



# Swan and Canning Rivers Management Act 2006

### **SECTION 84**

# DETERMINATION OF REQUEST FOR VARIATION TO DEVELOPMENT APPROVAL

APPROVAL NUMBER

: 2017/4825

SECTION 84 FILE NUMBER

: 2020/0203

**APPLICANT** 

Canford Hospitality Consultants Pty Ltd, on behalf of

Albarossa Pty Ltd

LANDOWNER

State of Western Australia (vested in the City of

Fremantle)

LAND DESCRIPTION

Lot 1941 on Diagram 213981 (No. 123 Beach Street)

Fremantle, Crown Reserve 4720

DEVELOPMENT

: Change of use, additions and alterations to existing

building

DESCRIPTION OF CHANGES

: 12-month extension of current development approval to

21 April 2021

SECTION 84 DETERMINATION :

APPROVAL WITH NO CHANGE TO CONDITIONS

#### DETERMINATION

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

1. Authorise the requested extension of time to 21 April 2021.

## ADVICE TO APPLICANT

1. This Section 84 approval is granted subject to all conditions and advice notes applicable to development approval 2017/4825.

Hon Stephen Dawson MLC

MINISTER FOR ENVIRONMENT

Date: 25/2/20





# Swan and Canning Rivers Management Act 2006

### PART 5

# **DETERMINATION OF DEVELOPMENT APPLICATION**

**FILE NUMBER** 

2017/4825

**APPLICANT** 

Canford Hospitality Consultants Ptv Ltd, on behalf of

Albarossa

APPLICANT'S ADDRESS

Attn: Syafrina Hamid

Consultant PO Box 389

Guildford WA 6935

LANDOWNER

: State of Western Australia (vested in the City of Fremantle)

LAND DESCRIPTION

The Kiosk, Lot 1941 on Diagram 213981 (No. 123 Beach

Street) Fremantle, Crown Reserve 4720.

DEVELOPMENT

Change of use, additions and alterations to existing building.

VALID FORM 1 RECEIVED

20 November 2017

DETERMINATION

: APPROVAL WITH CONDITIONS

The application to commence development in accordance with the information received on 20 November 2017 is APPROVED subject to the following conditions:

 Approval to implement this decision is valid for two (2) years from the date of the approval. If the development has not been substantially 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 seven (7) days prior to the commencement of works.
- Prior to the commencement of works or any development being undertaken on the site, the
  applicant shall submit for approval to the Department of Biodiversity, Conservation and
  Attractions, on the advice of the City of Fremantle, details of bicycle parking facilities.

#### **During works**

- The works shall take place in accordance with the approved plans and Drawings 01 to 04 inclusive, as supplied with the application, unless modified by a condition of this approval.
- 5. The development shall be connected to the reticulated sewerage system.
- All stormwater from the development shall be contained onsite unless otherwise approved by the Department of Biodiversity, Conservation and Attractions, on advice of the City of Fremantle.

# On completion of works

7. Within 14 days of the completion of the works, the applicant shall remove all waste materials, equipment and machinery and ensure the site is cleaned-up to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.

#### ADVICE TO APPLICANT

- 1. Notification of commencement of work and plans can be emailed to <a href="mailto:rivers.planning@dbca.wa.gov.au">rivers.planning@dbca.wa.gov.au</a>.
- The applicant is advised that this approval does not negate the need to obtain any other necessary approval from relevant agencies, or from the Department of Biodiversity, Conservation and Attractions.
- 3. The City of Fremantle advises that prior to commencement of development, a report is to be submitted to the City by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures to limit noise impact on adjoining properties to within the requirements of the Environmental Protection Act 1986.
- 4. The City of Fremantle advises that the design and materials of the development are to adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development should provide the following:
  - Glazing to windows and other openings are to be laminated safety glass of a minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm; and
  - Roof insulation in accordance with the requirements of the Building Codes of Australia.
- 5. The City of Fremantle advises that the signage is not to contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
- 6. The City of Fremantle advises that prior to occupation, the applicant is to submit a waste management plan for approval by the City, detailing the storage and management of the waste generated by the development. The waste management plan is to be implemented to the satisfaction of the Chief Executive Officer, City of Fremantle.
- 7. The City of Fremantle advises the Tavern hours of opening are limited to:

Monday to Saturday Sunday 6:00am to 12:00am (midnight) 10:00am to 12:00am (midnight)

- The City of Fremantle advises that the paving and landscaping depicted outside the lease boundaries of the subject property does not form part of this approval. The applicant is to undertake ground stability assessment due to the nature of the surrounding landscape.
- The City of Fremantle advises that the proposed works are within the City's irrigation assets. The proponent is to liaise with the City's Parks Department in relation to required relocation of irrigation components. The cost of these works will be covered by the applicant.

