



CORPORATE POLICY STATEMENT NO. 42

PLANNING FOR LAND USE, DEVELOPMENT AND PERMITTING AFFECTING THE SWAN CANNING DEVELOPMENT CONTROL AREA

June 2016

1. OBJECTIVE

The objective of this policy is to ensure land use, development and other permitted works, acts and activities in or affecting the Swan Canning Development Control Area (DCA):

- maintain and enhance the ecological health, community benefits and amenity of the Swan Canning river system;
- make suitable provisions for foreshore areas that can be reserved and protected under planning schemes and acquired as public land; and
- do not create obstructions to the flow of flood waters of the river system and that appropriate provisions are made to minimise property damage by major flood flows.

2. SCOPE

This policy provides direction and guidance regarding how the Department of Parks and Wildlife (the department) assesses development and permit applications in accordance with the *Swan and Canning Rivers Management Act 2006* (SCRM Act) and the *Swan and Canning Rivers Management Regulations 2007* (SCRM Regulations). It also provides direction and guidance regarding how the department provides advice on proposed development and land use changes in accordance with 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.

Proponents should have due regard for this policy when planning:

- land use changes or preparing applications for subdivision and development that are in and around the DCA or that may affect the DCA; and
- permit applications for works, acts and activities in the DCA.

This policy provides guidance to other decision making authorities regarding the department's position regarding appropriate land use, development and permitting in and around the DCA. It is a link between the SCRM Act and the more detailed development policies.

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

The Swan and Canning rivers and adjacent foreshores are the centrepiece of the Perth metropolitan region. The rivers and their foreshores have significant ecological value and perform an important floodplain function. They are an important landscape feature of scenic quality, hold cultural and heritage significance to Noongar and other peoples and are a focus for tourism and recreation activities for residents and visitors to Perth.

The Swan Canning river system is subject to increasing pressures from development on the waterways, within the DCA and in the Swan Canning Catchment. Within the DCA there is a need to balance development with the strong community desire to conserve and enhance the riverine environment, protect its amenity and maintain and improve public access to the rivers for a range of recreation activities.

Tributaries and drains associated with the river system provide protection from flooding and inundation by controlling surface and groundwater flows. The river system drains urban land, with increasing residential and industrial use contributing to nutrient input, low oxygen levels and non-nutrient contamination.

Development within the flood plain (made up of the floodway and flood fringe) is a significant issue in relation flood management. In many cases, fill is proposed to raise ground levels and reduce the risk of flooding on a development, however this presents risks in terms of contamination and landscape protection. Filling is considered to be development for the purposes of the SCRM Act.

This policy supports the implementation of *State Planning Policy 2.10: Swan Canning River System* (WAPC, 2006). The department will have due 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 proposals made under the SCRM Act.

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, through a permit.

In performing its statutory planning functions, the department also assesses and provides advice and recommendations to the Western Australian Planning Commission (WAPC) and local governments on a range of land use, subdivision and development proposals adjoining and affecting the DCA. These proposals 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 MRS, the department will:

Ecological health

- 5.1 Provide support, advice and decisions which protect and enhance the Swan Canning river system's ecological health. This includes maintaining tributary and stream habitats and their natural drainage functions, reducing nutrient enriched and polluted water inputs from adjacent land uses, minimising erosion of stream banks and protecting wetland ecosystems and associated wildlife habitats.
- 5.2 Prioritise the protection of threatened flora and fauna and threatened ecological communities.
- 5.3 Promote the maintenance and restoration of natural vegetation and encourage proponents to retain existing native vegetation as a means of protecting linkages and natural vegetation corridors. Proposals should avoid the removal or fragmentation of native vegetation, where possible. As a guide, any vegetation removed within the DCA will likely be required to be replanted at a minimum ratio of 3 to 1 with appropriate local native species.
- 5.4 Maintain a presumption against proposals which may, either directly or indirectly, unacceptably degrade shallow river flats, foreshore vegetation, fringing wetlands, saltmarshes or tributaries associated with the Swan Canning river system.
- 5.5 Where necessary, require the preparation and implementation of a Construction Environmental Management Plan, as a condition of approval, to manage environmental impacts associated with a land use or development.
- 5.6 Where a proposal has the potential to contribute long term impacts on the Swan Canning river system, consider the need for a proponent to prepare and implement, as a condition of approval, an Environmental Management System to minimise any potential ongoing environmental impacts of development and use.
- 5.7 Have due regard for the provisions of relevant international and national agreements, State environment and planning legislation, policy, plans and strategies when assessing proposals affecting the ecological health of the Swan Canning river system.

