



GUIDELINE SRT/A1 VARIATION OR EXTENSION OF APPROVAL APPLYING SECTION 84

BACKGROUND

The *Swan and Canning Rivers Management Act 2006* came into effect on 25 September 2007, replacing the *Swan River Trust Act 1988*. It includes a provision (section 84) that allows the Minister for the Environment to authorise a minor variation or extension to a development approval. This is a new power that was not available under the previous Act.

The wording of section 84 leaves the term 'minor variation' open to interpretation. It also assigns tasks to the Minister which may be more practically carried out by the Trust on behalf of the Minister. These guidelines have been developed to set out how section 84 will be administered and to ensure that it is used for its intended purpose.

OBJECTIVES

The objectives of this guideline are to establish:

- a practice for applying section 84 that reflects its purpose;
- the Trust's expectations regarding a 'minor variation' to an approval;
- the situations where an extension of time for an approval may be supported; and
- the Trust's role in administering section 84.

GUIDANCE

SRT/A1.1 Purpose of section 84

The purpose of section 84 is to allow the Minister to authorise a minor variation to an approval or to extend the time that an approval is valid, provided that consultation with the relevant authorities is undertaken. Section 84 was included in the *Swan and Canning Rivers Management Act 2006* to allow small changes to be made to approvals without the need for a new development application to be submitted and assessed, as was the case with the *Swan River Trust Act 1988*.

SRT/A1.2 Minor variation

The Trust considers that a minor variation is one where the proposed variation:

- does not include physical changes to the proposed works that are significant enough to require a development application in its own right;
- is not in relation to issues where public comment has previously been sought, or where public comment would be required as a result of the variation;
- will not result in a significant detrimental effect on the ecological health or long-term community benefit of the Swan Canning river system that is in addition to, or different from, the effect of the original approval; and
- in the case of variation to conditions, does not alter the intent of the condition or the outcome of the approval.

Where conditions form part of the approval, they may also be subject to a minor variation under section 84. It is necessary to limit the use of section 84 with respect to variation of conditions to ensure that the Minister’s determination maintains finality. Applicants with an objection to the intent of a condition can pursue a request for reconsideration of a condition within 28 days of receiving the Minister’s determination, pursuant to section 82 of the *Swan and Canning Rivers Management Act 2006*.

SRT/A1.3 Extension of approval

Development approvals issued under Part 5 of the *Swan and Canning Rivers Management Act 2006* generally expire two years from the date of approval, unless works have substantially commenced. Section 84 allows the Minister to extend the time frame of the approval up to a further 12 months.

The Trust may support an extension of approval where:

- the applicant has demonstrated that the conditions of approval have been met to date; and
- the Trust considers that a review of the approval is not required to adequately control the social and environmental impacts of development.

SRT/A1.4 Administration of section 84 on behalf of the Minister

Section 84 specifies that the Minister may authorise a variation or extension of approval on the application of a person to whom an approval was given. It also sets out responsibilities for the Minister regarding consultation with the relevant local government(s) and government agencies. For practical purposes, the Trust administers much of this process on behalf of the Minister. The administrative procedure for section 84 is outlined below.

1. A person who has been given development approval applies for a minor variation or extension of approval to the Trust, on behalf of the Minister.
2. On behalf of the Minister, the Trust issues notice of the proposal to authorise a variation or extension to each local government and other public authority that was initially consulted regarding the development application.
3. Trust officers consider all submissions received with respect to point 2 above, assess the proposed variation and prepare a report.
4. On behalf of the Trust, the general manager considers the report and makes a recommendation to the Minister.
5. The Trust report and recommendations, as well as the submissions received from the local government and public authorities, are presented to the Minister for his consideration.
6. The Minister makes a decision whether or not to authorise the variation.

RELATED DOCUMENTS

- Flowchart *s84 Variation or Extension of Approval* (available at www.swanrivertrust.wa.gov.au)

ADOPTION AND REVIEW DATES

Final Adoption Date	Review Date
10 March 2008	10 March 2013

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