



## CORPORATE POLICY STATEMENT NO. 46

# PLANNING FOR COMMERCIAL OPERATIONS IN THE SWAN CANNING DEVELOPMENT CONTROL AREA

August 2016

### 1. OBJECTIVE

The objective of this policy is to ensure commercial development or works, acts and activities in the Swan Canning Development Control Area (DCA) are pertinent to the river, and demonstrate a community benefit and contribute to the long-term community use and enjoyment of the Swan Canning river system without adversely affecting its ecological health and amenity.

### 2. SCOPE

Commercial facilities or operations in the DCA require development, permit and/or licence approval. This policy provides direction and guidance regarding how the Department of Parks and Wildlife (the department) assesses development and permit applications for commercial facilities and operations in accordance with the *Swan and Canning Rivers Management Act 2006* (SCRM Act) and the *Swan and Canning Rivers Management Regulations 2007* (SCRM Regulations).

This policy applies to applications for commercial facilities or operations in the DCA such as (but not limited to) restaurants, cafes, tearooms, kiosks, mobile food vans, short stay accommodation, watercraft lessons or hire, charter vessels, floatplanes and other aircraft, and vending. 'Commercial' means directed to financial gain or reward.

The policy provides guidance to applicants and other decision making authorities regarding the department's position on appropriate commercial facilities and operations in the DCA.

In this policy, the Swan Canning river system means the Swan, Canning, Helena, Southern and Avon (to Moondyne Brook) rivers and includes the adjacent and nearby land areas within the DCA.

All guidance documents identified in this policy should be taken to refer to the most current published version.

### 3. CONTEXT

Commercial facilities and operations in suitable nodes of the DCA can enhance access to and enjoyment of the Riverpark by the whole community.

Commercial facilities and operations should be planned, designed, constructed and managed to enhance the community's use of the Swan Canning river system. Commercial developments and operations should occur in identified nodes, or at locations and where the effects on ecological health, amenity, landscape character and public access and recreation values of an area can be adequately managed.

Inappropriate siting and management of these facilities has the potential to compromise the qualities of the Swan Canning river system that the public has come to enjoy.

This policy supports the implementation of *State Planning Policy 2.10: Swan Canning River System* (WAPC, 2006) and the associated policy statements for parts of the river. The department will have regard for the *Swan Canning River Protection Strategy* and its subsidiary documents such as the *Land and Waterway Use Plan* (in preparation) and *Swan River System Landscape Description* (SRT, 1997) when assessing applications made under the SCRM Act. This policy is to be read and applied together with *Corporate Policy Statement 42 Planning for land use, development and permitting affecting the Swan Canning Development Control Area*.

#### 4. LEGISLATION

Under section 70 of the SCRM Act all development in the DCA is subject to approval and control. The term 'development' includes: physical development; any material change of use of land or waters; and any act or activities defined as development under the SCRM Regulations.

In undertaking its statutory planning role, the department typically assesses and provides advice and recommendations to the Minister for Environment regarding development in the DCA. The CEO of the department is authorised to approve certain classes of development in the DCA under section 85. The CEO is also responsible for approving other works, acts and activities declared not to constitute development or controlled for Riverpark and DCA protection by the SCRM Regulations, under a permit.

Regulation 17 of the SCRM Regulations requires a permit for commercial acts and activities, and Regulation 16A requires a licence or a permit for aircraft activity.

#### 5. POLICY

In undertaking its statutory planning roles and functions under the SCRM Act, the department will:

##### **Planning and land tenure**

5.1 Require applications to demonstrate that they are compatible with:

- the policy statements for parts of the river set out in State Planning Policy (SPP) 2.10 and the *Land and Waterway Use Plan*;
- an endorsed precinct or foreshore management plan for the area. Where there is no such plan, it is to be demonstrated that the application is pertinent to the Swan Canning river system, provides a public benefit, and any adverse effects on public access, amenity and ecological values are minimised and can be adequately managed;
- the provisions of the Parks and Recreation or Waterways reservation in the MRS, the local planning scheme or other relevant planning instruments; and
- the land tenure arrangements of the subject site.