Landscape protection

- 5.8 Have due regard for the provisions of the *Visual Landscape Planning in Western Australia: A manual for evaluation, assessment, siting and design* when considering a proposal's impact on the landscape. Proposals should enhance and protect the character and landscape setting of the Swan Canning river system. Typically, proposals should protect treelines and not dominate or overshadow public areas and views. Proponents will likely be required to provide a schedule of colours, materials and finishes as part of the development application process. For proposals that are likely to have a significant impact on

the landscape, the department will require proponents to undertake a comprehensive landscape analysis in accordance with the manual.

- 5.9 Consider, protect, and where appropriate, enhance significant landmarks, views and vistas.
- 5.10 Promote the use of planning provisions in the MRS and local planning schemes, to protect and enhance the landscape values of the Swan Canning river system.

Recreation opportunities and public access

- 5.11 Make provisions for public access and enjoyment of the Swan Canning river system including its foreshores in a manner that is consistent with the multiple use of the DCA and the preservation of the values of the land itself. The environment must be able to sustain the development and use proposed.
- 5.12 Encourage a range of tourism and recreation facilities to be provided for in a local and regional context thereby providing visitors to the Swan Canning river system with a choice of recreation activities and experiences.
- 5.13 Ensure the development of tourism, recreation facilities and the provision of public access on foreshore land are consistent with the relevant reserve's assigned purpose.
- 5.14 Seek to ensure that the river foreshores are linked through the provision of walking and cycle trails which connect places of natural and cultural interest as well as commercial and community facilities.
- 5.15 Ensure proposals do not impair other forms of acceptable use or jeopardise the safety of others utilising the Swan Canning river system and its foreshores. Where potential conflict with other forms of acceptable use may occur as a result of proposal, the proponent will be required to demonstrate how the conflict can be resolved to the satisfaction of the department. This may require the redesign of the proposal to prevent or limit conflicts or the provision or relocation of facilities and uses to a more appropriate place. The department may refuse or recommend refusal of a proposal if it is not satisfied that the potential conflicts have been adequately addressed.
- 5.16 Utilise relevant Australian Standards when assessing proposals for recreation facilities and public access.

River foreshores

- 5.17 Promote the protection of river foreshores by advising the WAPC to reserve them for Parks and Recreation in the MRS where appropriate. The Parks and Recreation reservation should cover areas with conservation, recreation and landscape amenity values. In providing advice regarding the extent of the Parks and Recreation reservation, the department may seek to:
 - protect the ecological health of the river system, conserve significant natural features and facilitate improved management addressing issues such as riverbank erosion and surface water run-off from adjacent areas;
 - safeguard amenity and significant landscapes; and

