



## **CORPORATE POLICY STATEMENT NO. 48**

### **PLANNING FOR DEVELOPMENT SETBACK REQUIREMENTS AFFECTING THE SWAN CANNING DEVELOPMENT CONTROL AREA**

June 2016

#### **1. OBJECTIVE**

The objective of this policy is to ensure development setback requirements and boundary interface treatments affecting the Swan Canning Development Control Area (DCA):

- protect and enhance the ecology, landscape and amenity of the Swan Canning river system;
- protect and enhance the community's use and enjoyment of the river system, particularly its foreshores; and
- maintain the function of the river system's floodway.

#### **2. SCOPE**

Development and land use changes abutting the DCA require approval from the Western Australian Planning Commission (WAPC) or the local government on advice from the Department of Parks and Wildlife (the department). This policy provides direction and guidance regarding how the department assesses and provides advice on proposed development and land use changes in accordance with the *Swan and Canning Rivers Management Act 2006* (SCRM Act) and the Metropolitan Region Scheme (MRS). Guidance on development control procedures and approval processes is beyond the scope of this policy and is provided on the department's website.

Applicants should have regard for this policy when planning and preparing applications for subdivision and development that are around or affect the DCA.

This policy details setback requirements that apply to solid and hard-facing structures such as dwellings, sheds, garages, above-ground swimming pools, covered or enclosed balconies and solid walls with a total height exceeding 1 metre from the natural ground level. It provides setback requirements for the development of residential, rural, and other land, including survey-strata and strata-titled land, and details how setbacks should accommodate roads and floodplains. It also includes setback provisions for retaining walls and fencing, outdoor living areas, car parking areas, and landscaping.

This policy provides guidance to applicants and other decision making authorities regarding the department's position regarding appropriate land use and development in and around 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 land areas within the DCA.

This policy refers to development setbacks from the DCA. It is acknowledged that there may be instances where the DCA is not consistent with the land reserved for Parks and Recreation (P&R reservation). This is because when the MRS is amended, the DCA is not automatically updated to reflect these amendments. Where there are inconsistencies the department will use the extent of the P&R reservation as the boundary from which to measure the development setback.

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

### 3. CONTEXT

The Swan Canning river system is a significant natural asset, largely reserved for the community's use and enjoyment. The waterways and foreshores together create the opportunity for scenic views, both from the shore and vantage points out to the river, and from the river and its shores towards the urban backdrop and skyline.

Separation distances (or setbacks) between development and the DCA are necessary to protect and enhance the river system. Setbacks help protect the natural landscape from buildings and structures that may visually dominant, overshadow, or unacceptably overlook public spaces. While overlooking can improve passive surveillance, excessive overlooking can deter users of the public open space and lead to the perception that the land is privately owned. Setbacks can also provide space for and facilitate landscaping and the planting of vegetation that enhances the ecological quality of the river system.

Setting development back from the river system also helps minimise property damage from storm surges and flood events.

This policy supports the implementation of *State Planning Policy 2.10: Swan Canning River System* (WAPC, 2006). 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 or the MRS. This policy is to be read and applied together with *Corporate Policy Statement No. 42: Planning for Land Use, Development and Permitting Affecting the Swan Canning Development Control Area*.

### 4. LEGISLATION

In addition to performing its statutory planning functions under the SCRM Act, the department also assesses and provides advice and recommendations to the WAPC and local governments on a range of land use, subdivision and development applications adjoining and affecting the DCA. These applications are subject to control under the MRS and are prepared in accordance with the *Planning and Development Act 2005*.

