



Swan and Canning Rivers Management Act 2006

PART 5

DETERMINATION OF DEVELOPMENT APPLICATION

FILE NUMBER	:	2017/1424
APPLICANT	:	Honey Real Estate Pty Ltd
APPLICANT'S ADDRESS	:	15 Johnson Parade, Mosman Park
LANDOWNER	:	Swan River Trust, Town of Mosman Park, Department of Planning, Lands and Heritage
LAND DESCRIPTION	:	15 Johnson Parade, Mosman Park (Lot 672 on Plan 219932 – Reserve 1634, and Lot 300 on Plan 47450 – Reserve 48325, unallocated crown land)
DEVELOPMENT	:	Redevelopment of existing building for café, function room, short-stay accommodation, jetties and private boat pens
VALID FORM 1 RECEIVED	:	14 July 2017
DETERMINATION	:	APPROVAL WITH CONDITIONS

The application to commence development in accordance with the information received on 14 July 2017 and additional information received between 14 July 2017 and 15 April 2021, including a Traffic Impact Statement received on 15 September 2020, be approved subject to the following conditions:

1. Approval to implement this decision is valid for four (4) years from the date of the approval. If substantial on-site works have not commenced within this period, a new approval will be required before commencing or completing the development.

Prior to the commencement of works

2. The applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing not less than 21 days prior to the commencement of works (**Advice Note 1**).
3. Prior to the commencement of works, a Construction Environmental Management Plan shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 2**).
4. The applicant shall provide the Department of Biodiversity, Conservation and Attractions with a copy of any demolition or building permit within 14 days of the permit being issued.
5. Prior to the commencement of works, the applicant shall obtain endorsement from the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park, that the final design plans/drawings for the approved development are consistent with these conditions and related advice notes (**Advice Notes 3, 4, 5 and 6**).

6. Prior to the submission of an application for a building permit, plans for the replacement or repair of that part of the riverwall within/sharing a border with the lease area are to be submitted to and approved by the Department of Biodiversity, Conservation and Attractions. The work is to be undertaken in conjunction with the construction of the new building. The cost of the works and maintenance for the life of the development, is to be borne by the applicant/owner/leaseholder.
7. Prior to the submission of an application for a building permit, a Waste Management Plan shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 7**).
8. Prior to the submission of an application for a building permit, a Landscape Plan shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Notes 6, 8 and 9**).
9. Prior to the submission of an application for a building permit, a Lighting Plan for the development shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 10**).
10. Prior to the submission of an application for a building permit, a Stormwater Management Plan shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions (**Advice Note 11**).
11. Prior to occupation, an acoustic report shall be submitted and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 12**).
12. Prior to the submission of an application for a building permit, the applicant is to submit to the Department of Biodiversity, Conservation and Attractions, a consulting engineer's assessment of the size and capacity of the existing private sewer main, to determine whether or not it is suitable for the proposed development. Any required upgrades are to be undertaken at the applicant's expense and in consultation with and to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from Water Corporation and the Town of Mosman Park.
13. Prior to the submission of an application for a building permit, an Operations Management Plan is to be submitted and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 14**).
14. Prior to the commencement of works, an amendment to the River reserve lease is required (**Advice Note 15**).
15. Prior to the commencement of works, the courtesy mooring no. 1272 is to be relocated in consultation with and to the satisfaction of the Department of Biodiversity, Conservation and Attractions, and the Department of Transport, at the expense of the applicant.
16. Prior to the commencement of works, an Emergency Evacuation Plan is to be submitted and approved by the Department of Biodiversity, Conservation and Attractions, and the Department of Fire and Emergency Services (**Advice Note 16**).
17. Prior to the commencement of works, the applicant is to engage a consultant to: undertake a dive survey of the existing piles and jetty to determine whether any marine species will be impacted by the proposed works; prepare and submit a report on the findings to the Department of Biodiversity, Conservation and Attractions; and relocate any marine species if necessary. The consultant must be suitably qualified to perform this work.
18. Within 15 months of commencement of operation of the café, function room and short-stay accommodation, a Parking Monitoring Plan is to be submitted and approved by the

Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (**Advice Note 29**).