- provide recreation opportunities and public access to, and along, the foreshores.
- 5.18 Not likely support proposals that could prejudice the future acquisition of river foreshore land by the WAPC for Parks and Recreation.
- 5.19 Promote the provision of a minimum width of 30 metres for foreshore land reservations. When providing advice or making recommendations on the width of a foreshore reservation, the department will have due regard for Department of Water's *Operational policy 4.3: Identifying and establishing waterways foreshore areas* and will consider:
- the area needed at the land-water interface to allow for changes in bank position through natural processes of erosion and accretion;
 - tidal and flooding characteristics, including predicted sea level rise;
 - the presence of fringing vegetation noting its role as a biological filter protecting water quality, as a wildlife habitat and in controlling erosion;
 - foreshore topography; and
 - the need to protect areas for conservation purposes, recreation and public access, and landscape value.
- 5.20 Where appropriate, promote a road interface between a foreshore land reservation and adjacent urban development to enable proper access, separate land uses, improve passive surveillance and public safety, and support appropriate bushfire protection.
- 5.21 Where foreshore land is privately owned, reserved for Parks and Recreation under the MRS and forms part of a subdivision proposal, encourage the WAPC to require its ceding to the Crown as a condition of subdivision approval as provided for by section 152 of the *Planning and Development Act 2005*.
- 5.22 Promote the acquisition of land reserved for Parks and Recreation in the MRS by the WAPC when public ownership of the land is necessary to enable proper and effective management of the foreshore.
- 5.23 Recommend the most appropriate agency in which land acquired by the WAPC for Parks and Recreation should be vested and a suitable reserve purpose.
- 5.24 Likely require, as a condition of approval, the proponent to prepare and implement a foreshore management plan where a foreshore reserve is created adjacent to a development or subdivision that is likely to result in significant pressure on that reserve. Please refer to the department's *Guidelines for Developing Foreshore Management Plans in the Swan Canning Riverpark*.
- 5.25 Where appropriate, require a suitable mechanism to guarantee completion of foreshore management works. In assessing an application, the department may consider the ability of the applicant to fully implement a proposal. Where necessary, the department may seek a legal agreement with the applicant, or other guarantor, that works shall be completed within the approval period.
- 5.26 Consider proposals within the DCA in the context of the extent to which the development is pertinent to the Swan and Canning river system.

Flood prone land

- 5.27 Have due regard for the broader environmental and planning implications of development within the flood plain (made up of the floodway and flood fringe), which is an integral part of the Swan Canning river system. Maps delineating the extent of the floodway and the flood fringe are available from the Department of Water.
- 5.28 Not support development of land within the floodway where such development significantly affects the normal flow of the Swan and Canning rivers during floods and/or will lead to the degradation the natural features of the river system. Minor development, such as small barbeques, pergolas or playground and exercise equipment, may be considered where the structure will not likely impede the flow of flood waters.
- 5.29 Require all development proposed within the flood fringe to be designed to minimise damage during a major flood event. Development within the flood fringe is to comply with a minimum habitable floor level of 0.5 metres above the relevant 100-year ARI flood level to provide protection from flooding. The department will have due regard for the Department of Water's floodplain management process and advice on flood risk.
- 5.30 Require, as a means of preventing possible contamination, any fill and/or topsoil being brought onto a development site in, or immediately adjacent to, the DCA to be certified clean (as defined by the Department of Environment Regulation's *Landfill Waste Classification and Waste Definitions 1996/2009*), uncontaminated, and free from rubble, weeds and plant disease. During development no top soil, runoff or other material is allowed to enter the Swan Canning river system.
- 5.31 Require any filling proposed as part of development in the DCA and within the flood fringe to be graded to existing natural contours, with side slopes to be no steeper than 1:4 (vertical : horizontal) and to be suitably protected against potential erosion during storm events and major river flows. To this end, the department supports the retention and use of local riparian vegetation to assist in stabilising banks.
- 5.32 In considering a proposed subdivision on land partly within the flood fringe, advise the WAPC to require that each resultant land parcel includes a building envelope of land outside the flood fringe area.

Heritage

- 5.33 Encourage proponents to consult with local Aboriginal people as it recognises that the Swan and Canning rivers hold particular spiritual and mythological cultural significance for them. Proponents are to ensure they comply with the requirements of the *Aboriginal Heritage Act 1972* and the *Native Title Act 1993*.
- 5.34 Support the protection of cultural heritage places including the built environment, natural resources and sites of significance to both Aboriginal and non-Aboriginal people. The department will consider the impact that proposals may have on heritage places within its DCA and may seek advice from other relevant agencies or bodies.

5.35 Consider the provisions of the Australian ICOMOS charter (more commonly known as *The Burra Charter*) for the conservation of places of cultural heritage significance or other heritage documents and legislation when assessing proposals within the DCA.

6. POLICY IMPLEMENTATION STRATEGIES

To implement this policy the department will:

Swan River Trust

- 6.1 Consult with the Swan River Trust when assessing proposals 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 proposals 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 proposals and 'clearing' conditions of approval.

Assessment of proposals

- 6.5 Seek appropriate advice when assessing proposals. 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 proposals.
- 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, conservation, land use, landscape, Parks and Recreation, Metropolitan Region Scheme, public access, foreshore, flood prone land, flood plain, floodway, flood fringe, heritage, landfill.

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