Hon Stephen Dawson MLC

MINISTER FOR ENVIRONMENT

Date: 21/4/18

FILE No : 17/4825

## DEPARTMENT OF BIODIVERSITY, CONSERVATION AND ATTRACTIONS REPORT

PROPOSAL . Change of use, additions and alterations to existing building.

LOCATION : The Kiosk, Lot 1941 on Diagram 213981 (No. 123 Beach

Street) Fremantle, Crown Reserve 4720.

APPLICANT : Canford Hospitality Consultants Pty Ltd, on behalf of Albarossa

Pty Ltd

Attention Syafrina Hamid

LANDOWNER : State of Western Australia (vested in the City of Fremantle)

LOCAL GOVERNMENT : City of Fremantle

MRS CLASSIFICATION : Parks and Recreation

LG CLASSIFICATION : No zoning

DECISION TYPE . Part 5, Swan and Canning Rivers Management Act 2006

ATTACHMENTS · 1. Location Map

2. City of Fremantle Advice

3 Proposed Plans

RECOMMENDATION : APPROVAL WITH CONDITIONS

#### REPORT

# 1.0 INTRODUCTION

- 1.1 The Department of Biodiversity, Conservation and Attractions (DBCA) has received an application from Canford Hospitality Consultants Pty Ltd, on behalf of Albarossa Pty Ltd, to change the use of the current venue (The Kiosk) from a restaurant to a tavern, allowing an application to the Department of Local Government, Sport and Cultural Industries for a tavern restricted licence
- 1.2 In addition to the change of use, The Kiosk will undergo physical changes, including expansion of the floor space, upgrades to the bar, air conditioning, toilets, ceiling, signage, and lighting.
- 1.3 The Kiosk is located at Lot 1941 on Diagram 213981 (No. 123 Beach Street) Fremantle, Crown Reserve 4720 (Attachment 1). The subject land is reserved for Parks and Recreation under the Metropolitan Region Scheme. The Kiosk building is owned by the City of Fremantle and leased to Albarossa Pty Ltd
- The proposed development is to occur on a lot wholly within the Swan Canning Development Control Area (DCA). As the proposal is of a value greater than \$50,000, it cannot be processed under the Swan and Canning Rivers Management Regulations 2007. The proposal therefore requires approval under Part 5 of the Swan and Canning Rivers Management Act 2006 (SCRM Act).
- 1.5 The Director General of DBCA has prepared this report in accordance with section 75 of the SCRM Act.

6.3 DBCA considers the currently proposed works to be of a similar low-impact, not against the public interest, compliant with DBCA policies and consistent with the objectives and principles of the SCRM Act.

#### 7.0 SWAN RIVER TRUST ADVICE

7.1 In accordance with section 75(3A) of the SCRM Act, the Trust considered the draft report at its meeting on 13 February 2018. The Trust resolved to support the report and recommendations.

#### 8.0 CONCLUSION

8.1 The proposed change of use, additions and alterations to the existing café building are considered to complement the character of the area, increase opportunity for the community and visitors to enjoy the foreshore, and will not result in any adverse impacts to the DCA. It is therefore recommended the application be approved subject to conditions.

# 9.0 RECOMMENDATION - APPROVAL WITH CONDITIONS

That the Director General of DBCA advises the Minister for Environment that the Canford Hospitality Consultants Pty Ltd proposal, on behalf of Albarossa Pty Ltd, to change the use, additions and alterations to the existing building known as The Kiosk on Lot 1941 on Diagram 213981 (No. 123 Beach Street) Fremantle, as described in the valid application dated 20 November 2017, be approved subject to the following conditions:

Approval to implement this decision is valid for two (2) years from the date of this approval.
If the subject development is not substantially commenced within the two-year period, the
approval shall lapse and be of no further effect.

## Prior to the commencement of works

- 2. 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.
- 3. Prior to the commencement of works or any development being undertaken on the site, the applicant shall submit for approval to the Department of Biodiversity, Conservation and Attractions, on the advice of the City of Fremantle, details of bicycle parking facilities.

