, shrub or other plant or causing or permitting grazing by livestock.

Penalty: \$5 000.

- (2) Subregulation (1) does not apply to anything done in accordance with an approval granted under Part 5 of the Act or under the *Metropolitan Region Scheme* clause 30A.

[Regulation 4 amended in Gazette 29 Dec 2006 p. 5885.]

5. Protection of river bed

- (1) A person shall not, except with the approval of the Trust, dig in the bed or subsoil beneath any waters in the management area.

Penalty: \$2 000.

- (2) Subregulation (1) does not apply to anything done in accordance with an approval granted under Part 5 of the Act or under the *Metropolitan Region Scheme* clause 30A.

[Regulation 5 amended in Gazette 29 Dec 2006 p. 5885.]

6. Protection of trees

- (1) A person shall not, except with the approval of the Trust, destroy, pull up, cut back or injure any tree, shrub or other perennial plant that is on land in the management area.

Penalty: \$5 000.

- (2) Nothing in subregulation (1) applies to anything done —
(a) in the normal operations of a farm or orchard;

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- (b) for the purpose of routine maintenance of any garden or grassed area; or
- (c) by way of removal of plants usually regarded as weeds.

7. Launching of boats

- (1) A person shall not launch any boat directly from a trailer into any waters in the management area except at a permitted launching-place.

Penalty: \$500.

- (2) In subregulation (1) “**permitted launching-place**” means —

- (a) a boat ramp —
 - (i) approved under the Act; or
 - (ii) that was in existence at the commencement of the Act, and that has not been altered in contravention of the Act,

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

- (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 boats from trailers is permitted and each having an arrow pointing generally towards the other sign.

8. Spectator events

- (1) A person shall not organize, advertise, or participate in an event, held wholly or partly in the management area, that is intended to attract spectators or provide entertainment —

- (a) unless the holding of the event has been approved by the Trust; or
- (b) in contravention of a condition or restriction attached to an approval given by the Trust.

Penalty: \$5 000.

- (2) Subregulation (1) does not apply to an event for which permission is required under regulation 51C of the *Navigable Waters Regulations*.

9. Use of vessel as living accommodation

A person shall not use a vessel in waters in the management area as living accommodation for more than —

- (a) 6 consecutive days; or
- (b) 10 days in any period of 30 days,

unless the vessel is moored in an area approved by the Trust for the purposes of this regulation.

Penalty: \$1 000 and a daily penalty of \$20.

10. Modified penalties

The penalty specified in column 4 of Schedule 1 opposite the reference to an offence is the penalty applicable to that offence if it is dealt with under section 67 of the Act.

11. Forms prescribed

- (1) Forms 1, 2, 3 and 4 in Schedule 2 are prescribed for the purposes of sections 52(1), 63(3), 67(1) and 67(6) of the Act respectively.
- (2) Notwithstanding the prescription of Form 1 in Schedule 2, the Trust or a local government authority may accept as a sufficient application, for the purposes of section 52(1) of the Act, a form that substantially supplies the information provided for in Form 1.

12. Time for referral of applications by local government

A local government authority that receives an application under section 52(1) of the Act for approval of a development shall comply with section 52(2) of the Act within 14 days after the receipt of the application.

Schedule 1

Schedule 1

[reg. 10]

Modified penalties

Item	Regulation	Matter to which regulation relates	Modified penalty
1.	4	Doing anything likely to bring about collapse or movement of banks.	\$100
2.	5	Digging in bed beneath any waters.	\$40
3.	6	Destroying or injuring tree, shrub or plant.	\$100
4.	7	Launching boat from trailer except at a permitted launching place.	\$20
5.	9	Use of vessel as living accommodation.	\$40

Schedule 2

[reg. 11]

Form 1

SWAN RIVER TRUST ACT 1988

Section 50

APPLICATION FOR APPROVAL OF DEVELOPMENT

To*: The Council of the City/Town/Shire of
OR
The Swan River Trust

I
(full name)
of
(full address) (postcode)

apply under section 52 of the Swan River Trust Act 1988 for the approval of the
Minister to the following development —

Description
.....
.....
.....

and I declare that the following particulars relating to the proposed development
are true# —

- 1. Full name(s) of owner(s) of the land on which the development is to be
carried out °
.....
.....
2. Address of owner(s)
..... postcode
3. Address for correspondence (if applicable put “as above”)
..... postcode
telephone (work) (home)

Schedule 2

4. (a) Location No. or Titles Office Description Reserve No. and Purpose
(if applicable)
- Whole/Part Lot(s)
- Location(s)
- Volume(s)
- Folio(s)
- (b) House No. Street
- Nearest road junction/intersection
-
5. Proposed use of development:
.....
6. Estimated cost of development \$
7. Estimated date of completion
8. Present use of the land
-

I have read and understood the notes on the reverse side of this form —

SIGNATURE(S) OF APPLICANT(S)

DATE

- * See notes 1 and 2 on reverse
- # See note 3 on reverse
- ° See note 4 on reverse

(Reverse of Form 1)

NOTE 1: The application is to be made to the local government authority in whose municipal district the proposed development is situated. If the proposed development is not within a municipal district the application is to be made to the Swan River Trust. (Most of the municipal districts along the Swan and Canning River systems end at high water mark. However the actual situation in the case of a proposed development may be ascertained by telephoning the office of the Swan River Trust).