## 5. POLICY

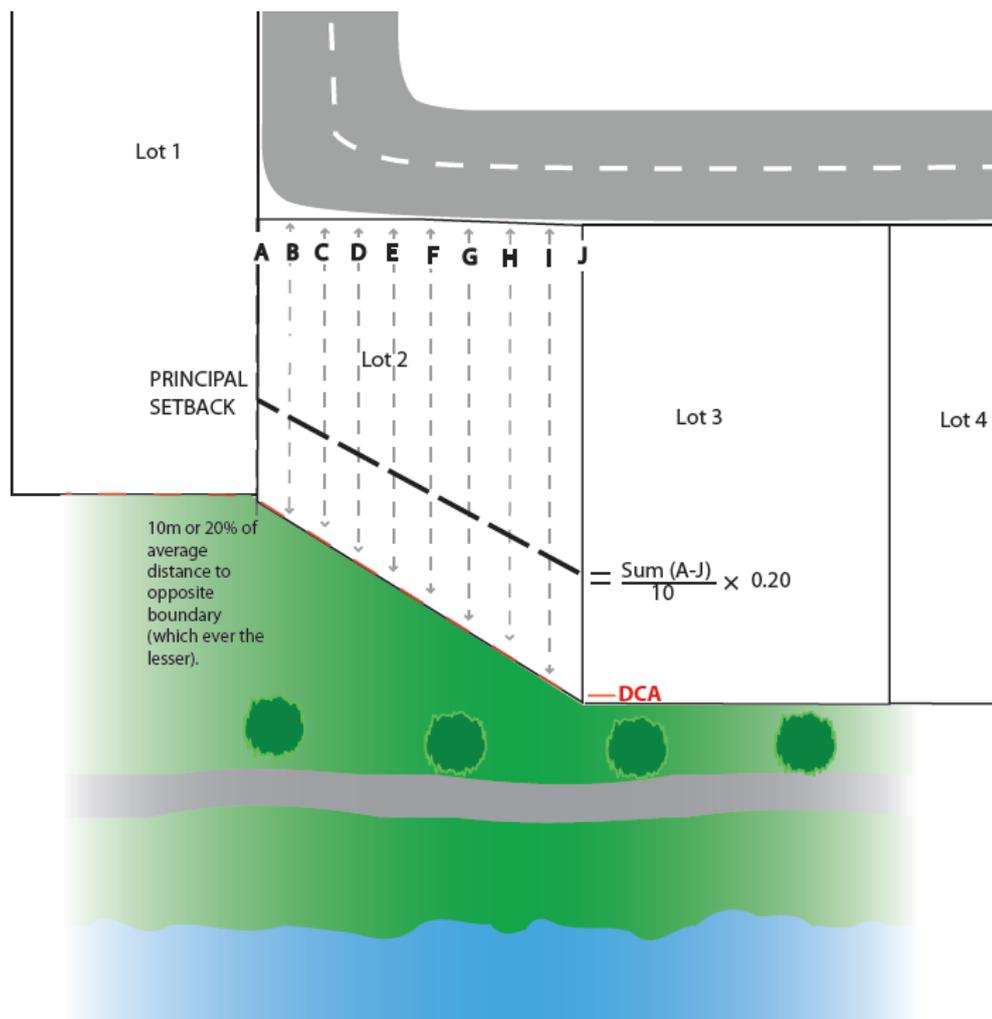
In undertaking its statutory planning roles and functions under the SCRM Act and in providing advice and recommendations under the MRS, the department will:

### General

- 5.1 Require development setbacks to apply from the boundary of the DCA regardless of whether the affected land is in public or private ownership.
- 5.2 Expect that setback areas affecting private land remain in private ownership, similar to the street setback areas required in local planning schemes.
- 5.3 Require the measurement of the setback to be the horizontal distance between the DCA and a solid or hard-facing structure, at right angles (90 degrees) to the opposite boundary.

