

minutes

Ocean Reef Marina Committee

MEETING HELD ON **MONDAY, 15 JULY 2013**

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CITY OF JOONDALUP

MINUTES OF THE OCEAN REEF MARINA COMMITTEE MEETING HELD IN CONFERENCE ROOM 2, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 15 JULY 2013.

ATTENDANCE

Committee Members:

Mayor Troy Pickard	<i>Presiding Member</i>
Cr Geoff Amphlett, JP	
Cr John Chester	
Cr Russ Fishwick, JP	
Cr Christine Hamilton-Prime	
Cr Kerry Hollywood	
Cr Philippa Taylor	<i>Deputy Presiding Member</i>
Cr Sam Thomas	

Observers:

Cr Tom McLean, JP

Officers:

Mr Garry Hunt	Chief Executive Officer
Ms Dale Page	Director Planning and Community Development
Mr Brad Sillence	Manager Governance
Mr Blignault Olivier	Manager City Projects
Mrs Genevieve Hunter	Executive Project Officer
Mr John Byrne	Governance Coordinator
Mrs Lesley Taylor	Governance Officer

Guests:

Ms Karen Hyde	Taylor Burrell Barnett
Ms Julia Morgan	Strategen

DECLARATION OF OPENING

The Presiding Member declared the meeting open at 6.14pm.

APOLOGIES/LEAVE OF ABSENCE

Leave of Absence previously approved

Cr John Chester	24 July to 30 July 2013 inclusive.
Cr Teresa Ritchie	12 August to 16 August 2013 inclusive.

CONFIRMATION OF MINUTES**MINUTES OF THE OCEAN REEF MARINA COMMITTEE MEETING HELD ON 5 DECEMBER 2012**

MOVED Cr Fishwick, SECONDED Cr Hamilton-Prime that the minutes of the meeting of the Ocean Reef Marina Committee held on 5 December 2012 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (8/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Hamilton-Prime, Hollywood, Taylor and Thomas.

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

DECLARATIONS OF INTEREST**Disclosure of Financial Interest/Proximity Interest**

Nil.

Disclosure of interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the *Local Government [Rules of Conduct] Regulations 2007*) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Mayor Troy Pickard.
Item No./Subject	Item 1 – Ocean Reef Marina – Metropolitan Region Scheme Amendment Request.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Mayor Pickard is a patron of Whitford Volunteer Sea Rescue Group.

Name/Position	Cr Sam Thomas.
Item No./Subject	Item 1 – Ocean Reef Marina – Metropolitan Region Scheme Amendment Request.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Thomas is a member of Whitford Volunteer Sea Rescue Group.

Name/Position	Mayor Troy Pickard.
Item No./Subject	Item 2 – Ocean Reef Marina – Project Status Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Mayor Pickard is a patron of Whitford Volunteer Sea Rescue Group.

Name/Position	Cr Sam Thomas.
Item No./Subject	Item 2 – Ocean Reef Marina – Project Status Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Thomas is a member of Whitford Volunteer Sea Rescue Group.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

In accordance with Clause 76 of the City's *Standing Orders Local Law 2005*, this meeting was not open to the public.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS**Disclosures of interest affecting impartiality**

Name/Position	Mayor Troy Pickard.
Item No./Subject	Item 1 – Ocean Reef Marina – Metropolitan Region Scheme Amendment Request.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Mayor Pickard is a patron of Whitford Volunteer Sea Rescue Group.

Name/Position	Cr Sam Thomas.
Item No./Subject	Item 1 – Ocean Reef Marina – Metropolitan Region Scheme Amendment Request.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Thomas is a member of Whitford Volunteer Sea Rescue Group.

ITEM 1 OCEAN REEF MARINA – METROPOLITAN REGION SCHEME AMENDMENT REQUEST

WARD	North-Central
RESPONSIBLE DIRECTOR	Mr Garry Hunt Chief Executive Officer
FILE NUMBER	04171B, 101515
ATTACHMENTS	Attachment 1 Ocean Reef Marina: MRS Amendment Request Attachment 2 MRS Amendment Request Process Attachment 3 Environmental and Planning Approvals Strategy – Timeline <i>(Please Note: Attachment 1 is only available electronically)</i>
AUTHORITY / DISCRETION	Executive - The substantial direction setting and oversight role of Council, such as adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

PURPOSE

For Council to consider the Ocean Reef Marina Metropolitan Region Scheme (MRS) Amendment Request report.

