

Swan and Canning Rivers Management Act 2006

SECTION 84

DETERMINATION OF REQUEST FOR VARIATION

APPROVAL NUMBER : SRT4732
SECTION 84 FILE NUMBER : SRT6202
APPLICANT : Old Perth Port Pty Ltd
APPLICANT'S ADDRESS : 1 Barrack Square, Perth 6000
LANDOWNER : Swan River Trust
LAND DESCRIPTION : Lot 301 on Plan 47451 and Lot 351 on Plan 59844, Reserve 48325, (No. 1) Barrack Square, Perth
DEVELOPMENT DESCRIPTION : 18 storey hotel development
DESCRIPTION OF CHANGES : Extension of approval time for 12 months and minor variations to development approval involving installing an additional 70 piles and sheet piling; redesigning the building façade; improving building transparency of ground floor; adding a mezzanine floor; incorporating transfer floor structures in Level 3 and 6; redesigning the floor layout for rooftop bar on Level 18; incorporating sound and wind attenuation measures; covering lift overrun and rooftop plant equipment; revising typical floor layout to accommodate technical requirements of modular building design; and increased total height of building by 2.54 metres.
PLANS : S008 Rev B, S010 Rev C, S011 Rev C, SK00 Rev C, SK01 Rev C, SK02 Rev C, SK03 Rev C, SK04 Rev C, SK05 Rev C, SK06 Rev C, SK07 Rev C, SK08 Rev C, SK09 Rev C, SK10 Rev C, SK11 Rev C, SK11 Rev B, SK12 Rev C, SK13 Rev C (West) and SK13 Rev C (East)
SECTION 84 DETERMINATION : **APPROVAL**

DETERMINATION

In accordance with Section 84(1)(a) of the *Swan and Canning Rivers Management Act, 2006*, I hereby:

- 1) Authorise the proposed twelve (12) month time extension and minor variations to Development Approval SRT4732 to allow the development of the 18 storey hotel, in accordance with the Section 84 application and subsequent information submitted by the Old Perth Port Pty Ltd.

- 2) Grant this Section 84 approval subject to compliance with all the following conditions and advice notes. All conditions and advice notes shall apply and remain in force for the duration of the approval period.

CONDITIONS:

1. Approval to implement this decision is valid for three (3) years from the original date of approval. If the development has not been substantially commenced within this period, a new approval will be required before commencing or completing the development.
2. The applicant shall notify the Swan River Trust in writing not less than fourteen (14) days prior to the commencement of works.
3. A Construction Management Plan shall be submitted to, and approved by the Swan River Trust, prior to the commencement of works (see **Advice Note 1**).
4. The approved Construction Management Plan shall be implemented.
5. Any damage or modification to the existing river wall adjacent to the development site shall be repaired or reinstated to the satisfaction of the Swan River Trust (see **Advice Note 3 and 4**).
6. This approval does not include any signage. The applicant should apply for a separate permit from the Swan River Trust for any signage.
7. Following construction, the applicant shall ensure the provision of continuous (24 hour) public access for pedestrians on the boardwalk around the hotel at all times.
8. The proposed works shall not prevent public access along the foreshore reserve unless closure is necessary for safety purposes and has been approved by the Swan River Trust.
9. The applicant shall not access the site via the Parks and Recreation reserve unless authorised by the City of Perth.
10. The construction and subsequent operation of the hotel shall not impinge on the West Australian Rowing Club's activities. During construction, works shall not prevent the launching and recovering of boats from the ramp at the West Australian Rowing Club or normal rowing activities (see **Advice Note 5**).
11. No wastewater/backwash from the swimming pool is to be discharged into the river or to the local government drainage system.
12. The development of the hotel shall be contained within the identified lease area and shall comply with the terms of the lease.
13. No soil, building materials, rubbish or any other deleterious matter shall be placed on the Parks and Recreation Reserve or be allowed to enter the river as a result of the works.
14. No berthing of vessels alongside the development is permitted (see **Advice Note 6**).
15. Prior to the commencement of works, a Stormwater Management Plan shall be provided to the Swan River Trust for approval.
16. The approved Stormwater Management Plan shall be implemented.