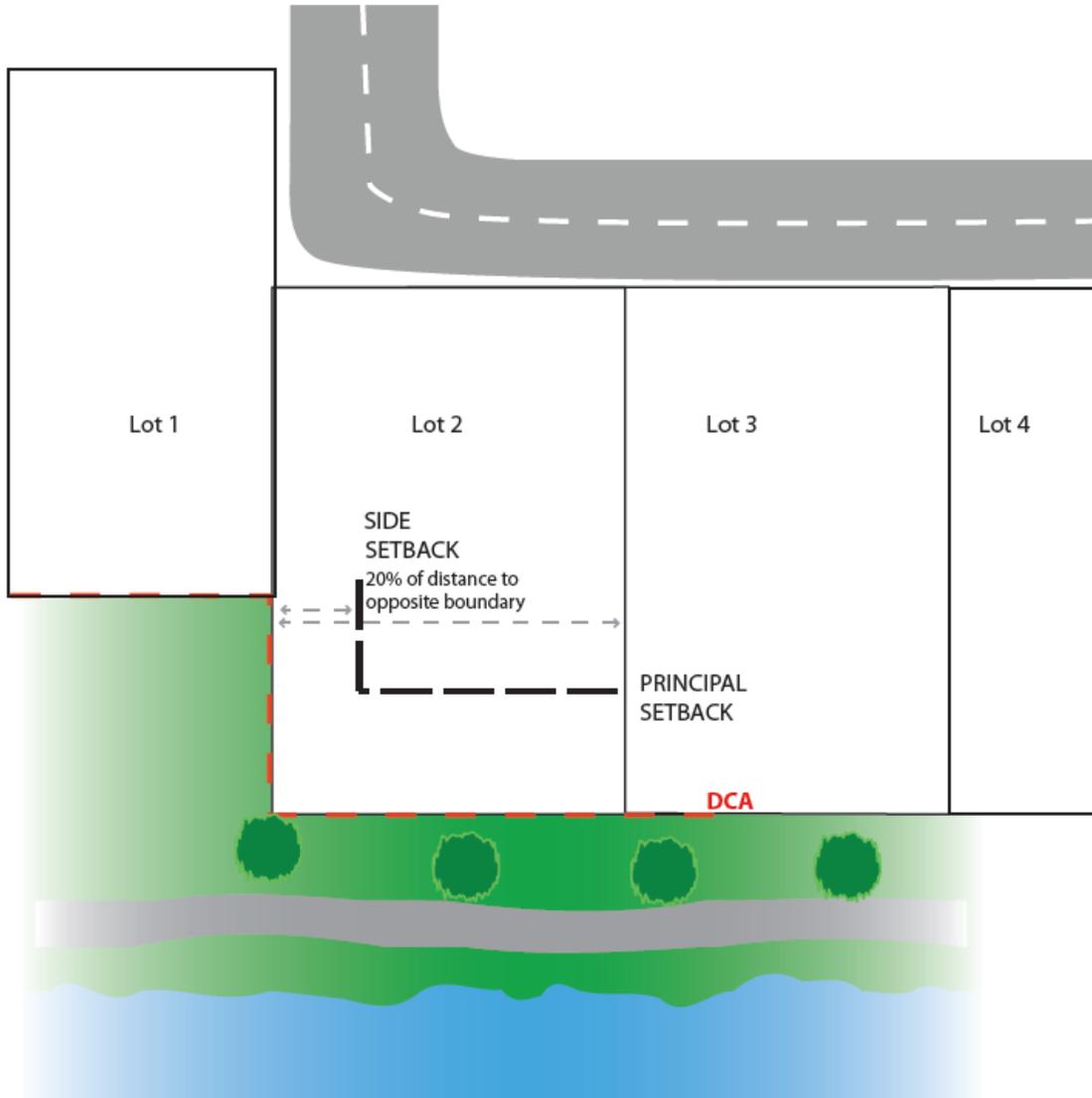
### Urban zoned land – residential development

- 5.4 Where land adjacent to the DCA is zoned Urban and is being developed for residential purposes, require a minimum **principal setback** of 10 metres or 20 per cent of the average distance to the opposite boundary, whichever is the lesser, from the boundary of the DCA (see Figure 1).



**Figure 1** How to establish the average principal setback

- 5.5 Where a land parcel has more than one boundary abutting the DCA, require a minimum **side setback(s)** of 10 metres or 20 per cent of the average distance, whichever is the lesser, from the DCA to the opposite boundary (see Figure 2).
- 5.6 Reserve the right to define the principal and side boundaries with respect to the DCA and the location of the river system.