EXECUTIVE SUMMARY

Glossary of Terms

DER	Department of Environment Regulation.
DoL	Department of Lands.
DoP	Department of Planning.
DPS	<i>District Planning Scheme No. 2.</i>
DSEWPC	Department of Sustainability, Environment, Water, Population and Communities (Cwlth).
EPA	Environmental Protection Authority.
EP Act	<i>Environmental Protection Act 1986.</i>
EPBC	<i>Environmental Protection and Biodiversity Conservation Act 1999</i> (Cwlth).
MRS	<i>Metropolitan Region Scheme.</i>
MOU	The Ocean Reef Marina Memorandum of Understanding between the City and State Government (formally signed February 2012).
OEPA	Office of the Environmental Protection Authority.
WAPC	Western Australian Planning Commission.

At its meeting held on 11 December 2012 (CJ286-12/12 refers) Council agreed, in part to:

“1 *ENDORSE an integrated Environmental and Planning Approvals Strategy for the Ocean Reef Marina development and the preparation of a request for a major MRS amendment and corresponding Section 48A Environmental Protection Act 1986 assessment.*”

To facilitate the above, extensive consultation and liaison occurred with the following State Government departments and agencies:

- WA Planning Commission (WAPC).
- Department of Environment Regulation (DER – formerly Department of Environment and Conservation).
- Office of the Environmental Protection Authority (OEPA).
- Water Corporation.
- Department of Fisheries (DoF).
- Department of Transport (DoT).
- Department of Lands (DoL – formerly Department of Regional Development and Lands).

Through its role as lead agency for the project, advice from the Department of Planning (DoP) was integral to the preparation of the MRS amendment request report (Attachment 1 refers).

Details of the activities undertaken to support the MRS amendment request and to progress the development of a Local Structure Plan are provided in the report to the Ocean Reef Marina Committee titled *Ocean Reef Marina: Project Status Report*.

The MRS amendment request is for the rezoning and rationalisation of 76.502ha in Ocean Reef from ‘Parks and Recreation, Waterways and Public Purpose’ to ‘Urban, additional Waterways zones and new Parks and Recreation Reserve Lands’. The amendment also includes a proposal to exclude a parcel of water from the Marmion Marine Park.

Based on existing knowledge and experience derived from similar marina-type developments, an MRS amendment program has been prepared (Attachment 2 refers). It should be noted that the timelines and milestones highlighted are dependent on the determinations of both the WAPC and the EPA.

The MRS amendment request report will be submitted to the WAPC for consideration and, if successful, will enable the development of the Ocean Reef Marina.

It is not a legal requirement for the Chief Executive Officer to submit the MRS amendment request to Council for endorsement. However, in view of the complexity and extensive community interest in the project, it is considered appropriate that Council formally endorse the submission of the MRS Amendment to the WAPC.

It is therefore recommended that Council:

- 1 *NOTES the Metropolitan Region Scheme amendment request report;*
- 2 *NOTES the Metropolitan Region Scheme amendment process and the Environmental and Planning Approvals Strategy Timeline provided as Attachments 2 and 3 to this Report;*
- 3 *REQUESTS the Chief Executive Officer to submit the Metropolitan Region Scheme amendment request, provided as Attachment 1 to this report to the Western Australian Planning Commission for consideration.*

BACKGROUND

In August 2011 the City commissioned consultants Taylor Burrell Barnett in collaboration with environmental consultants Strategen to formulate an environmental and planning approvals strategy for the Ocean Reef Marina.

The resultant strategy, formulated with input, advice and opinion from the DEC, DoP and OEPA, recommended that the EPA be approached with a request to provide strategic advice on the development pursuant to Section 16 of the *Environmental Protection Act 1986* (EP Act). It was proposed that this process would enable the City to receive upfront advice on the likely environmental acceptability of the project and the management of the key environmental issues.

At its meeting held on 11 October 2011 (C52-10/11 refers) Council endorsed obtaining strategic advice from the EPA via a Section 16 EP Act submission and noted the actions to be taken to obtain this advice.

Through discussions with the various agencies, it became more apparent that a Section 38 and/or 48A environmental assessment process may be more appropriate because the adjustment to the marine park boundary (if required) to accommodate the development should occur as part of an overall MRS amendment process. This ensures that the merits of the project, adjustments, offsets, sustainability and access issues are considered holistically. Impact upon and adjustment to the marine park should be considered in light of the overall project rather than in isolation as a single issue. As a major amendment to the MRS, the project would go before both Houses of Parliament and the project benefits and disbenefits weighed against each other.

At its meeting held on 11 December 2012 (CJ286-12/12), it was agreed, in part, that:

“1 Council ENDORSES an integrated Environmental and Planning Approvals Strategy for the Ocean Reef Marina development and the preparation of a required for a Major MRS Amendment and corresponding Section 48A Environmental Protection Act 1986 assessment.”

