

## Swan and Canning Rivers Management Act 2006

#### PART 5

# **DETERMINATION OF DEVELOPMENT APPLICATION**

FILE NUMBER

2020/0012

**APPLICANT** 

Old Perth Port Pty Ltd

APPLICANT'S ADDRESS

Attn: Bil Richardson
Old Perth Port Ptv Ltd

PO Box 5600

66 St Georges Terrace

PERTH WA 6831

**LANDOWNER** 

Swan River Trust (Reserve 48325)

LAND DESCRIPTION

Swan River (Reserve 48325) adjacent to Lot 504 (1) Barrack

Square, Perth

DEVELOPMENT

Installation of a gangway and floating jetty pontoon

VALID FORM 1 RECEIVED

7 January 2020

DETERMINATION

**APPROVAL WITH CONDITIONS** 

The application to commence development in accordance with the application received on 7 January 2020 and additional information received on 9 January 2020, 20 January 2020 and 4 February 2020, is APPROVED subject to the following conditions:

- 1. Approval to implement this decision is valid for two (2) 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.
- 2. The development is approved as outlined in drawings 7600-01 to 7600-05 (all Rev C) as engineer certified on 17/11/2019.

## Prior to the commencement of works

- 3. The applicant shall notify the Department of Biodiversity, Conservation and Attractions in writing not less than seven (7) days prior to the commencement of works (see **Advice Note 1**).
- 4. 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 (see **Advice Notes 2** and **5**).
- 5. Prior to the commencement of works, a schedule of the external colours, finishes and materials for the proposed development, shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions (see **Advice Notes 3** and **5**).
- 6. Prior to the commencement of works, a Monitoring and Maintenance Plan shall be submitted to and approved by the Department of Biodiversity, Conservation and Attractions (see **Advice Note 4** and **5**).

## **During works**

- 7. All works shall be implemented in accordance with the plans approved under **Conditions 4** and **5**.
- 8. No rubbish or any other deleterious matter shall be allowed to enter the river as a result of the works.

## On completion of works

9. Upon completion of the works, all waste materials, equipment and machinery shall be removed, and the site cleaned up and reinstated to the satisfaction of the Department of Biodiversity, Conservation and Attractions.

## **On-going**

- 10. The applicant shall undertake on-going monitoring and maintenance of the gangway and floating jetty pontoon in accordance with the Monitoring and Maintenance Plan approved under **Condition 6**, for the life of the development.
- 11. The development shall remain non-exclusive and available for use and access by the broader public. No fees are permitted to be charged for the berthing of vessels. The jetty is for short-term berthing only and not to be used as a home berth.

### **ADVICE TO APPLICANT**

- 1. Notification of commencement of works and submission of documents can be emailed to rivers.planning@dbca.wa.gov.au.
- 2. The Construction Environmental Management Plan required under **Condition 4** shall describe how the proposed works will be managed to minimise potential environmental impacts and shall address, but not be limited to:
  - scope of works, including construction methodology;
  - site access and management;
  - management of machinery and equipment, including a refuelling procedure and spill response;
  - on-site storage and bunding of materials, equipment, chemicals and fuel;
  - protection of the river from inputs of deleterious material;
  - noise and vibration controls;
  - public access and safety;
  - hours of operation and schedule of works; and
  - complaints and incidents.

A site map showing the laydown area, vehicle entry/exit points and pedestrian management (e.g. road closures, alternative routes and public safety signage) shall be included. Emergency spill kits shall be onsite at all times and refuelling of land-based vehicles or machinery is to be undertaken outside the Swan Canning Development Control Area. In the case of pollution events, the Department of Biodiversity, Conservation and Attractions shall be contacted immediately on 9278 0981 (Duty Officer Riverpark) or 9480 9924 (Pollution Response, Marine).

3. The selection of colours, finishes and materials of the gangway and floating jetty pontoon should complement the character and landscape setting of Barrack Square and surrounding riverine environment.