## **During works**

- The works shall take place in accordance with the approved plans and Drawings 01 to 04 inclusive, as supplied with the application, unless modified by a condition of this approval.
- 5. The development shall be connected to the reticulated sewerage system.
- All stormwater from the development shall be contained onsite unless otherwise approved by the Department of Biodiversity, Conservation and Attractions, on advice of the City of Fremantle.

#### On completion of works

7. Within 14 days of the completion of the works, the applicant shall remove all waste materials, equipment and machinery and ensure the site is cleaned-up to the satisfaction of the Department of Biodiversity, Conservation and Attractions, on advice from the City of Fremantle.

#### ADVICE TO APPLICANT

 Notification of commencement of work and plans can be emailed to <u>rivers.planning@dbca.wa.gov.au</u>.

#### 2.0 CONSULTATION

#### City of Fremantle

2.1 The City of Fremantle provided its advice to DBCA, supporting the proposal subject to conditions and advice (Attachment 2). This advice has been incorporated into the conditions and advice notes of this approval

### 3.0 PUBLIC COMMENT - SUBMISSIONS ON DRAFT REPORT

- 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 the City of Fremantle. A copy was also published on the DBCA website for a period of two (2) weeks between 28 February 2018 and 14 March 2018 with an invitation for public submissions.
- 3.2 No submissions were received

#### 4.0 RELEVANT POLICIES AND PLANS

- ♦ State Planning Policy 2.10 Swan-Canning River System
- ◆ 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. 45 Planning for Miscellaneous Structures and Facilities in the Swan Canning Development Control Area (Policy 45)
- ◆ Corporate Policy Statement No. 46 Planning for Commercial Operations in the Swan Canning Development Control Area (Policy 46)
- ◆ Corporate Policy Statement No. 49 Planning for Stormwater Management Affecting the Swan Canning Development Control Area (Policy 49)

# 5.0 BACKGROUND

- 5.1 The application proposes to upgrade the north elevation (Beach Street) to include a new facia using solid timber verticals, and the existing limestone is to be bagged and painted white. The timber facia will include new signage.
- 5.2 The proposal includes an additional 111m² of floor space, including alfresco, toilets and amenities, and extended bar, store and office areas. This extension is to the rear of the existing building and includes similar external finishes to the north elevation.
- 5.3 Plans for the proposal are provided in **Attachment 3**. The total cost of these works is expected to be between \$300,000 and \$450,000.

# 6.0 DISCUSSION

- 6.1 In 2014, the Swan River Trust (the Trust) assessed an application under Regulation 14 of the Swan and Canning Rivers Management Regulations 2007 for the enclosure of the alfresco area adjacent to Beach Street These works included construction of a steel roof, bi-fold windows along the boundary, and the raising of the limestone wall to 900mm.
- 6.2 The works were assessed in terms of visual amenity, stormwater management, public access and safety, and vegetation protection. The Trust determined the works would have minimal adverse impact on the river or the DCA, would soften and improve the look of the building, and therefore the works were approved subject to conditions.

- The applicant is advised that this approval does not negate the need to obtain any other necessary approval from relevant agencies, or from the Department of Biodiversity, Conservation and Attractions.
- 3. The City of Fremantle advises that prior to commencement of development, a report is to be submitted to the City by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures to limit noise impact on adjoining properties to within the requirements of the Environmental Protection Act 1986.
- 4. The City of Fremantle advises that the design and materials of the development are to adhere to the requirements set out within City of Fremantle policy L.P.P2.3 Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development should provide the following:
  - Glazing to windows and other openings are to be laminated safety glass of a minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm; and
  - Roof insulation in accordance with the requirements of the Building Codes of Australia.
- 5. The City of Fremantle advises that the signage is not to contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
- 6. The City of Fremantle advises that prior to occupation, the applicant is to submit a waste management plan for approval by the City, detailing the storage and management of the waste generated by the development. The waste management plan is to be implemented to the satisfaction of the Chief Executive Officer, City of Fremantle.
- 7. The City of Fremantle advises the Tavern hours of opening are limited to:

Monday to Saturday

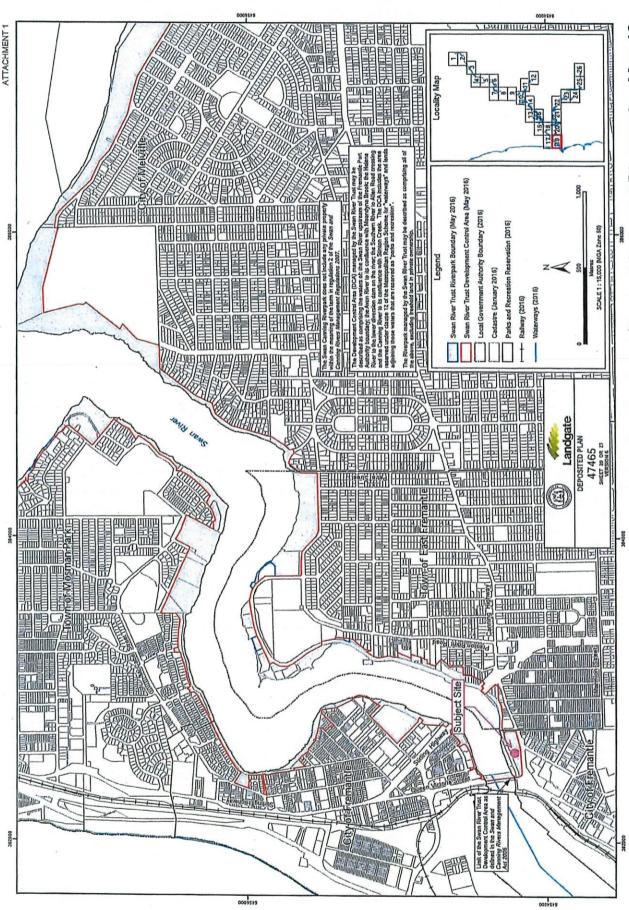
6:00am to 12:00am (midnight)

Sunday

10:00am to 12:00am (midnight)

- 8. The City of Fremantle advises that the paving and landscaping depicted outside the lease boundaries of the subject property does not form part of this approval. The applicant is to undertake ground stability assessment due to the nature of the surrounding landscape.
- The City of Fremantle advises that the proposed works are within the City's irrigation
  assets. The proponent is to liaise with the City's Parks Department in relation to required
  relocation of irrigation components. The cost of these works will be covered by the
  applicant.

| FINAL REPORT | ENDORSED |
|--------------|----------|
| Signed:      | Date:    |



Development Control Area and Riverpark Map 19

- safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.
- b) Roof insulation in accordance with the requirements of the Building Codes of Australia.
- The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
- 7. Prior to occupation, the development hereby permitted shall be connected to an approved reticulated sewerage system.
- 8. Prior to occupation, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented to the satisfaction of the Chief Executive Officer, City of Fremantle,
- The Tavern hours of opening are limited between the following hours:
  - Monday to Saturday 6am to 12:00am (midnight)
  - Sunday 10:00am 12:00am (midnight)

# Advice Note(s):

- i. The proponent must make application during the Building License application stage to the City's Environmental Health Services via Form 1 Application to construct, alter or extend a public building as a requirement of the Health (Public Buildings) Regulations 1992. For enquiries and a copy of the application form contact the City's Environmental Health Services by email health@fremantle.wa.gov.au or telephone 9432 9856.
- ii. The proponent must make application to establish the food business so that the premises comply with the Food Act, Regulations and the Food Safety Standards incorporating AS4674-2004 Design, construction and fit-out of food premises. Submit detailed architectural plans and elevations to the City's Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For enquiries and a copy of the application form contact the City's Environmental Health Services by email health@fremantle.wa.gov.au or telephone 9432 9856.
- lii. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.

From:

Justin Lawrence

To: Cc: Rivers Planning Chantal MacKenzie

Subject:

RE - Development Application Referral to DPAW - DA0472/17 (Cranford Hospitality) - No.123 Beach Street,

Fremantle - City of Fremantle

Date:

Monday, 4 December 2017 2:52:17 PM

Attachments:

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image008.jpg

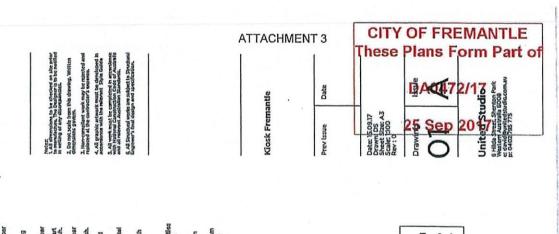
To whom it may concern,

Please see below the City of Fremantle referral response (conditions and advice notes) for DA0472/17 – Change of use from Restaurant to Tavern and additions and alterations to the existing building.