**Figure 2** How to establish the side setback

### **Urban (developed for purposes other than residential), Industrial and Public Purposes zoned land**

- 5.7 Where land is zoned Urban and is being developed for purposes other than residential (e.g. commercial, light industrial), Industrial or Public Purposes and adjoins land in the DCA, require a minimum setback of 10 metres or 20 per cent of the average depth of the lot, whichever is the lesser, from the boundary of the DCA.
- 5.8 Where development is proposed on Urban zoned land adjoining the rivers (including the riparian areas) in the DCA, require a development setback of 50 metres from the high watermark to ensure that adequate separation between the riparian area of the river and the proposed development is maintained.

### **Rural zoned land**

- 5.9 Seek to ensure there is adequate separation between the riparian area of the river system and proposed development on rural land and protect views to and from the river and its rural landscape setting.
- 5.10 Where land is zoned Rural and adjoins land in the DCA, require a development setback of 20 metres or 20 per cent of the average depth of the lot, whichever is the lesser, from the boundary of the DCA.
- 5.11 Where land is zoned Rural and adjoins the rivers (including the riparian area) in the DCA, require the development setback to be a minimum 50 metres from the high watermark to ensure that there is adequate separation between the river and the proposed development. A portion or all of this setback may be reserved for Parks and Recreation as part of any future scheme amendment.

### **Bulk, scale and style of development**

- 5.12 Where the height, bulk, scale or form, orientation or location of a development is likely to create significant visual impacts within the context of the surrounding landscape:
- require the development to minimise overshadowing and break up the hard edges, solid faces and bulk of buildings;
  - require the development to be designed such that the levels step back in a landward direction and step down to complement adjacent buildings and the foreshore landscape;
  - consider requiring an increased setback;
  - consider requiring applicants to undertake a Visual Impact Assessment to justify that an application is in keeping with the wider landscape and the immediate foreshore; and/or
  - consider varying the provisions of this policy with Design Guidelines or other similar instruments such as Detailed Area Plans, provided they have been prepared in consultation with the Swan River Trust, WAPC and/or the relevant local government/s.
- 5.13 In some cases require a greater principal setback:
- where the development may diminish the community's use and enjoyment of the DCA, particularly where the DCA is already constrained due to site characteristics and topography;
  - to ensure the protection and re-establishment of fringing riparian vegetation, wetlands, tributaries or bushland associated with the river system; or
  - to maintain significant landscape features or views to and from the river system, as described in *State Planning Policy 2.10: Swan Canning River System* or the *Swan River System Landscape Description*.
- 5.14 In some cases give consideration to allowing a reduced principal setback of no less than 4 metres, where:
- there is a wide (e.g. greater than 150 metres) foreshore between the river system and the proposed development site;

- the public use and ecological function of the DCA immediately adjoining the site will not be adversely affected through overlooking or overshadowing, due to site topography and the presence of landscaping or vegetation; or
- the applicant has demonstrated to the satisfaction of the department that the application is consistent with the objectives of this policy.

### **Subdivisions, survey-strata and strata lots**

- 5.15 In providing advice on subdivision and strata subdivision to the WAPC, expect applications to demonstrate that consideration has been given to the setback requirements detailed in this policy.
- 5.16 Where site works are required as part of a subdivision, expect the applicant to demonstrate in the subdivision application that the site works comply with this policy in regard to proposed fill, height and style of retaining walls.
- 5.17 Consider setbacks for grouped dwelling development on survey-strata lots or strata titles at subdivision stage such that the setback is consistent across the entire parent lot. Consistent with provision 5.3 of this policy, setbacks for survey strata and strata lots, which are typically smaller than standard lots, will generally be 20 per cent of the depth of the survey strata lots adjoining the DCA, provided that the:
- average width of the foreshore in the locality is greater than 30 metres; and
  - a reduced setback will not adversely affect the DCA by compromising its enjoyment and use by the community, ecological or landscape values.
- 5.18 Where the average width of the foreshore is less than 30 metres, determine the recommended average setback for survey strata and strata lots to adequately allow for natural estuarine processes, conservation of environmental values, significant landscapes, public access and to maintain views to and from the river system.
- 5.19 Where irregular shaped lots are proposed that abut the DCA, recommend to the WAPC that an applicant submit an indicative development proposal with any subdivision application to demonstrate that the future development is capable of complying with this policy.
- 5.20 In the case of large subdivisions or strata subdivisions, recommend the inclusion of a public road, between the private land and the existing or proposed P&R reservation to enable proper access, separation of land uses, improve passive surveillance and public safety, and support appropriate bushfire protection.