## Development of food and beverage facilities

- 5.2 Require applications to demonstrate they are enhancing or minimising and managing effects on the ecological health of the Swan Canning river system. The development footprint and essential services including water, sewerage, electricity and telecommunications are to be provided without unacceptable environmental impacts.
- 5.3 Require applications to demonstrate they are enhancing or minimising and managing effects on landscape character and amenity. Applicants will likely be required to provide information or details regarding:
- the selected construction materials and colour scheme;
  - the height, bulk or appearance of the development so that it will not dominate the surrounding landscape;
  - external lighting so that is fit-for-purpose and will not adversely affect the amenity of the area (neon advertising or flashing illumination may not be supported) or unacceptably alter the natural patterns of light and dark;
  - traffic management (patrons and service delivery) so that impacts are minimised and managed on amenity and local residents that live nearby;
  - noise levels to be managed in accordance with the requirements of the Department of Environment Regulation through the *Environmental Protection Act 1986* and the Environmental Protection (Noise) Regulations 1997; and
  - utilities, including bin storage, delivery service areas and air conditioning plants so that they are screened and will not be visible from the public domain, including the River reserve.
- 5.4 Require applications to demonstrate they are enhancing community use or minimising and managing effects on community use. Applicants will likely be required to provide information or details regarding:
- Parking requirements and whether adequate car parking is proposed or currently exists. If other transport options such as walking, cycling or public transport alter parking requirements then such information should be provided. As a guide, the department will require parking for food and beverage facilities equivalent to one car bay per four person seating capacity and one car bay per two staff, or in accordance with the parking requirements of the local planning scheme, whichever is more appropriate for the location. In circumstances where alternative transportation is available or verge parking is acceptable, the department will consider a reduced car parking provision. Consideration is to be given to the provision of bicycle parking.  
  
Where development is proposed on public land, it is unlikely that car parking bays will be approved for the exclusive use of the applicant as car parks in the DCA are to be available for the common use of the broader community. Notwithstanding this, approval of the relevant vested authority or land manager will be required for approved car parks where exclusive use is proposed.
  - Where new car parking is proposed it is to be provided without unacceptably impacting the foreshore area. It is the department's expectation that car parks will be set back from the waterway if possible, and that landscaping will be used to integrate it into the local landscape.

- Possible conflicts of use with other established tourism and recreational facilities, public uses, or river transport infrastructure. The application is not to cause conflicts with other appropriate forms of use or unacceptable congestion.
  - Applications should demonstrate a public benefit and a level of service to the community that is not adequately addressed by existing establishments /operations in the area.
- 5.5 Require applications to ensure they are minimising and managing effects on Aboriginal and/or European cultural heritage values.
- 5.6 Where appropriate, require applications to addresses specific design criteria or elements related to:
- flood prone land including whether the design has made provisions for sea level rise, major flood events and tidal surges and will not adversely affect the hydrology of the floodplain;
  - water sensitive urban design as outlined in the Stormwater Management Manual for Western Australia;
  - the Designing Out Crime Planning Guidelines (WAPC, 2006);
  - the provision or availability of ablution facilities;
  - the provision of universal access; and
  - energy efficient design.

#### **Development of food and beverage facilities on or over waters**

- 5.7 Restrict the development of food and beverage facilities on or over waters to existing commercial jetties or new purpose-built facilities only.
- 5.8 Require applications for food and beverage facilities on or over waters to demonstrate that:
- where possible, dredging of the river system has been avoided, or where dredging is necessary, it has been minimised and impacts will be mitigated and managed;
  - general public access for recreational purposes to existing jetties is retained or provided. For new purpose-built jetties/structures, a public benefit is provided by enabling general public access to a portion not used by the commercial operation;
  - effluent from food preparation areas, kitchens and ablutions will not enter the river system or unacceptably affect the foreshore;
  - 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, and the waterway and foreshore areas will be protected from spills and discharges;
  - best practice marine grade plumbing and fittings are utilised, and advice is sought from the Department of Transport;
  - any purpose-built structure has been assessed as structurally sound and satisfies the requirements of the Department of Transport;

- the proposal meets the requirements of [Corporate policy statement 44 – planning for jetties in the swan canning development control area](#); and
- maintenance and management will be undertaken in accordance with a River reserve lease. The lease will likely require a management plan or Environmental Management System to address environmental and pollution risks.