- 4. In relation to **Condition 6**, the Monitoring and Maintenance Plan is to outline the applicant's commitments in maintaining public access and safety, waste management, fuel spill management and general maintenance of the berthing facility. The applicant should maintain current liability insurance for the berthing facility, with a copy to be provided to the Department of Biodiversity, Conservation and Attractions.
- 5. To allow sufficient time for the Department of Biodiversity, Conservation and Attractions to consider and approve the plans and details required under **Conditions 4** to **6**, the documents shall be submitted to the Department of Biodiversity, Conservation and Attractions at least 30 days before the expected works commencement date.
- 6. The applicant will need to apply for and obtain a jetty modification licence from the Department of Transport before works commencement.
- 7. Regarding marine safety, the applicant is advised to ensure that:
  - a. all in-water operations and activities are conducted in accordance with Western Australian Marine Safety Legislation; and
  - b. if any works are proposed on a vessel or barge, it is recommended that the applicant, or any third party contractor it engages to undertake the works, notify Department of Navigational Transport, Safety (DoT) by email to least 21 navigational.safety@transport.wa.gov.au davs before at works commencement, to enable a Temporary Notice to Mariners outlining the scope of the works to be published.
- 8. This application and therefore 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 in accordance with the Swan and Canning Rivers Management Regulations 2007.

Hon Stephen Dawson MLC

MINISTER FOR ENVIRONMENT

Date: 5 8 20

FILE No.

: 2020/0012

# DEPARTMENT OF BIODIVERSITY, CONSERVATION AND ATTRACTIONS REPORT

**PROPOSAL** 

: Installation of a gangway and floating jetty pontoon

COST

\$50,000

LOCATION

: Swan River (Reserve 48325) adjacent to Lot 504 (1) Barrack

Square, Perth

**APPLICANT** 

: Old Perth Port Pty Ltd

LANDOWNER

: Swan River Trust (Reserve 48325)

LOCAL GOVERNMENT

: City of Perth

MRS CLASSIFICATION : Public Purposes - Special Use

**DECISION TYPE** 

: Part 5, Swan and Canning Rivers Management Act 2006 -

Ministerial Determination

**ATTACHMENTS** 

: 1. Location plan (2 pages)

2. Proposed plans (5 pages)

3. Existing riverbed lease and licensed mooring area (1 page)

RECOMMENDATION

: APPROVAL WITH CONDITIONS

## REPORT

#### 1.0 INTRODUCTION

- The Department of Biodiversity, Conservation and Attractions (DBCA) has received an application from Old Perth Port Pty Ltd (OPP) proposing to install a gangway and floating jetty pontoon on the Swan River (Reserve 48325) adjacent to Lot 504 (1) Barrack Square, Perth (see Attachment 1). The subject site is reserved for 'Public Purposes - Special Use' under the Metropolitan Region Scheme.
- The proposed development is to occur on a lot completely within the Swan Canning Development Control Area and therefore requires an approval from the Minister for Environment in accordance with Part 5 of the Swan and Canning Rivers Management Act 2006 (SCRM Act).
- The Director General of DBCA has prepared this report in accordance with section 76 of the SCRM Act.

### 2.0 CONSULTATION

### City of Perth

2.1 The City of Perth (the City) has assessed the application and advised that it has no objections to the proposal. No further recommendations were provided.

## Department of Planning, Lands and Heritage

- 2.2 The Department of Planning, Lands and Heritage (DPLH) has reviewed the application and advised that the proposed structures are located within a Registered Site of Aboriginal Significance (ID 3536 Swan River).
- 2.3 DPLH notes that the proposed jetty structures will be attached to the existing jetty infrastructure, with no riverbed disturbance works proposed (i.e. no piling required). Accordingly, no approvals under the *Aboriginal Heritage Act 1972* are required.
- 2.4 DPLH, Heritage Council has also assessed the application with respect to potential cultural impacts to Barrack Square, which is listed on the State Register of Heritage Places and is protected under the *Heritage Act 2018*.
- 2.5 DPLH, Heritage Council advises that the application is supported. It notes that the proposed development is intended to create a new ferry stop to provide a safe drop off and pick up point for passengers to Barrack Square and the Swan River, and is anticipated to create a positive impact on the integrity, social and historic values of Barrack Square.

## **Department of Transport**

- 2.6 The Department of Transport (DoT), Navigational Safety advised that it has no objections to the proposal, subject to the following recommendation:
  - All on-water operations and activities must be conducted in accordance with the relevant marine legislative provisions.
- 2.7 DoT, Maritime Planning advised that it has no objections to the proposed development. The proposed jetty designs have been signed and certified by an experienced maritime engineer to confirm compliance with AS3962-2001 *Guidelines for Design of Marinas* and have subsequently been approved by DoT.

## **DevelopmentWA**

2.8 DevelopmentWA advised that a development approval under the *Metropolitan Redevelopment Authority Act 2011* will also be required for the proposed development. No further recommendations were provided.