17. The development is to be connected to the reticulated sewer system. All wastewater including kitchen and floor washing shall be connected to sewer. The management of wastes from kitchens shall incorporate the provision of grease traps and associated infrastructure.
18. The applicant shall ensure that no damage to the foreshore, riverbank, or waterway (including infrastructure and vegetation) occurs as a result of the works. Should any inadvertent damage occur, the applicant is required to notify the Swan River Trust within 48 hours.
19. No refueling shall take place within the Swan River Trust Development Control Area.
20. All incidents of pollution or spills within the Swan River Trust Development Control Area shall be reported immediately to the Swan River Trust (see **Advice Note 7**).
21. The external design and finishes of the hotel being to a high aesthetic standard and being sufficiently robust and durable to withstand the local environmental impacts with full construction and detailed design plans being submitted by the applicant to the satisfaction of the Swan River Trust on advice from the City of Perth and the Metropolitan Redevelopment Authority prior to applying for a building permit (see **Advice Note 11**).
22. A Service and Delivery Access and Car Parking Management Plan outlining methods for managing the access to and use of guest drop off and pick up, parking and service and delivery areas of the Hotel is to be submitted at working drawing stage to the satisfaction of the Swan River Trust on advice of the City of Perth and Metropolitan Redevelopment Authority (see **Advice Note 11**).
23. The approved Service and Delivery Access and Car Parking Management Plan shall be implemented.
24. Bicycle parking and end of trip facilities are to be provided within the development in accordance with the Elizabeth Quay Design Guidelines, details of which are to be provided at working drawings stage to the satisfaction of the Swan River Trust on advice of the City of Perth and Metropolitan Redevelopment Authority (see **Advice Note 9**).
25. All piped and wired services (including fire hydrants and booster cabinets), all service areas (such as bin stores), and all service related hardware (such as electrical substations and transformers, exhaust systems and air-conditioning units) shall be contained within the lease area and be concealed from public view and located to minimise the impact on the streetscape and neighbouring sites, details of which are to be provided at working drawings stage to the satisfaction of the Swan River Trust on advice of the City of Perth and Metropolitan Redevelopment Authority (see **Advice Note 10**).
26. A silt curtain shall be installed in the river around the construction site for the duration of the piling operations, and any other operations that may cause disturbances to the riverbed sediments, to contain and control the movement of turbidity plumes (see **Advice Note 1**).
27. A Noise Abatement Plan for the piling operation shall be submitted to, and approved by, the Swan River Trust, prior to commencement of works (see **Advice Note 1 and 15**).

ADVICE TO APPLICANT

1. The Construction Management Plan required in **Condition 3** should address, but not be limited to:
 - a. On-site storage and bunding of materials, equipment, chemicals and fuel (including an aerial photograph with locations marked);
 - b. Public access and safety;
 - c. Site access;
 - d. Excavation and any stockpiling of soil;
 - e. Dust suppression;
 - f. Noise abatement (see **Advice Note 15**);
 - g. Waste management;
 - h. Stormwater management during construction;
 - i. Erosion;
 - j. Protection of existing vegetation;
 - k. Temporary structures;
 - l. Machinery;
 - m. Protection of the waterway from inputs of deleterious matter;
 - n. Sediment and turbidity management in the river (see below);
 - o. Inspection and reporting schedule on sedimentation and turbidity (see below);
 - p. Hours of operation, timeframes and responsibility for tasks identified; and
 - q. Management of complaints and incidents.

The Construction and Management Plan should address the most appropriate arrangement, specification and maintenance of silt curtain(s) to use to contain and control sediments and turbidity for the proposed works. All reasonable efforts should be taken by the applicant to control turbidity plumes, particularly during piling operations, but where they are not contained by the silt curtain(s), the applicant must stop work whilst the plume is addressed and only recommence work once the plume is contained and the integrity of the silt curtain is restored. Where an uncontrolled plume occurs outside the silt curtain, this should be reported to the Swan River Trust 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 Swan River Trust can be contacted on 9278 0900 or after hours on 0419 192845.

2. The current lease requires the lease-holder to prepare and implement an Environmental Management System (EMS) to the satisfaction of the Swan River Trust. This includes measures to limit and manage ongoing impacts from the operation of the hotel development. The EMS is to be completed to the satisfaction of the Swan River Trust prior to completion of construction.
3. In relation to **Condition 5**, continual monitoring and maintenance of the river wall will be required. Detail should be provided demonstrating how this will be achieved following construction, as access will be limited.
4. In relation to **Condition 5**, the applicant should contact the City of Perth to discuss how ongoing management of the drainage infrastructure can be achieved.
5. In relation to **Condition 10**, the applicant is advised that the West Australian Rowing Club's activities also include the need for the access of oversize vehicles

along the existing access road from Barrack Square to the West Australian Rowing Club. The construction of the hotel must not impede this vehicular access unless the short-term closure of the access road is necessary for safety purposes and has been approved by the Swan River Trust.