### **Public roads**

- 5.21 Where there is a public road contained within the DCA on its landward boundary and in the department's view the foreshore is sufficiently wide to protect the landscape and environmental values of the river system, support reduced setbacks for development abutting the DCA.

### **Floods and sea level rise**

- 5.22 Require any development that would likely be obstructive to major floods to be located outside of the floodway, as defined by the floodplain mapping available

from the Department of Water. For further information on development within the floodplain, see *Corporate Policy Statement No. 42: Planning for Land Use, Development and Permitting Affecting the Swan Canning Development Control Area*.

- 5.23 Support the implementation of *State Planning Policy 2.6 State Coastal Planning Policy* (WAPC, 2013), which indicates that a vertical sea level rise of 0.9 metres over a 100-year planning timeframe to 2110 should be adopted when considering setback distance and elevation.

### **Boundary fences**

- 5.24 Require fencing on the **principal boundary** to be of an open style with a total height not exceeding 1.8 metres.
- 5.25 Consider open-style fencing to be a fence that is visually permeable from 1 metre above natural ground level. Visually permeable fencing has continuous vertical or horizontal gaps of at least 50 millimetres width, occupying not less than one third of its face in aggregate of the entire surface; or where narrower than 50 millimetres, occupying at least one half of the face in aggregate, as viewed directly from the DCA; or a surface offering equal or lesser obstruction to view.
- 5.26 Where land is adjacent to the DCA on more than one side, give consideration to allowing a solid fence on the **side boundary** in some cases if it is unlikely to result in adverse impacts on the ecological health, community use, and amenity of the DCA.
- 5.27 Where existing developments have outdoor living areas adjacent to the DCA, in some cases give consideration to varying the open-style fencing to provide privacy for the outdoor living area and the public using the DCA. In these cases the department may consider supporting a solid fence not exceeding 1.8 metres in height.
- 5.28 Have a preference for fencing styles, colours and materials that are complementary to the amenity of the adjoining reserves.
- 5.29 In some cases, require an open style fence to be installed where it considers that a fence is necessary to achieve demarcation between the public and private domain.

### **Ground levels and retaining walls**

- 5.30 Where possible, expect proposed ground levels to match the existing natural contours of the adjoining foreshore. Graduated levels are preferred instead of abrupt topographic changes and use of retaining walls that dominate the river system, its landscape and local setting.
- 5.31 Require retaining wall heights to be minimised wherever possible so that visual impacts are reduced. Retaining should be based on the average height of the land, result in equal cut to fill and not increase the height of the land above the adjoining foreshore more than necessary to meet the minimum habitable floor level required to provide protection from flooding (see Figure 3).

- 5.32 Require retaining walls to be set back at least 3 metres from the DCA boundary, except where retaining is less than 1 metre total height and forms the solid portion of an open style boundary fence. Retaining walls are not to exceed an individual height of 1 metre and a total combined height of 3 metres from the natural ground level at the DCA boundary. Where more than one retaining wall is proposed, a minimum 1 metre separation distance is required between the face of each retaining wall, which is to be planted with native shrubs to soften the visual impact of the wall (see Figure 4).
- 5.33 In instances where significant site constraints exist and there will be minimal impact on the adjoining DCA, accept fill and retaining walls closer to the DCA boundary than 3 metres. Retaining walls are not to exceed an individual height of 1 metre and a total combined height of 3 metres from the natural ground level at the DCA. Where more than one retaining wall is proposed, a minimum 1 metre separation distance is required between each retaining wall, and it is recommended that these areas be planted with local native shrubs (see Figure 5).