- i. The object of the Parking Monitoring Plan is to monitor parking demand and supply as a result of the development over the first 12 months of operation.
 - ii. If parking monitoring indicates an undersupply of parking, a Parking Management Plan is to be submitted and approved by the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park.
19. Prior to the submission of an application for a building permit, a Fire Management Plan prepared by a Consulting Fire Engineer shall be submitted to the Department of Biodiversity, Conservation and Attractions. Any components of the Fire Management Plan that may impact on the River reserve are to be approved by the Department of Biodiversity, Conservation and Attractions prior to it being submitted as part of the building permit process (**Advice Note 30**).

During works

20. All works, acts and activities shall be implemented in accordance with the plans and reports, approved under the above conditions.
21. The proposed works shall not prevent public access along the foreshore or across the River reserve unless closure is necessary for safety purposes and has been approved: (a) by the Department of Biodiversity, Conservation and Attractions, and an alternative public access route has been provided; or (b) in accordance with the Construction Environmental Management Plan approved under **Condition 3**.
22. The applicant shall consult with the Swan Canoe Club in advance of any works that are likely to impact safe and continued vehicle access and ensure alternative arrangements are in place for vehicle access to the Swan Canoe Club premises.
23. The applicant shall rectify at its expense any damage to the foreshore, riverbank, river wall or waterway (including infrastructure) that occurs as a result of the works. The applicant shall take all precautions to ensure no damage occurs but should any damage occur, the applicant is required to notify the Department of Biodiversity, Conservation and Attractions within 48 hours. The applicant shall rectify at its expense any damage to the foreshore, riverbank, river wall or waterway (including infrastructure) that occurs as a result of the works.
24. All incidents of pollution or spills within the Swan Canning Development Control Area shall be reported immediately to the Department of Biodiversity, Conservation and Attractions, on 9219 9000 or a/h on 9278 0981 (Riverpark Duty Officer).
25. The development shall be connected to essential services including reticulated sewer, water, electricity and telecommunications without unacceptable environmental impacts.
26. All air conditioning waste water and storage rooms (such as the bin store) are to be connected to sewer.

On completion of works

27. Upon completion of the works, all waste materials, equipment and machinery shall be removed and the site cleaned-up to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park.

Prior to occupation

28. The Landscape Plan and Lighting Plan approved under **Conditions 8 and 9**, are to be implemented prior to occupation and maintained for the life of the development at the expense of the applicant/owner.

Ongoing

29. The Waste Management Plan, Stormwater Management Plan, Operations Management Plan, Emergency Evacuation Plan, Parking Management Plan and Fire Management Plan approved under **Conditions 7, 10, 13, 16, 18 and 19** are to be implemented for the life of the development.
30. The applicant is responsible for the ongoing maintenance of all infrastructure and facilities within the River reserve lease area.

ADVICE TO APPLICANT

1. Notification of commencement of work and plans can be emailed to rivers.planning@dbca.wa.gov.au.
2. The Construction Environmental Management Plan required under **Condition 3** shall describe how the proposed works, including the demolition process, will be managed to minimise environmental impacts, safety risks and nuisances and is to address, but not be limited to:
 - a. scope of works;
 - b. schedule of works;
 - c. site access and parking of construction vehicles;
 - d. machinery, equipment and materials to be used;
 - e. refuelling;
 - f. on-site storage and bunding of materials, equipment, chemicals and fuel (including aerial photograph with locations marked);
 - g. sediment and turbidity management, inspection and reporting (see below);
 - h. waste management;
 - i. dust management;
 - j. protection of river fauna from impacts from noise and vibration;
 - k. protection of the river from inputs of debris, fill, rubbish or other deleterious material;
 - l. public access and safety;
 - m. provision of signage onsite, prior to commencement of works, to inform the public of the start and duration of works;
 - n. hours of operation, timeframes and responsibility for tasks identified; and
 - o. complaints and incidents.