## 3.0 PUBLIC SUBMISSIONS

- 3.1 In accordance with the requirements of Part 5 of the SCRM Act, a copy of the draft report and proposed recommendation was provided to the applicant and referral agencies. A copy was also published on DBCA's website for a period of 14 days between 8 June 2020 and 22 June 2020.
- 3.2 Two (2) submissions were received from DPLH to advise that it has no additional comments to provide.

## 4.0 RELEVANT POLICIES AND PLANS

♦ State Planning Policy 2.10 – Swan-Canning River System (SPP 2.10)

- ♦ Corporate Policy Statement No. 42 Planning for Land Use, Development and Permitting Affecting the Swan Canning Development Control Area (Policy 42)
- ♦ Corporate Policy Statement No. 44 Planning for Jetties in the Swan Canning Development Control Area (Policy 44)

#### 5.0 ENVIRONMENTAL AND PLANNING CONSIDERATIONS

- Environmental Protection
- Jetty Design
- Heritage
- Public Access and Safety

#### 6.0 BACKGROUND

- 6.1 Barrack Square was established in 1905-07, by reclamation of land from the Swan River to form part of the foreshore parkland. Currently the area consists of a pedestrian plaza, ferry terminal, belltower, cafe, restaurants, bars, and retail offices and is located to the east of Elizabeth Quay. An 18-storey hotel is currently under construction on the north-eastern portion of Barrack Square.
- 6.2 The commercial development on the eastern portion of Barrack Square is owned by OPP and consists of restaurants/bars, café and retail/tourism booking offices. A portion of the development is over water.
- 6.3 The current application proposes to install a metal gangway (10.5m x 1.2m) and floating jetty pontoon (17.98m x 2.5m), consisting of an aluminium frame and fibre reinforced plastic decking, on the eastern side of the existing jetty at Barrack Square (see **Attachment 2**). The floating jetty pontoon will be attached (via clamps) to the piles of the existing jetty, with the deck of the proposed floating jetty pontoon to be approximately 1m below the deck of the existing jetty. No additional piles are proposed to support the new jetty structure (i.e. no riverbed disturbance works).
- 6.4 The proposed jetty structure is intended to be used as a ferry stop for the Little Ferry Company to drop off and pick up passengers at Barrack Square. OPP advised that at this stage, the ferry stop is proposed to be used by the Little Ferry Company 6-8 times a day, with each stop to be approximately 10-15 minutes. The Little Ferry Company operates cruises on the Swan River that last about 2-2.5 hours.
- 6.5 The proposed jetty pontoon is not intended to be used as a home berth for any vessels. When the jetty structure is not in use as a ferry stop, it will be available for use by the public as a short-term drop off and pick up point for small vessel/craft.
- 6.6 The existing jetty (Jetty 1) is used for the short-term berthing of vessels, however access for smaller vessel/craft has been difficult due to the height of the jetty.
- 6.7 The new jetty pontoon is intended to improve the safe berthing of small vessels and craft. It is expected that the new berthing facility will enhance public access to the river, Barrack Square, and nearby areas (e.g. Elizabeth Quay and Perth City) and will complement the existing ferry terminal.

#### 7.0 DISCUSSION

#### **Environmental Protection**

- 7.1 Policy 42 aims to ensure that land use and development on and adjacent to the river system maintains and enhances the quality and amenity of the river environment. Installation of the jetty extension should be carefully undertaken to prevent detrimental impacts to the river and Barrack Square.
- 7.2 To ensure that all potential environmental impacts are identified and managed, a Construction Environmental Management Plan (CEMP) should be required as a condition of approval and include details of machinery and equipment management and access (including refuelling), public access and safety, construction methodology, storage of materials and equipment, spill response and waste management.