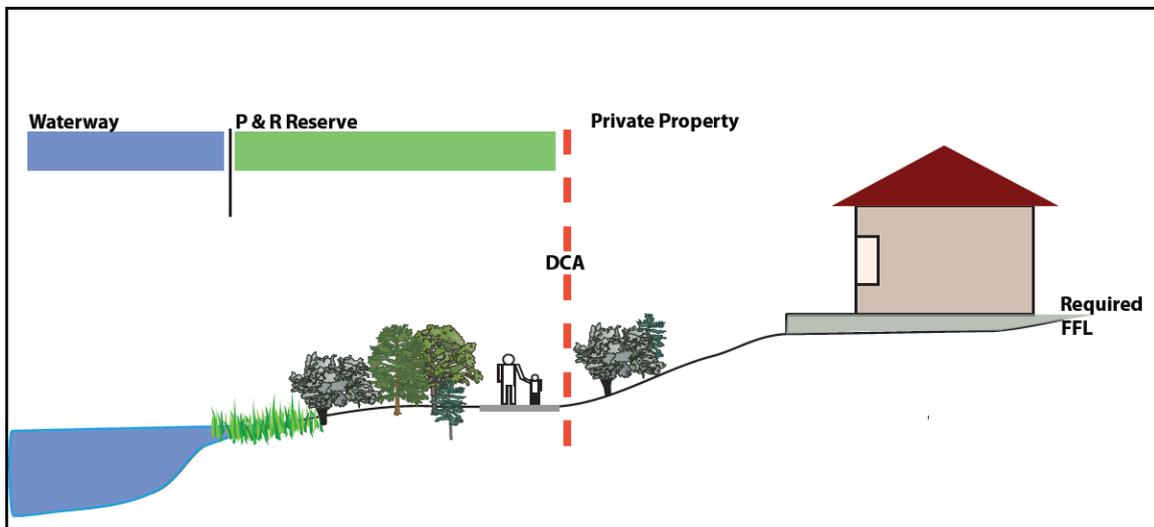


Figure 3 Graduated ground level is preferred

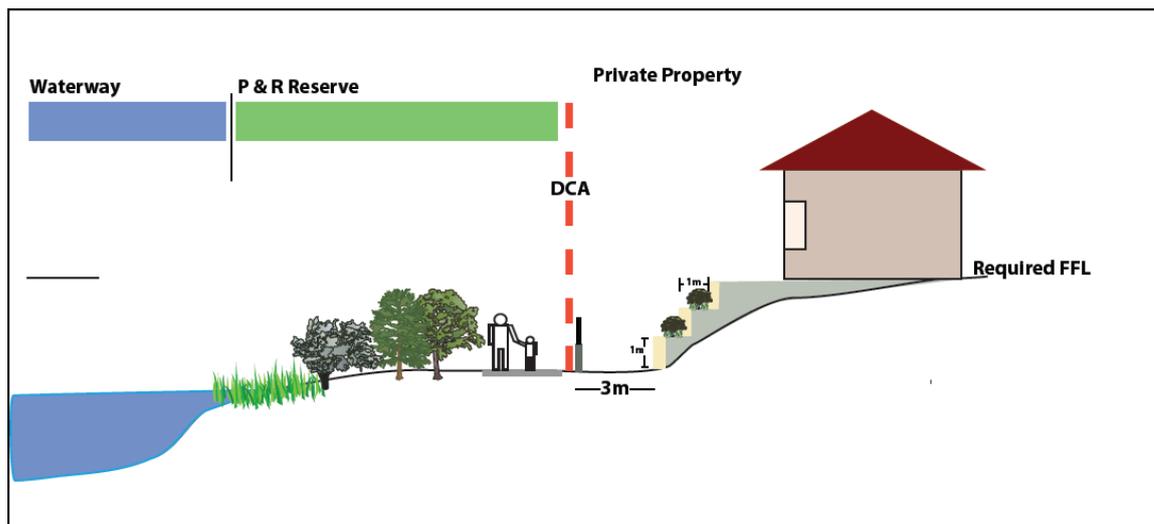
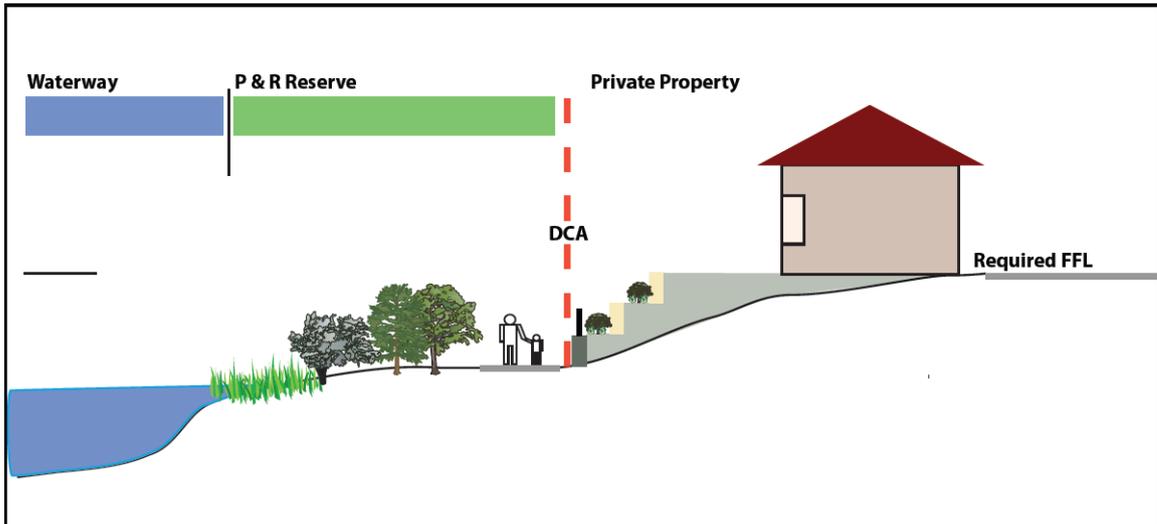


Figure 4 Terracing of retaining walls



**Figure 5** Terracing of retaining walls only where site constraints exist

### Outdoor living areas and car parking areas

5.34 In some cases consider supporting development within the setback area where it is not elevated above natural or established ground level and has minimal visual impacts on the river system, provided that they do not compromise the objectives of this policy. The department may accept the following development within the setback area:

- landscape features including open-sided gazebos, paved areas, decks, below-ground swimming pools, access ways; and
- open carports (on at least three sides) and uncovered hardstand areas.

5.35 In some cases consider supporting the development of open-view balconies without roofs within the setback area provided they are setback a minimum of 4 metres from the DCA boundary. Covered balconies or alfresco areas, or balconies constituting major living areas located under the main roof of the residence will be subject to the standard requirements stated in provision 5.3 of this policy.

### Landscaping within the setback area

5.36 Recommend use of local native vegetation species within the setback area, due to their low maintenance and fertiliser requirements and increased habitat values for native fauna.

5.37 Not support the use of declared weed species or highly invasive environmental weed species within the setback area, due to the potential to spread and impact the ecological and landscape values of the river system.

5.38 In determining whether an application is consistent with the objectives of this policy, take into consideration the preservation of existing vegetation and any landscaping and revegetation provisions that maintain or enhance the landscape values of the locality.

## **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, Parks and Recreation, Metropolitan Region Scheme, development, setback, Urban, residential, Rural, commercial, light industrial, Public Purposes, Industrial, bulk, Visual Impact Assessment, Design

Guidelines, subdivision, survey-strata, strata, public roads, floods, sea level rise, fence, ground level, retaining wall, outdoor living areas, car parking, landscaping.

**10. REVIEW**

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

**11. SWAN RIVER TRUST ENDORSEMENT**

Endorsed by



Hamish Beck  
CHAIRMAN

Date: 27 June 2016

**12. DIRECTOR GENERAL APPROVAL**

Approved by



Jim Sharp  
DIRECTOR GENERAL

Effective date: 27 June 2016