DETAILS

The Ocean Reef Marina MRS amendment request report (Attachment 1 refers) constitutes a request to the WAPC for the initiation of an amendment to the MRS boundary to enable the development of the Ocean Reef Marina. The report is supported by Concept Plan 7.2, technical information and detailed studies on the environment, water quality, landscape, traffic and transport.

The purpose of the amendment is to rezone and rationalise 76.502 hectares in Ocean Reef from ‘Parks and Recreation, (including some Bush Forever), Waterways and Public Purpose’ to ‘Urban and additional Waterways zones and new Parks and Recreation Reserved Lands’. The amendment also includes a proposal to exclude a parcel of water from the Marmion Marine Park.

The amendment is consistent with a Memorandum of Understanding (MOU) which the City signed with the State Government which recognises the importance of the Ocean Reef Marina. In accordance with the MOU, the City will prepare a Local Structure Plan, to be adopted under Part 9 of the City’s *District Planning Scheme No. 2*. The Local Structure Plan will provide additional detail on the concept plan to guide future development.

The proposed amendment represents a logical advancement in the planning for the land, which responds to the changing context of the site, while at the same time providing for the enhanced protection of sensitive environmental features on and adjacent to the Ocean Reef marina site.

The MRS amendment request report proposes that:

- the land is suitable and capable of being developed for an urban use
- there are no impediments to the development of the land for an urban purpose
- additional community-based parks and recreation would allow greater access and enjoyment of the coast
- the need for boating and marine facilities in the City has been identified over some decades
- the Ocean Reef Marina has been designed to recognise the key environmental and landscape attributes of the location.

The City is requesting that a minor MRS amendment be initiated in accordance with the *Planning and Development Act 2005* (PD Act). While it is procedurally correct for the submission to request a minor MRS Amendment, WAPC will make a determination on how the amendment will be processed (either minor or major) based on the relevant criteria.

It should be noted, that a minor amendment does not signify the project is unimportant or insignificant. Other large capital investment projects have been considered to be minor MRS amendments, for example 70ha of land in Wellard from 'Rural' to 'Urban Deferred' and 80ha of land at Wangara from 'Rural' to 'Industrial'.

The PD Act provides no guidance to the WAPC and the difference between major and minor amendments is essentially a matter of the degree of impact on the region as a whole.

WAPC Development Control Policy 1.9 Amendment to Region Schemes, March 2010, sets out criteria the WAPC takes into account including, present use, impact of future use, history of proposal, area of land involved, future needs, number of land owners involved, consistency with strategic planning and complexity of the proposal.

The MRS amendment may trigger an amendment to the current Marmion Marine Park boundary which requires administration through Parliament. It is anticipated that Marmion Marine Park will be reviewed as part of an upcoming State Government review process. Both the Marmion Marine Park boundary change and an MRS amendment could be administered under a parallel arrangement.

The City is requesting that the MRS amendment be facilitated via Section 48A of the EP Act to allow for consideration of social, economic and environmental factors in a holistic planning and environmental assessment, where environmental elements are considered in a regional planning context rather than as isolated issues. This determination will be made by the OEPA.

The request also seeks that the WAPC act in its lead agency role to facilitate a smooth passage through the process and for the amendment to be recommended for assessment under section 48A of the EP Act.

A program has been prepared, based on the MRS amendment and section 48A assessment processes (including timelines and milestones) (Attachments 2 and 3 refer).

The process undertaken to prepare the MRS amendment request, including the consultation with the relevant agencies, is in line with that carried out for similar marina type developments in recent years. Given the complexity and nature of the issues surrounding obtaining approvals for the development, it should be noted that the timelines provided are subject to the vagaries of the process.

Issues and options considered

It should be noted that although the preferred approach is through a Section 48A environmental assessment approach, the ultimate decision will be made by the OEPA once the proposal is referred by the WAPC, following lodgement of the MRS amendment request by the City. Should the OEPA disagree and select a Section 38 assessment approach instead, all documentation provided for the Section 48A would be completely transferable.

Legislation / Strategic Community Plan / policy implications**Legislation**

The City is governed by the requirements of the *Local Government Act 1995* in relation to dealings involving commercial undertakings and land development.

Other applicable legislation includes:

- *Planning and Development Act 2005*
- *Environmental Protection Act 1986*
- *Environmental Protection, Biodiversity and Conservation Act 1999.*

Strategic Community Plan**Key theme**

Economic prosperity, vibrancy and growth.

Objective

Destination City.

Strategic initiative

- Facilitate the establishment of major tourism infrastructure.
- Encourage diverse accommodation options.