### **Mobile food vans**

- 5.9 Typically, require applications for mobile food vans to demonstrate that they will:
- enrich visitor experiences to the Swan Canning river system;
  - ensure operating hours and the management of any potential local use conflicts such as congestion have been adequately addressed;
  - consider separation distances to existing land-based food and beverage facilities such as cafes, kiosks and restaurants;
  - ensure adequate waste disposal facilities are available for the operation and its patrons;
  - ensure adequate water and sewerage connections are available, or demonstrate that the van is self-contained; and
  - manage temporary structures or furniture such as tables, chairs and signage so they are located away from access paths and public access along the foreshore is not impeded. Temporary structures and furniture are to be removed from the DCA at the end of each day.
- 5.10 Advise applicants that the department's approval does not negate the need to obtain other approvals, including a trading permit from the relevant local government.

### **Development of short stay accommodation**

- 5.11 Restrict development of short stay accommodation in the DCA to areas of significant existing commercial development or other areas identified for commercial development in an endorsed precinct or foreshore management plan, to reduce possible land use and Riverpark user conflicts, and retain community amenity.
- 5.12 Require applications for the development of short stay accommodation to demonstrate that they will:
- improve or maintain public access to and along the river and foreshore;
  - enrich amenity, community use and enjoyment of the Swan Canning river system, including managing any potential local use conflicts. Applications that provide a range of services to both day-use patrons and overnight guests are preferred;
  - improve or maintain the landscape character of the river system, including views to and from the system;
  - protect and if possible enhance ecological health of the river system; and
  - meet the requirements of this policy, noting those requirements relating to food and beverage facilities.

**Commercial watercraft operations (charter, hire, lessons)**

- 5.13 Require applications for commercial watercraft operations or activities to demonstrate that:
- there is public demand for the proposed activities or operations and they help provide a diversity of tourism or recreational opportunities in the DCA;
  - they are enhancing or minimising and managing effects on the ecological health of the Swan Canning river system;
  - they will not cause conflicts with other appropriate forms of use or unacceptable congestion and that such matters are managed;
  - they will not create undue noise or nuisance, including during disembarking;
  - that new commercial watercraft operations are to meet the vessel safety requirements of the Department of Transport; and
  - they have documented actions to be implemented should an incident occur that is likely to have a detrimental impact on the ecological health of the river, its surrounds, or the public. An emergency management plan may be required.
- 5.14 For hire and drive operations, require applicants to ensure that at least one person on board acts as a skipper/master and holds a Recreational Skippers Ticket or provide evidence of a Department of Transport approved training and assessment plan covering basic competencies relative to the vessel type and area of operation.
- 5.15 Not support applications for jet ski hire operations if they are outside of gazetted jet ski areas, as prescribed by the Department of Transport.
- 5.16 Except for the section of the Swan River upstream of the Causeway Bridges to Middle Swan Road Bridge, have a presumption against the operation of commercial houseboats within the DCA to reduce possible conflicts between river users and to retain community amenity. Commercial houseboats on the Swan River shall minimise wash and wake and this should be considered a key design factor for proponents of commercial houseboats. Mooring of houseboats overnight is to be at designated areas approved by the department and to be coordinated so that commercial houseboats do not conflict with existing ferry services or other river uses. Mooring facilities may comprise approved river mooring buoys, approved jetties or land-backed berths where relevant consents have been obtained.
- 5.17 Not support mooring or 'tying off' of commercial vessels including houseboats to river banks or in any manner that will adversely affect the ecological values of the river system.
- 5.18 Require the consent of the jetty licence holder and any affected landowners, and have regard for the advice of the local government, prior to supporting any commercial watercraft application involving the use of jetties. The use of commercial, public or private jetties is to be arranged by the applicant prior to submitting an application to the department.
- 5.19 Require the use of refuelling facilities that have suitable pollution prevention measures to prevent fuel spillage to the river system. The use of other means of refuelling, such as portable outboard fuel tanks, may be supported by the

department where they are refilled on land away from the river and foreshore for transport to the watercraft.

