



CORPORATE GUIDELINE NO. 40

VARIATION OR EXTENSION OF APPROVAL: APPLYING SECTION 84 OF THE SWAN AND CANNING RIVERS MANAGEMENT ACT 2006

February 2023

1. OBJECTIVE

To provide guidance for applicants and to assist officers of the Department of Biodiversity, Conservation and Attractions (the department) in the administration of applications made under section 84 of the *Swan and Canning Rivers Management Act 2006* (SCRM Act) for minor variation or extension of time approvals.

2. SCOPE

This guideline applies to situations where an applicant has previously obtained an approval for development under Part 5 of the SCRM Act and wishes to make a minor variation to the approval or extend the time for which the approval remains in force for a further period of up to 12 months.

The guideline provides clarification to ensure the application of section 84 is consistent with its intended purpose. This includes outlining what is considered a minor variation, and in which circumstances an application for a time extension will be considered.

A process flow chart is included at **Appendix 1** to outline the administrative process.

3. CONTEXT

Part 5 of the SCRM Act provides procedures for the administration, assessment and determination of development applications within the Swan Canning development control area (DCA).

Section 84 of the SCRM Act provides for the Minister for Environment to authorise a minor variation to an existing Part 5 development approval or extend the time for which the approval remains in force for a further period of up to 12 months.

4. LEGISLATION

Swan and Canning Rivers Management Act 2006

5. DEFINITIONS / GLOSSARY / ACRONYMS

SCRM Act means the *Swan and Canning Rivers Management Act 2006*

Department means the Department of Biodiversity, Conservation and Attractions

DCA means the Swan Canning development control area being the land and waters as described in Schedule 3 of the SCRM Act. A map of the DCA is available at [Development Control Area - Parks and Wildlife Service \(dpaw.wa.gov.au\)](http://Development Control Area - Parks and Wildlife Service (dpaw.wa.gov.au)).

6. PROCEDURES

Minor variations

- 6.1 The department will use this guideline to administer applications seeking a minor variation to an approval granted under section 70. If the variation to the approval, including any conditions of the approval, is considered to be minor, the department will then undertake an assessment of the proposed variation based on its merits. The process flow chart at **Appendix 1** outlines the process administered by the department. Advice and recommendations will be provided to the Minister for Environment or their delegate regarding whether the variation is minor, and whether the variation should be authorised.
- 6.2 An application seeking approval for a minor variation is to be made in writing to the department, via rivers.planning@dbca.wa.gov.au.
- 6.3 Adequate documentation is to be supplied to the department to accompany the application for approval of a minor variation, including a written description of the proposed variation(s) and, where relevant, plans highlighting the variation(s).
- 6.4 A variation to an approval is not considered minor if the variation results in a substantially different development or introduces new grounds for assessment by the department in terms of the impacts the proposal will have or is likely to have, on the ecological health, community benefit and amenity of the Swan and Canning Rivers.
- 6.5 When considering if a variation to the approval, including a condition, is minor the department will consider, amongst other things, whether the variation:
- alters the use or type of approved development;
 - increases the footprint of the approved development beyond the lease area (by land or riverbed), or by more than 10 per cent of the approved floor space (area) of the development, or by adding another floor (excluding minor underground additions, such as a lift well);
 - introduces new environmental or planning issues;
 - requires referral to any public authorities beyond those initially consulted during the Part 5 assessment process;
 - warrants further public consultation (for example, the variation relates to issues raised during the public consultation period of the original Part 5 assessment process, or amendments made to the original Part 5 development proposal as a result of the issues raised during public consultation); or
 - will result in a detrimental impact to the ecological health, community benefit and amenity of the DCA in addition to, or different from, the impacts of the original Part 5 development approved.
- 6.6 It may, as a result of a variation to an approval, be necessary to make a consequential variation to a related condition. In such situations, the intended purpose and outcome of the condition will be preserved.

Extension of time approval

- 6.7 Development approvals issued under Part 5 of the SCRM Act generally expire two years from the date of approval, unless works have substantially commenced. Section 84 allows the timeframe of the approval to be extended up to a further 12 months. A time extension can only be granted once.
- 6.8 The department will use this guideline to administer and assess applications for a time extension. The process flow chart at **Appendix 1** outlines the administrative process. Advice and recommendations will be provided to the Minister for Environment to authorise the extension or not.
- 6.9 An application for approval of a time extension is to be made in writing to the department, via rivers.planning@dbca.wa.gov.au.
- 6.10 The department will consider the following matters when providing its advice and recommendations to the Minister for Environment or Minister's delegate on a request for approval of a time extension:
- the extent to which the applicant can demonstrate that the Part 5 conditions of approval have been complied with to date;
 - the reasonableness of the grounds for the delay in substantially commencing works; and
 - whether the extension of time would give rise to any new social, cultural or environmental issues which requires further assessment.
- 6.11 Adequate information must be supplied to the department to accompany the application for approval of a time extension, including addressing the matters outlined in section 6.10 (above).

Administration of section 84

- 6.12 The administration of an application made under section 84 is carried out by the department on behalf of the Minister for Environment or delegate.
- 6.13 The assessment process involves the referral of the application for variation or extension to each local government and other public authority consulted in respect of the original Part 5 development application.
- 6.14 Officers may provide notice of the proposed variation or extension to other agencies or groups consulted in respect of the original Part 5 application.
- 6.15 Each local government, public authority or other group has 14 days to provide a response.
- 6.16 Department officers will consider all submissions received, carry out an assessment of the proposal and prepare a report.
- 6.17 A copy of the report is provided to the Swan River Trust for comment.
- 6.18 The report is updated with the Swan River Trust comments.
- 6.19 The Director General of the department considers the report before making a recommendation to the Minister for Environment for consideration.

6.20 The applicant will be notified of the decision of the Minister for Environment and will be provided with a copy of the determination and a revised list of conditions where necessary.

7. CUSTODIAN

Executive Director, Conservation and Ecosystem Management.

8. KEY WORDS

Section 84, minor variation, extension, Part 5 development.

9. REVIEW

This guideline will be reviewed no later than five years from the date it is signed.

10. APPROVAL

Approved by



Peter Dans
ACTING DIRECTOR GENERAL
ACTING CHIEF EXECUTIVE OFFICER

Date: 15 February 2023

Section 84 variation or extension of approval: Process flow chart