The plan is to address the most appropriate means of sediment and turbidity management for the proposed works. This may include the use of a silt curtain. All reasonable efforts should be taken by the applicant to control plumes but where they occur, the applicant must stop work whilst the plume is addressed and should only recommence work once the integrity of the silt curtain (or equivalent) is restored.

Where a plume occurs, this is to be reported to the Department of Biodiversity, Conservation and Attractions within one (1) hour of occurrence and addressed immediately or as soon as reasonably possible during a high-risk event (e.g. during storms or strong tides). The Department of Biodiversity, Conservation and Attractions can be contacted on 9219 9000 or a/h on 9278 0981 (Riverpark Duty Officer).

To minimise underwater noise, a vibration piler with a soft start-up, rather than a drop hammer, is to be used to install the piles. This should reduce noise impacts, including to dolphins which are often observed in this part of the river. For further protection of fauna, an independent experienced marine mammal observer (or similar) shall be engaged prior to and at all times during piling operations.

3. In regard to **Condition 5**, final design plans/drawings for the jetties are to be signed and certified by a qualified and experienced practising engineer and designed in accordance with AS 3962-2001 *Guidelines for the design of marinas* and AS 4997-2005 *Guidelines for the design of maritime structures*. The drawings are to also specify the maximum design vessel lengths for the structures.
4. In regard to **Condition 5**, final design plans/drawings shall address:
 - a. Minimum floor level of 1.85m AHD;
 - b. Maximum roof height of 10.96m AHD;
 - c. The future height of the riverwall;
 - d. The use of noise attenuating materials such as double glazing and insulation in the roof space and wall cavities;
 - e. Materials and colours (non-reflective materials and neutral colours are to be used, windows are not to be finished with reflective tinting);
 - f. Provision of 31 bicycle parking spaces and end of trip facilities;
 - g. Provision for general public access for recreational purposes to the public jetty until 9pm daily;
 - h. Connection of the food preparation areas, kitchens, internal bin storage, air conditioning waste water, storage rooms and ablutions to reticulated sewerage to ensure that effluent does not enter the river system or unacceptably affect the foreshore;
 - i. Proper and adequate storage is provided within the development footprint for foods, goods, wastes, cleaning products and chemicals. Waste receptacles are to be covered to prevent rainwater entry, chemicals are to be banded, and the waterway and foreshore areas protected from spills and discharges;
 - j. Best practice marine grade plumbing and fittings are to be utilised. Further advice can be sought from the Department of Transport;
 - k. The requirements of the Department of Transport with respect to structural integrity;
 - l. The removal of the southern extension ("L" shaped head) of the new public jetty; and
 - m. All new piped and wired services (such as fire hydrants and booster cabinets), all new service areas (such as bin stores), and all new service related hardware (such as exhaust systems and air-conditioning units) shall be concealed from public view and located to minimise the impact on any public road or public space.
5. In regard to **Condition 5**, all service related hardware, including fire booster cabinets, are required to be located internally within the building or designed and integrated as an integral element of the development so as to minimise any visual impact on the architectural quality of the building and its relationship with public spaces.
6. The applicant is advised that the river wall height is likely to be required to increase in the future by 500mm to account for potential sea level rise. Final design plans/drawings are to take this into consideration, particularly in regard to the design of access ramps.
7. In regard to **Condition 7**, the Waste Management Plan is to address all waste generation, storage and disposal processes, including but not limited to ensuring that the enclosed bin area is connected to reticulated sewer.
8. In regard to **Condition 8**, a Landscape Plan shall be prepared on advice from the Town of Mosman Park. All works are to be undertaken at the applicant's expense. The Landscape Plan is to include:
 - a. All vegetation proposed to be retained and removed;
 - b. Planting schedule (use of native plants) including species and pot size;