- 5.20 Require that there be no direct or indirect discharge to the river system and that sewage discharge is managed in accordance with the Department of Transport's sewage discharge strategy, which prohibits sewage discharge in waters of the Swan Canning river system.
- 5.21 Require general waste and refuse generated aboard a vessel, including patrons BYO waste, to be disposed of at the home berth or an approved waste disposal facility, not via public bins on jetties or in public reserves (unless by prior arrangement with the relevant authority).
- 5.22 Require that no bilge water containing oils or other contaminants is discharged to the river system. Commercial vessels are to be fitted with suitable containment trays or similar to prevent contamination of bilge water.
- 5.23 Require noise levels to be managed in accordance with the requirements of the local government and the Department of Environment Regulation in accordance with the Environmental Protection Act .

#### **Commercial aviation (helicopters, floatplanes)**

- 5.24 Except for the section of Swan River known as Perth Water, have a presumption against the establishment of commercial aviation operations and facilities in the DCA to reduce possible conflicts between river users and to retain community amenity. The department may support applications for floatplanes or other aircraft to land or take-off for defined time periods in the DCA if such activities are part of an approved one-off event or spectator event.
- 5.25 Require applications for commercial aviation operations, activities or facilities to demonstrate that:
  - there is public demand for the proposed activities or operations and they will help provide a diversity of recreational opportunities in the DCA;
  - the use is pertinent to the river and predominantly promotes the use and enjoyment of the Swan Canning river system (private air taxi uses alone are unlikely to be supported);
  - aircraft will be hangered/stored off site and will not be left overnight in the DCA;
  - they are minimising and managing effects on the ecological health, amenity and landscape values of the Swan Canning river system;
  - they will not adversely affect the environment and the river system during operations. Maintenance, refuelling and sullage disposal are unlikely to be supported within the DCA;
  - they will not cause conflicts with other appropriate forms of use or unacceptable congestion;
  - they can be managed to ensure they do not adversely affect the use and enjoyment of the DCA for other users, as well as nearby residential and commercial areas (e.g. management of noise and wind impacts). A noise assessment and management plan will likely be required;

- new commercial aviation operations meet the safety requirements of the Civil Aviation Safety Authority; and
- they have documented actions to be implemented should an incident occur that is likely to have a detrimental impact on the ecological health of the river, its surrounds, or the public. An emergency management plan will likely be required.

5.26 For helicopter facilities and activities, require applicants to address the following matters, in addition to usual planning considerations for any other development within the DCA):

- the facility is available to other helicopter operators;
- if a water-based facility is proposed, it is land-backed rather than a floating pontoon moored away from the shore;
- the facility is a short-turnaround helipad rather than a heliport where helicopters are 'parked' for extended periods;
- if a floating facility is proposed, the details of the load-bearing capacity and suitability of the design for the proposed use have been demonstrated;
- the proposed development, including the colour scheme and materials selected, maintain or improve the visual amenity of the proposed development area;
- the operational details of the proposal provided include (but are not limited to): nature, location, operational hours and frequency of flights, access, services, security and car parking; and
- the details of the proposed construction methodology provided demonstrate that risks to the environment and the river system can be managed during construction.

5.27 For floatplane activities, require applicants to address the following matters, in addition to usual planning considerations for any other development within the DCA:

- the landing area is available to other aircraft operators;
- the landing area location and details of any proposed moorings or demarcation buoys;
- the aircraft details provided include (but are not limited to) make, size, passenger numbers, take off distance, draw and depth of water disturbance;
- the operational details of the proposal are provided and include (but are not limited to) operational hours and frequency of flights, access, support services and car parking;
- the landing area and procedure details ensure potential disruption of, or collisions with persons, wildlife, vessels or objects in the water during landing/take-off are minimised and managed. A dolphin and bird monitoring, management and response strategy may be required; and
- that any support vessels meet the requirements for commercial watercraft operations identified in this policy.