6. In relation to **Condition 14**, the Department of Transport advises that it will not consider extending the existing mooring area to allow for vessel berthing alongside the development.
7. In relation to **Condition 20**, in case of pollution events the Swan River Trust can be contacted on 9278 0900 or a/h 0419 192 845.
8. In relation to **Condition 22**, the Service and Delivery Access and Car Parking Management Plan is to demonstrate;
 - a. Safe management of all road users, including cyclists and pedestrians accessing or leaving the Hotel or nearby locations;
 - b. How drop off and pick up movements (taxi or coach), parking movements and loading/servicing vehicles will be coordinated using a single access point and managed by the Hotel so as not to impact the existing public transport services (Bus);
 - c. That access to the Hotel can be achieved safely without impacting on the adjacent road network;
 - d. Appropriate mitigation measures to minimise conflicts between vehicles, pedestrians and cyclists to ensure the safe and efficient operation can be accommodated in this constrained location;
 - e. Consideration of current proposals for traffic management, parking and taxi locations currently being developed for Elizabeth Quay;
 - f. The adequate provision of service (loading) bays; and
 - g. Compliance with applicable Australian Standards.
9. In relation to **Condition 24**, bicycle parking bays and end of trip facilities are to comply with *Australian Standard 2890.3*.
10. In relation to **Condition 25**, all service and related infrastructure, 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 the streetscape.
11. No building works should proceed prior to the City of Perth issuing a building permit. The City of Perth requires any building permit application to be accompanied by written confirmation that the conditions of planning approval and the building permit plans have been cleared to the satisfaction of the Swan River Trust.
12. The Department of Aboriginal Affairs advises that all persons employed or engaged in future development of the area should be aware of their obligations under the *Aboriginal Heritage Act 1972*. Should cultural material or new sites be discovered there is an obligation under Section 15 of the *Aboriginal Heritage Act 1972* to record and lodge site information with the Department of Aboriginal Affairs so that it can update its information and place these sites on the Register.

Further information about site recording and the *Aboriginal Heritage Act 1972* generally can be found at the Department of Aboriginal Affairs website.

13. Any proposal for vehicle access, crossovers and embayed parking adjacent to the hotel should be redesigned to reflect the changes to the road and parking layout proposed by the Metropolitan Redevelopment Authority as part of the upgrade of Barrack Square.
14. Any works external to the site including any proposed alterations to the landscaping, will need to be considered as part of the Metropolitan Redevelopment Authority's overall upgrade and new road design for Barrack Square, as agreed with the City of Perth, with no new vehicle access being permitted on the northern side of the site.
15. The Noise Abatement Plan for the piling operation required in **Condition 27** should address, but not be limited to:
 - a. Limiting times of operation;
 - b. Soft start up procedures using low power and impact frequency for the first 15 minutes to allow dolphins time to move away;
 - c. Noise attenuation/control measures (e.g. vibration head rather than impact head, barriers, bubble curtains, piling cushions);
 - d. Measurement of noise levels within 50 metres of the site;
 - e. Maximum noise levels (to meet Occupational and Safety Regulations);
 - f. Erection of safety signs warning the public of noise hazards and times/duration;
 - g. Communication process to ensure operational staff are trained and compliant with noise impact mitigation procedures;
 - h. Person responsible for managing noise levels and impacts and their contact details;
 - i. Best Management Practice guidelines for monitoring and reporting of dolphin sightings and behaviours and procedures for mitigating noise impacts, including risk assessment and criteria;
 - j. Engagement of an independent experienced Marine Mammal Observer (MMO) prior to and at all times during piling operations to monitor and record dolphin activity and signs of distress within a 500m buffer zone;
 - k. Monitoring people within the buffer zone that are undertaking water-based activities that are at risk of falling in the water and being impacted by the shock waves;
 - l. Shut down procedures to mitigate impacts and wait until the dolphins (and/or people) have moved outside of the buffer zone. MMO to observe the area for 30 minutes prior to giving the all clear for the piling operation and to keep a record of start up and shut down times;
 - m. Management and reporting of incidents (e.g. dolphin or fish injuries and deaths due to shock wave impacts; exceeding noise limits);
 - n. Management of noise complaints.

All MMO monitoring records should be sent to the Swan River Trust at the completion of the piling operation. Any incidents of animal deaths or injury should be addressed immediately, by shutting down the piling operation until the buffer zone has been cleared, and reported to the Swan River Trust within one (1) hour of occurrence or as soon as reasonably possible. The Swan River Trust can be contacted on 9278 0900 or after hours on 0419 192845.

The Noise Abatement Plan can be included in the Construction Management Plan or prepared as a separate document.

16. All design drawings of the modified design submitted must be signed and certified by an experienced maritime engineer that the design is in accordance with AS3962-2001 Guidelines for the design of marinas.
17. The proponent shall apply and obtain a jetty modification licence from the department of Transport Coastal Facilities for the additional 70 piles prior to commencement of construction.



Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

Date: 9/7/2015