- c. Use of garden beds to slow the rate of overland flow and prevent the mobilisation of sediment to the river;
 - d. Levels of any proposed retaining;
 - e. Proposed use and landscaping of the existing concrete path that provides access to the development, and any changes proposed to the path;
 - f. Details of the irrigation system;
 - g. Materials, colours and textures of all hard landscaping; and
 - h. Details and location of outdoor furniture if proposed.
9. The applicant is advised that it is an offence under the Swan and Canning Rivers Management Regulations 2007 to destroy, pull up, cut back or injure any tree, shrub, aquatic plant or other perennial plant that is in the Swan Canning Development Control Area, except with the approval of the Department of Biodiversity, Conservation and Attractions.
10. In regard to **Condition 9**, lighting should be low level and designed to illuminate the alfresco and other public areas with minimal light spill on the water or upward to the sky to ensure no adverse ecological consequences. Light structures are required to be installed within communal open spaces and pathways.
11. In regard to **Condition 10**, the Stormwater Management Plan is to address treatment of the first flush rainfall events (first 15mm of rainfall).
12. The applicant is advised that all noise levels produced by the construction of the development, and the ongoing operation of the venue, are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended). Regarding **Condition 11**, the acoustic report should involve pre-commissioning measurements being taken once the plant and equipment have been installed, to confirm compliance with the Environmental Protection (Noise) Regulations 1997 (as amended), and then a further two measurements once the use commences operation.
13. The applicant is advised that the noise from air-conditioner units must meet assigned allowable noise levels at all times under the Environmental Protection (Noise) Regulations 1997. The *Environmental Protection Act 1986* sets penalties for non-compliance with the Regulations and the installer of noisy air-conditioners can face penalties of up to \$5000 under section 80 of the Act. Refer to the former Department of Environmental Protection's document – 'An installers Guide to Air Conditioner Noise'.
14. In regard to **Condition 13**, the Operations Management Plan is to address:
- Noise from guests leaving the premises;
 - Anti-social behaviour by guests;
 - Collection and disposal of rubbish including litter, associated with the development; and
 - Processes for the community to provide and receive feedback, and management of complaints, including contact details of the person/s responsible for responding.
15. In regard to **Condition 14**, an amendment of the River reserve lease is required to:
- a. Change the specified purpose of the lease;
 - b. Change the lease boundary to include the new public jetty and additional boat pen. The lease will not include the area to the south of the new public jetty;
 - c. Address the hours that the public jetty is to remain open for public use;
 - d. Address appropriate hours of operation relating to delivery and waste collection;
 - e. Include patron numbers and hours of operation of the various components of the development, to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park;

- f. Patronage is to be:
 - Café (lower level) – 250 people.
 - Function room (upper level) – maximum of 175 people for functions when alcohol is served; and up to 250 people for functions when no alcohol is served.
- g. Include maintenance responsibility for the riverwall;
- h. Provide details of public liability insurance (minimum of \$20,000,000); and
- i. Indemnify the State and local governments from any claims, damages, writs, summonses or other legal proceedings and any associated costs, expenses, losses or other liabilities as a result of loss of life, personal injury or damage to property arising from an occurrence which may arise in, or out of its construction, maintenance or use for any private works on, over or under public places or the river, or from flooding or storm surge.

The leaseholder shall be responsible for all legal costs associated with the amendment of the lease, and shall also be required to prepare and implement an Environmental Management System (EMS) to the satisfaction of the Department of Biodiversity, Conservation and Attractions.