## **Vending**

- 5.28 Only support vending (i.e. selling food, drinks and other incidental items that enhance the enjoyment, safety and appreciation of the Riverpark) from vessels on the Swan Canning river system where the proposal demonstrates safe operation (particularly berthing), maintains or enhances the ecological health and amenity of the river system and does not create undue noise or nuisance. This provision does not apply to catering or the sale of food and drink to patrons on charter vessels or ferries, but rather to vendors in vessels selling refreshments or wares. The department is unlikely to support proposals for vending from vessels that:
- use or impede community access to courtesy moorings;
  - enter a riverbed lease area (e.g. yacht clubs and marinas) without prior consent from the leaseholder; or
  - approach other vessels or users of jetties and foreshore areas unbidden; and
  - will consider separation distances to existing food and beverage facilities such as cafes, kiosks and restaurants.
- 5.29 Require any vending vessels to meet the requirements for commercial watercraft operations identified in this policy.
- 5.30 Advise applicants that the department's approval does not negate the need to obtain other approvals, including a trading permit from the relevant local government(s).

## **Signage**

- 5.31 Advise applicants that advertising signage not included in a development or permit application will be subject to a separate application under the Swan and Canning Rivers Management Regulations 2007.

## **Temporary or trial operations**

- 5.32 In some cases, recommend that an application be granted approval and be permitted and licensed on a temporary or trial basis. The approval may have restrictions such as limitations on approval periods, operational areas and times and be subject to review of the overall performance of the operation in respect to the effects it has or will likely have on the river system and the community. Temporary or trial approvals can enable the department to further assess commercial activities and the community's views of such operations on the river system.

## **Maintenance of facilities**

- 5.33 Require proprietors and facility managers undertaking maintenance activities such as paint scraping, spraying, washing or timber treatment on the exterior of a facility, to obtain a permit approval and ensure adequate measures are taken to prevent river contamination.

### **Other commercial facilities and operations**

- 5.34 Require applications for other commercial operations or facilities to demonstrate that it is pertinent to the river and maintains or improves public access; community use and enjoyment of the river system; and the amenity and landscape character of the river. The long term health and natural ecosystem of the river is to be maintained, and enhanced where possible.

## **6. POLICY IMPLEMENTATION STRATEGIES**

To implement this policy the department will:

### **Swan River Trust**

- 6.1 Consult with the Swan River Trust when assessing applications under Part 5 of the SCRM Act and preparing strategic documents and corporate policies and guidelines.
- 6.2 Keep the Swan River Trust informed of development, including permitted works, acts and activities approved within the DCA.

### **Planning authorities (Department of Planning, local governments and redevelopment authorities)**

- 6.3 Regularly consult with relevant planning authorities when providing advice on planning applications and assessing development and other permitted works, acts and activities in and around the DCA.

### **Referral agencies**

- 6.4 Ensure there is a clear understanding of the role of referral agencies, how their advice will be considered in assessing applications and 'clearing' conditions of approval.

### **Assessment of applications**

- 6.5 Seek appropriate advice when assessing applications. Advice may be sought from planning authorities, referral agencies, contractors, consultants, or other stakeholders and from the department's specialist branches and regional locations. Where expertise is available from within the department it will be utilised prior to seeking advice from external parties.
- 6.6 Ensure relevant staff, contractors and consultants have the necessary qualifications, skills and expertise when assessing planning and development applications.
- 6.7 Maintain records of discussions, advice and decisions when undertaking the department's statutory planning roles with respect to the SCRM Act in accordance with the *State Records Act 2000*.

## **7. CUSTODIAN**

Director Rivers and Estuaries.

**8. PUBLICATION**

This policy will be made available on the department's website and intranet.

**9. KEY WORDS**

Swan, Canning, river, Development Control Area, commercial, design criteria, café, restaurant, kiosk, tearoom, food and beverage, mobile food van, short stay accommodation, watercraft, charter, hire, jet ski, houseboat, helicopter, seaplane, aircraft, vending, signage.

**10. REVIEW**

Further reviews will be at the discretion of the Director General, with a review undertaken after three years from the date it is signed.

**11. SWAN RIVER TRUST ENDORSEMENT**

Endorsed by



Hamish Beck  
CHAIRMAN

Date: 10 August 2016

**12. DIRECTOR GENERAL APPROVAL**

Approved by



Jim Sharp  
DIRECTOR GENERAL

Effective date: 10 August 2016