# Council, under delegation 4.7:

REFER to the Department of Parks and Wildlife with a recommendation for APPROVAL under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the proposed change of use from restaurant to tavern at No.123 (Lot 1941) Beach Street, Fremantle, subject to the following conditions:

- This approval relates only to the development as indicated on the approved plans dated 25 September 2017. It does not relate to any other development on this lot.
- All storm water discharge shall be contained and disposed of on site or otherwise approved by the Chief Executive Officer, City of Fremantle.
- 3. Prior to the issue of a Building Permit, two Class 1 and two Class 3 bicycle racks shall be provided, to the satisfaction of the Chief Executive Officer, City of Fremantle.
- 4. Prior to commencement of development, a report shall be submitted by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures to limit noise impact on adjoining properties to within the requirements of the Environmental Protection Act.
- 5. Prior to the Issue of a Building Permit, the design and materials of the rear new addition development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
  - a) Glazing to windows and other openings shall be laminated



New External signage

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External limber dadding - solid limber verticals, timber fascia.

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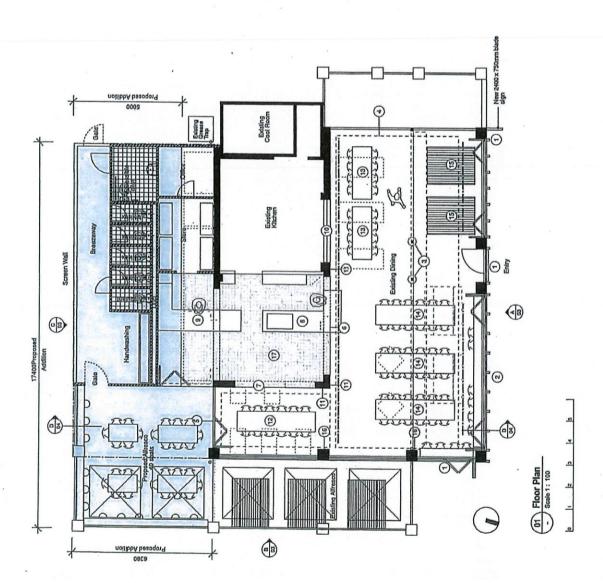
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Long high tables with stools Long high table with stools

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New Uled floor

Existing Wall New 100 mm Stud wall Existing be removed



iv. The paving and landscaping depicted outside the lease boundaries of the subject property not being part of this approval. The proponent is to undertake ground stability assessment because of the nature of the surrounding landscape with deposits of limestone. Possibility of subterranean voids and limestone deposit impacting on the future construction activities.

The trees adjacent to future construction site will be protected throughout the construction period by a Tree Protection Zone (TPZ). The TPZ shall:

- Be a clear mesh type barrier fence in a 2.4m x 2.4m square around the tree and a minimum of 1.8m high.
- Allow for free and clear passage of pedestrians on the footpath or adjacent portion of the verge;
- · Provide for clear visibility, driveway access, crosswalks
- Be 0.6 metres or more from the kerb to provide for the opening for car doors:
- Provide access to any service utilities within the verge;
- Be strong enough to withstand knocks from machinery and vehicles and deter them from entering the TPZ:
- . Be maintained in good effective condition until the work is completed.
- Proposed works are within City's irrigation assets. The proponent needs to liaise with City's Parks Department in relation to required relocation of irrigation components. The cost of these works will be covered by the proponent.

For further queries relating to verge infrastructure modifications please contact the Infrastructure Engineering department via <a href="mailto:TECHSERVICES@fremantle.wa.gov.au">TECHSERVICES@fremantle.wa.gov.au</a> or 9432 9999.

If there is anything further required please let me know.

Kind Regards,

**Justin Lawrence** 

Coordinator Statutory Planning Development Approvals T 08 9432 9742 E justinl@fremantle.wa.gov.au 8 William Street Fremantle 6160 www.fremantle.wa.gov.au