### **Jetty Design**

- 7.3 Policy 44 recognises that appropriately designed and located commercial and community boating facilities, such as jetties and boat ramps, form an integral part of the river system setting and are an important recreational and tourist resource. Policy 44 also seeks to ensure that the location of boating infrastructure does not interfere with vessel navigation.
- 7.4 DoT standard advice to address navigational safety, such as the requirement to ensure all on-water operations and activities are conducted in accordance with relevant marine legislation and a temporary notice to mariners is organised, will be included on the approval.
- 7.5 DoT Maritime Planning has advised that the jetty designs/drawings have been certified by a qualified and practising marine engineering to comply with AS3962-2001 *Guidelines for Design of Marinas* and subsequently approved by DoT.
- 7.6 The proposed jetty pontoon structure is located within OPP's licenced mooring area; however, it is outside OPP's riverbed lease area (see **Attachment 3**).
- 7.7 Given that the proposed jetty structure is also intended for public access and use, as opposed to private or exclusive use purposes, variation to OPP's River reserve lease will not be required. The jetty berth/s will not be subleased or reserved for private or commercial use.
- 7.8 It is expected that OPP will apply for, and obtain, a jetty modification licence from DoT to incorporate the new jetty structure.
- 7.9 To ensure that the new jetty structure is regularly managed and maintained (e.g. litter, fuel spill management and general maintenance), a maintenance and monitoring plan (MMP) will be required as a condition of approval.
- 7.10 Once constructed, the berthing facility is anticipated to enhance boating access to the river at Barrack Square.

### Heritage

- 7.11 Policy 42 states that places of cultural and heritage significance, both Aboriginal and European, and of natural heritage are to be conserved.
- 7.12 Barrack Square is listed on the Stage Register of Heritage Places. The site is significant for its association with river transport since first European settlement in 1829, now functioning predominately as a ferry termination with five main jettles.
- 7.13 A condition of approval should require OPP to provide a schedule of external colours, materials and finishes for the proposed gangway and floating pontoon structure. It is recommended that colours, materials and finishes that complement the surrounding river environment and existing facilities are used.

# **Public Access and Safety**

- 7.14 SPP 2.10 states that public access to the river and foreshore should be maintained while protecting the river. It is important that development over the river does not impede or restrict public access.
- 7.15 Public access through Barrack Square during the construction works, including during delivery of equipment and materials, should be maintained wherever possible and prevented only for safety reasons.
- 7.16 The applicant can be advised to provide details of site access arrangement and maintenance of access along the pedestrian pathways within the CEMP.

### 8.0 SWAN RIVER TRUST

8.1 In accordance with section 75(3A) of the SCRM Act, the Swan River Trust considered DBCA's draft report and resolved on 8 May 2020 to support the application subject to the recommended conditions.

# 9.0 CONCLUSION

- 9.1 The proposed development is not considered to be excessive in scale or bulk and is considered to be a minor extension to the existing jetty.
- 9.2 The proposed development will improve safe short-term berthing of small vessels and craft and enhance access to and from the river at Barrack Square. With the recent commercial development in the immediate locality (e.g. Elizabeth Quay and new hotels), improved boating access for the public is supported.
- 9.3 Potential environmental impacts from the works can be addressed through the preparation and approval of a CEMP, which would be required as a condition of approval.
- 9.4 For these reasons, the proposal is recommended for approval, subject to conditions and advice.

#### 10.0 RECOMMENDATION - APPROVAL WITH CONDITIONS

That the Director General of DBCA advises the Minister for Environment that OPP's proposal to install a gangway and floating jetty pontoon on the Swan River (Reserve 48325) adjacent to Lot 504 (1) Barrack Square, Perth, as described in the application received on 7 January 2020 and additional information received on 9 January 2020, 20 January 2020 and 4 February 2020, be approved, subject to the following conditions:

- 1. Approval to implement this decision is valid for two (2) 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.
- 2. The development is approved as outlined in drawings 7600-01 to 7600-05 (all Rev C) as engineer certified on 17/11/2019.

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- 8. No rubbish or any other deleterious matter shall be allowed to enter the river as a result of the works.

## On completion of works

9. Upon completion of the works, all waste materials, equipment and machinery shall be removed, and the site cleaned up and reinstated to the satisfaction of the Department of Biodiversity, Conservation and Attractions.