Policy

Recognition that the project will conform to the City's governance framework and is aligned with the Project Philosophy and Parameters Report as endorsed by Council (JSC5-05/09 refers).

Risk management considerations

As previously advised environmental assessment of the Ocean Reef Marina, either via Section 48A or Section 38 of the EP Act will be determined by the OEPA. The activities undertaken to date are relevant and appropriate to either process.

Notwithstanding the considerable amount of work undertaken to ensure the relevant approvals are obtained, the conditions of approval may require modifications to the concept plan. The priority actions in engaging with the relevant departments and agencies were to:

- obtain comment on the concept plan and to identify potential issues that would require further investigation or mitigation strategies
- seek in principle support for the approvals strategy proposed by the City
- develop relationships enabling the City to work closely with these departments and agencies in progressing the project through the approvals process and beyond.

Financial/budget implications

Account no.	C1001
Budget Item	Ocean Reef Marina
Budget amount	\$ 862,045 (2012-13)
Amount spent to date	\$ 376,393
Proposed cost	\$ N/A
Balance	\$ 485,651

All amounts quoted in this report are exclusive of GST.

The 2013-14 budget allocates an amount of \$922,338 (excluding carry forwards from 2012-13) to progress the Ocean Reef Marina development. The budgeted amount includes provision for undertaking detailed studies to support the environmental assessment process and to progress the development of a Structure Plan and Business Case(s) for the development.

Regional significance

The development of the Ocean Reef Marina will become a significant tourist / visitor destination and a key focal point within the northern Perth corridor.

Sustainability implications

Progression of the structure planning process will facilitate a number of studies / reports that address key issues pertaining to sustainability such as economic feasibility and environmental sustainability. The undertaking of these studies is aligned with the Project Philosophy and Parameters Report as endorsed by Council (JSC5-05/09 refers).

Consultation

Extensive consultation was undertaken with State and Commonwealth Government departments and agencies as well as the City's consultants.

COMMENT

The submission of the MRS amendment request represents a major milestone for the Ocean Reef Marina project. Given the recent attention the development has received through the State Government and media, it is considered opportune that the request is submitted to the WAPC.

The MRS amendment request will test the philosophy and intent of the MOU and enable the relevant departments and agencies to take an active role in progressing the project. It will also trigger discussions regarding the ultimate development proponent as well as potential partnership arrangements.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Hamilton-Prime, SECONDED Cr Amphlett that Council:

- 1 NOTES the Metropolitan Region Scheme amendment request report;**
- 2 NOTES the Metropolitan Region Scheme amendment process and the Environmental and Planning Approvals Strategy Timeline provided as Attachments 2 and 3 to this Report;**
- 3 REQUESTS the Chief Executive Officer to submit the Metropolitan Region Scheme amendment request, provided as Attachment 1 to this Report to the Western Australian Planning Commission for consideration.**

The Motion was Put and

CARRIED (8/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Hamilton-Prime, Hollywood, Taylor and Thomas.

Appendix 1 refers

To access this attachment on electronic document, click here:
[Attach1agnORM150713.pdf](#)

Disclosures of interest affecting impartiality

Name/Position	Mayor Troy Pickard.
Item No./Subject	Item 2 – Ocean Reef Marina – Project Status Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Mayor Pickard is a patron of Whitford Volunteer Sea Rescue Group.

Name/Position	Cr Sam Thomas.
Item No./Subject	Item 2 – Ocean Reef Marina – Project Status Report.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Thomas is a member of Whitford Volunteer Sea Rescue Group.

ITEM 2 OCEAN REEF MARINA - PROJECT STATUS REPORT

WARD	North-Central
RESPONSIBLE DIRECTOR	Mr Garry Hunt Chief Executive Officer
FILE NUMBER	04171B, 101515
ATTACHMENTS	Attachment 1 Ocean Reef Marina Project Program
AUTHORITY / DISCRETION	Information - includes items provided to Council for information purposes only that do not require a decision of Council (that is for 'noting').

PURPOSE

For the Ocean Reef Marina Committee to note the information provided on the tasks undertaken to progress the Ocean Reef marina project.

