

EV302

Swan and Canning Rivers Management Act 2006

Swan and Canning Rivers Management Amendment Regulations 2023

SL 2023/14

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Swan and Canning Rivers Management Amendment Regulations 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

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

4. Regulation 2 amended

In regulation 2 insert in alphabetical order:

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;

5. Regulation 4 amended

After regulation 4(j) insert:

- (ja) aircraft activities;

Note: The heading to amended regulation 4 is to read:

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

6. Regulation 16A replaced

Delete regulation 16A and insert:

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

Penalty: a fine of \$5 000.

7. Regulation 29 amended

After regulation 29(2) insert:

- (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.

8. Regulation 30 amended

- (1) In regulation 30 delete “Subject” and insert:

- (1) Subject

- (2) At the end of regulation 30 insert:

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

9. Regulations 32 to 35 replaced

Delete regulations 32 to 35 and insert:

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).

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.

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.

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).

10. Regulations 48 and 49 inserted

At the end of Part 6 insert:

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*.

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.

11. Schedule 1 amended

In Schedule 1 delete “r. 16A(2)” and insert:

r. 16A

12. Various penalties amended

In the provisions listed in the Table delete “Penalty:” and insert:

Penalty for this subregulation:

Table

r. 9(1)	r. 10(2)
r. 11(2)	r. 12(2) and (3)
r. 13(2)	r. 14A(2)
r. 14(2)	r. 15(2)
r. 17(1)	r. 18(1)
r. 19(1)	r. 20(1)
r. 21(1)	r. 22A(1) and (2)
r. 22(2)	r. 24(2) and (3)
r. 25(2) and (3)	r. 26(2)
r. 31(3)	

N. HAGLEY, Clerk of the Executive Council.