- NOTE 2: This application is to be submitted in triplicate and to be accompanied by 3 copies of the plan(s) and specifications for the development.
- NOTE 3: It is an offence under section 62 of the Act for a person to make a statement or give any information that he knows is false in a material particular in connection with an application for approval of a development. The offence is punishable by a fine of up to \$1 000.
- NOTE 4: Where the applicant is not the owner of the freehold of the land on which the proposed development is to be carried out, this application must be accompanied by the written consent of the owner of the freehold.

Schedule 2

Form 2

SWAN RIVER TRUST ACT 1988

Section 63

CLAIM FOR COMPENSATION FOR INJURIOUS AFFECTION

To The Swan River Trust:

I
(full name)

of
(address)

.....
(postcode)

Telephone No. (work) (home)
being the owner of the following land —

House No. Street

Location No. Cert. of Title Vol.

Folio

consider that the land has been injuriously affected by reason of the decision of
the Minister/Trust* dated 20..... whereby an application for
approval of development was —

- refused
- approved but in a modified form
- approved or approved in a modified form, but subject to a condition or
restriction unacceptable to me.

I claim as compensation for that injurious affection the sum of \$
which sum is made up as follows:

.....
.....
.....

SIGNED

DATE 20.....

* Delete whichever is not applicable

Form 3

SWAN RIVER TRUST ACT 1988

Section 67(1)

INFRINGEMENT NOTICE

No.

Date

To ⁽¹⁾

It is alleged that at ⁽²⁾
on theday of 20.... at about a.m./p.m. you
committed an offence against regulation ⁽³⁾
of the *Swan River Trust Regulations 1989* in that you ⁽⁴⁾

.....
.....
.....
If you do not wish to have a complaint of this alleged offence heard and
determined by a court you may, within 21 days after the date of this notice, pay
a penalty of \$ ⁽⁵⁾ to the Swan River Trust ⁽⁶⁾

.....
This form must accompany and payment.

If this modified penalty is not paid within 21 days of the date of this notice,
court proceedings may be taken against you.

.....
Inspector.

- ⁽¹⁾ Insert name and address of alleged offender.
- ⁽²⁾ Insert place of alleged offence.
- ⁽³⁾ Insert reference to the regulation.
- ⁽⁴⁾ Insert short particulars of the offence alleged.
- ⁽⁵⁾ Insert amount of penalty prescribed.
- ⁽⁶⁾ The address at which the penalty may be paid or to which payment may be paid or to which payment may be posted must be shown.

Schedule 2

Form 4

SWAN RIVER TRUST ACT 1988

Section 67(6)

WITHDRAWAL OF INFRINGEMENT NOTICE

No.

Date

To ⁽¹⁾

Infringement Notice No. dated
for the alleged offence of ⁽²⁾

..... (Modified penalty \$ ⁽³⁾) is
hereby withdrawn.

No further action will be taken. ⁽⁴⁾

OR

It is proposed to institute court proceedings for the alleged offence. ⁽⁵⁾ is
enclosed.

.....
Chief Executive Officer,
Swan River Trust.

- ⁽¹⁾ Insert name and address of alleged offender.
- ⁽²⁾ Insert short particulars of offence alleged.
- ⁽³⁾ Insert amount of penalty prescribed.
- ⁽⁴⁾ Delete whichever does not apply.
- ⁽⁵⁾ Insert amount of penalty paid, if applicable.

Notes

¹ This is a compilation of the *Swan River Trust Regulations 1989* 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

Citation	Gazettal	Commencement
<i>Swan River Trust Regulations 1989</i>	7 Apr 1989 p. 1031-5	7 Apr 1989 ² (see r. 2)
<i>Swan River Trust Amendment Regulations 1998</i>	22 Jan 1999 p. 220-1	22 Jan 1999
Reprint 1: The <i>Swan River Trust Regulations 1989</i> as at 10 Sep 2004 (includes amendments listed above)		
<i>Swan River Trust Amendment Regulations (No. 2) 2006</i>	29 Dec 2006 p. 5885	29 Dec 2006

² The commencement date of 1 Mar 1989 that was specified was before the date of gazettal.