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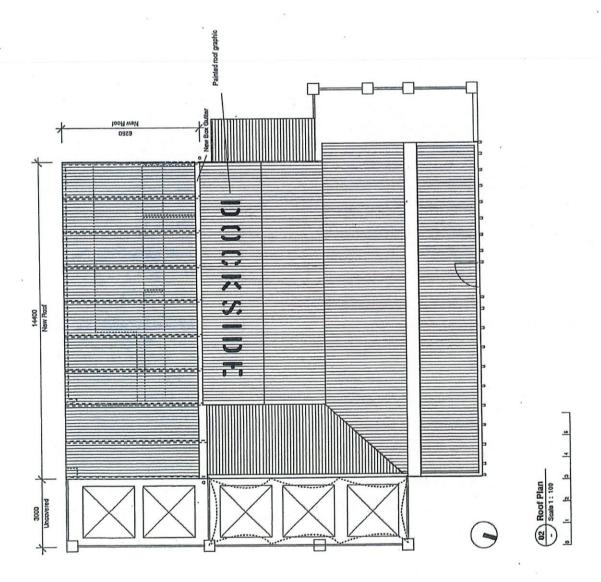
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# **Rivers Planning**

From:

Justin Lawrence <JUSTINL@fremantle.wa.gov.au>

Sent:

Monday, 3 February 2020 1:37 PM

To:

Rivers Planning

Subject:

RE: ATT: Planning - Section 84 - Request for Extension to 2017/4825 - 123 Beach Street,

Fremantle - Change of Use, Additions and Alterations

Follow Up Flag:

Follow up

Flag Status:

Completed

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments. Hi Liz,

The City has no additional comments to make on this application and request.

Regards,

#### **Justin Lawrence**

Coordinator Statutory Planning T 08 9432 9742



From: Rivers Planning [mailto:rivers.planning@dbca.wa.qov.au]

Sent: Wednesday, 29 January 2020 10:34 AM

To: Information Request

**Subject:** ATT: Planning - Section 84 - Request for Extension to 2017/4825 - 123 Beach Street, Fremantle - Change of Use, Additions and Alterations

Good afternoon,

SECTION 84 – REQUEST FOR EXTENSION TO 2017/4825 – 123 BEACH STREET, FREMANTLE – CHANGE OF USE, ADDITIONS AND ALTERATIONS – CRANFORD HOSPITALITY CONSULTANTS ON BEHALF OF ALBAROSSA PTY LTD

The Department of Biodiversity, Conservation and Attractions (the department) has received a request under Section 84 of the Swan and Canning Rivers Management Act 2006 for a 12 month extension to the above-mentioned approval.

Please find attached a copy of the variation request. A copy of the City's advice on the original application has also been included for your reference.

The original application was determined by the Minister for Environment on 21 April 2018. A copy of the determination can be downloaded from the department's website here: <a href="https://www.dpaw.wa.gov.au/management/swan-canning-riverpark/planning-development-and-permits/applications/item/3571-part-5-albarossa-pty-ltd-fremantle">https://www.dpaw.wa.gov.au/management/swan-canning-riverpark/planning-development-and-permits/applications/item/3571-part-5-albarossa-pty-ltd-fremantle</a>

On behalf of the Minister for Environment, the department is required to give notice and seek comment from the local government and other public authorities consulted in respect to the original application. Accordingly, could you please provide a response within 14 days of receipt of this email. Should you not be able to respond within this time, please notify the department as soon as possible, outlining reasons for the delay and a date when a response may be available.

Please forward your response via email to <a href="mailto:rivers.planning@dbca.wa.gov.au">rivers.planning@dbca.wa.gov.au</a> or mail marked for the attention of Administration Officer, Statutory Planning, Rivers and Estuaries Branch. In all correspondence please quote the reference number 20/0203.

Should there be any queries regarding this matter, please contact Liz Harrison, Environmental Officer, on 9278 0920.

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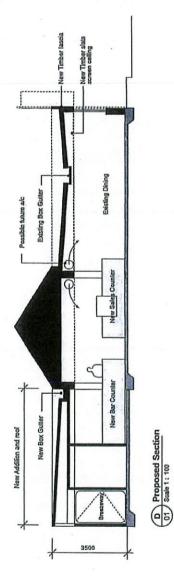
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#### Regards,

Liz Harrison | Environmental Officer

Rivers and Estuaries Branch | Department of Biodiversity, Conservation and Attractions

17 Dick Perry Avenue, Technology Park, Western Precinct, Kensington 6151

Locked Bag 104, Bentley Delivery Centre WA 6983

P: 08 9278 0920 | rivers.planning@dbca.wa.gov.au

Web: https://www.dpaw.wa.gov.au/management/swan-canning-riverpark

# CARING FOR THE SWAN CANNING RIVERPARK



Ospariment of Glodiversity, Conservation and Alfractions







# For sick or injured native wildlife

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