16. In regard to **Condition 16**, the Emergency Evacuation Plan is to address proposed alerts and warning systems to be implemented, and nominated egress points for all emergencies including but not limited to fire, flood and storm surge.
17. This approval does not authorise the applicant to carry out any other works besides the scope of the approved works, whether within or outside the lease area. If any other work is necessary then an additional approval from the Department of Biodiversity, Conservation and Attractions shall be required.
18. This approval does not include any signage. A separate permit application and approval for signage will be required from the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park.
19. The applicant is advised that future signage is to include notice of the public jetty on the landward side of the development.
20. The applicant is advised that the proposal has the potential to be affected by sea level rise. It is recommended the applicant understand the implications of potential sea level rise on the site. The onus rests with the applicant to undertake a risk assessment and exercise their judgment in determining the level of risk they are prepared to accept. The Swan River Trust's *Climate Change Risk Assessment Project* (2010) models impacts of potential sea level rise in the Swan and Canning rivers, and sets out a methodology to assess the vulnerability of foreshore areas. It is recommended that the applicant undertakes their own research and obtains appropriate independent professional advice relevant to the particular circumstances.
21. The applicant is advised to contact the Department of Transport, Coastal Infrastructure to obtain a jetty modification licence.
22. The applicant is advised to contact the Department of Planning, Lands and Heritage (Aboriginal Heritage Directorate) to ensure that the proposed works do not breach any section of Part IV (Protection of Aboriginal Sites) of the *Aboriginal Heritage Act 1972* (the Act) as an approval under section 18 of the Act is likely to be required.
23. The applicant is advised that sediments must not be discharged into the Swan Canning Development Control Area and/or the Swan River, in accordance with the Environmental Protection (Unauthorised Discharge) Regulations 2004. The Department of Water and Environmental Regulation may be contacted on (08) 6467 5000 or www.dwer.wa.gov.au for further information.
24. The proposed building works are not to be commenced until a building permit has been issued which is compliant with the conditions of this planning approval.

25. With regard to the plans submitted for the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, under this Part 5 process.
26. If the development requires any street verge facilities (for example street trees, footpath, crossover, light pole, drainage point or similar) to be removed, modified or relocated then such works must be approved by the Town of Mosman Park and if approved, the total cost is to be borne by the applicant. The Town must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
27. Public areas are not to be utilised for any commercial enterprise without prior approval from the Department of Biodiversity, Conservation and Attractions, on advice from the Town of Mosman Park (except for the eight leased boat pens). The use and management of the public areas will be addressed through future leasing provisions.
28. The Town of Mosman Park advises the following:
- All relevant approvals required under the *Food Act 2008* must be obtained from the Town's Health Services prior to commencement of operation;
 - All food related facilities are required to be registered with the Town;
 - The premises is required to be registered as a public building under the *Health (Public Buildings) Regulations 1992* prior to occupation; and
 - Prior to demolition, the applicant is required to provide to the Town, a quality photographic record of the interior and exterior of the existing structures on the site to be used for archival purposes.
29. Regarding **Condition 18**, the Parking Monitoring Plan is to validate the actual demand for car parking over the first 12 months of operation of the development. Based on actual car parking demand, if it is established that there are periods during the week, month or year where the development generates a level of demand for car parking that exceeds supply, resulting in unreasonable impacts on the amenity of the surrounding residential area, then the applicant will prepare a Parking Management Plan and implement the necessary approved mitigation measures.
- The Parking Monitoring Plan is to also identify, for further investigation as part of the Parking Management Plan (if required), possible mitigation options in the event that car parking demand becomes an issue.
- If the Parking Management Plan is required to be prepared, it needs to address possible options which may include mandating the promotion of alternative forms of transport, such as travel by taxi or ride share services, for guests attending functions at the site, including on invitations and promotional materials. It could also include the terms and conditions within the contract for hire of the function room.
30. Regarding **Condition 19**, it is advised that the Consulting Fire Engineer should consult early with the Department of Biodiversity, Conservation and Attractions during development of the Fire Management Plan to understand the requirements in relation to protection of the riverine environment. Permanent fire management infrastructure is not to be proposed within the waterway. The Department of Fire and Emergency Services may also be consulted during this process. Assurances should be provided on clean-up of the River reserve following a fire (if preferred, this can be addressed as part of the River reserve lease).

Hon Amber-Jade Sanderson MLA
MINISTER FOR ENVIRONMENT



Date: 17/11/21