## On-going

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### ADVICE TO APPLICANT

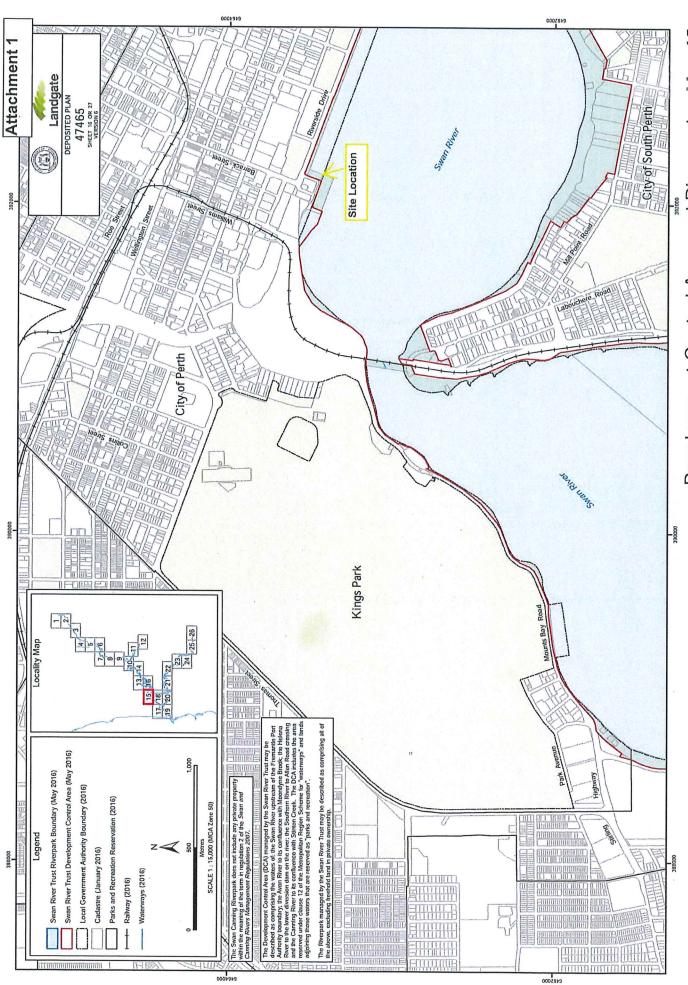
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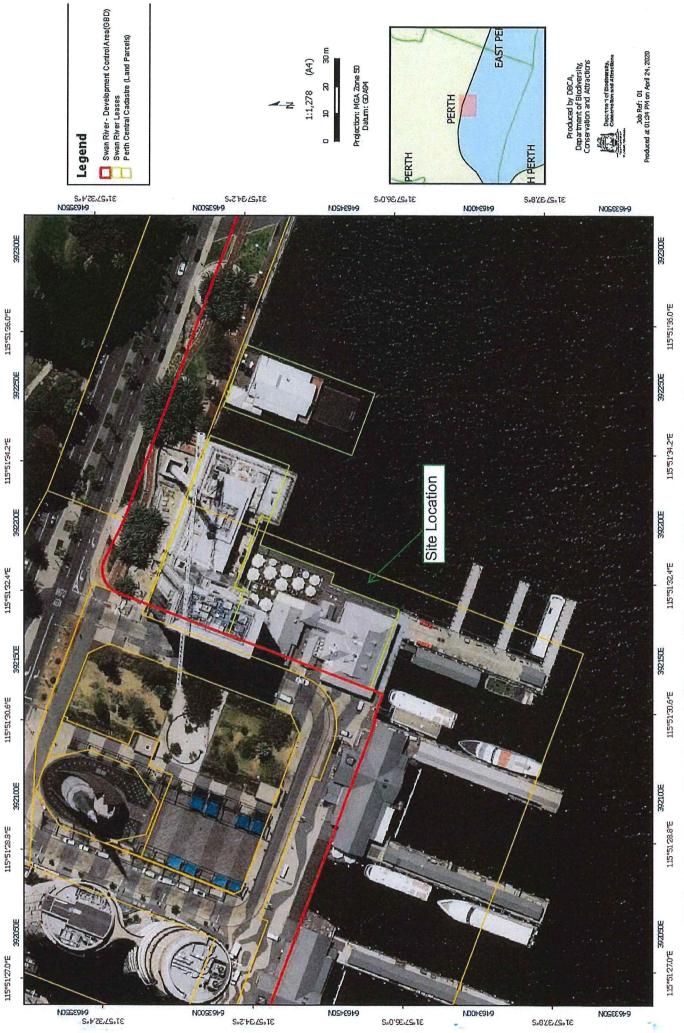
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FINAL REPORT ENDORSED	
Signed:	Date:



Development Control Area and Riverpark Map 15



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The Department of Biodiversity, Conservation and Altractions does not guarantee that this map is without flaw of any kind and disclaims all idulity for any errors, loss or other consequence which may arise from relying on any information depicted. Roads and tractis on land managed by DBCA may contain unmarked hazards and their surface condition is valiable. Exercise causion and drive to conditions on all mods.