EXECUTIVE SUMMARYGlossary of Terms

DPaW	Department of Parks and Wildlife (formerly Department of Environment and Conservation).
DoL	Department of Lands (formerly Department of Regional Development and Lands).
DoP	Department of Planning.
SEWPC	Department of Sustainability, Environment, Water, Population and Communities (Cwlth).
EPA	Environmental Protection Authority.
EP Act	<i>Environmental Protection Act 1986.</i>

EPBC	<i>Environmental Protection and Biodiversity Conservation Act 1999 (Cwth).</i>
MRS	<i>Metropolitan Region Scheme.</i>
MOU	<i>The Ocean Reef Marina Memorandum of Understanding between the City and State Government (formally signed February 2012).</i>
OEPA	<i>Office of the Environmental Protection Authority.</i>
WAPC	<i>Western Australian Planning Commission.</i>

At its meeting held on 11 December 2012 (CJ286-12/12 refers) Council agreed that:

- “1 *Council ENDORSES an integrated Environmental and Planning Approvals Strategy for the Ocean Reef Marina development and the preparation of a request for a major MRS Amendment and corresponding Section 48A Environmental Protection Act 1986 assessment;*
- 2 *Council NOTES the following actions to be undertaken to progress Part 1 above:*
 - 2.1 *Confirmation of the validity of previous technical advice and update as required. This information will inform the MRS Amendment request report, the project feasibility study and the local structure plan preparation;*
 - 2.2 *Undertake detailed discussions with the Department of Planning and the Office of the Environmental Protection Authority on the format, scope and content of the documentation required for an MRS Amendment and correspondent Section 48A Environmental Protection Act 1986 assessment;*
 - 2.3 *Undertake pre-referral liaison with state and commonwealth agencies relating to the Marmion Marine Park, Bush Forever, Carnaby’s Cockatoo and Graceful Sun Moth;*
 - 2.4 *Development of a Local Structure Plan to support the MRS Amendment and potential City of Joondalup District Planning Scheme No. 2 Amendment;*
- 3 *Council NOTES that an updated project plan will be prepared to align with Parts 1 and 2 above and referred to Council for endorsement;*
- 4 *The Ocean Reef Marina – Environmental and Planning Approvals Strategy Report be uploaded to the City’s public website at the conclusion of this meeting.”*

The principle activities undertaken since December 2012 pursuant to the above decisions include the following:

- Preparation of a request for a Metropolitan Region Scheme (MRS) amendment for submission to the Western Australian Planning Commission (WAPC). The amendment request is the subject of a separate report to the Ocean Reef Marina Committee.
- Engagement of consultants and the undertaking of investigations to validate the assumptions made during the development of Concept Plan 7.2 including land use mix and yields.

- Review and validation of existing studies.
- Extensive engagement with the Department of Planning (DoP), the Office of the Environmental Protection Authority (OEPA) and other relevant State Government departments on the requirements of the MRS amendment and the approvals process.
- Meetings and negotiations with the relevant State and Commonwealth departments and agencies on the issues including:
 - the Environmental and Planning Approvals Strategy (the Strategy)
 - Bush Forever
 - Carnaby's Black Cockatoo
 - Grace Sun Moth
 - Marmion Marine Park.
- Identification of tasks and activities to be undertaken following the submission of the MRS amendment request to enable the preparation of a project program.
- Preparation of a strategy for Bush Forever and other required offsets.

All of the above activities contributed to the preparation of the MRS Amendment request and subsequent *Environmental Protection Act 1986* (EP Act) assessment as well as informing the development of a Local Structure Plan.

Through the above activities a Project Program was prepared which provides a summary of the tasks to be undertaken during the post-referral phase following submission of the MRS amendment request (Attachment 1 refers).

It is therefore recommended that the Ocean Reef Marina Committee NOTES the:

- 1 *Ocean Reef Marina Project Status Report;*
- 2 *Ocean Reef Marina Project Program forming Attachment 1 to this Report.*

BACKGROUND

Concept Plan 7.2

Concept Plan 7.2 was prepared in response to Council's consideration of the amendments made to Concept Plan 7 and the resultant financial feasibility of the amended plan (Concept Plan 7.1). Concept Plan 7.2 addressed Council's decisions of 14 December 2010 (C71-12/10 refers) which sought to ensure an equitable balance between public equity and commerciality within the Ocean Reef Marina development.

Memorandum of Understanding

At its meeting held on 13 February 2012 (JSC01-02/12 refers), Council endorsed the amended Memorandum of Understanding (MOU) for signature by the Mayor and Chief Executive Officer under Common Seal.

The MOU was signed on behalf of the State Government by The Hon Troy Buswell MLA (Minister for Transport) and The Hon John Day MLA (Minister for Planning). In the presence of Premier Colin Barnett, the MOU was signed and sealed by the City at a ceremony held on 14 February 2012.

The MOU articulates the shared commitment of the City and State Government to the Ocean Reef Marina project and was a significant milestone for the project as it is considered of vital importance that the project is officially recognised by the State Government.

The MOU has also raised the awareness of the project within State government departments and provided the impetus for the identification of the Ocean Reef marina as a priority project.

Through the *State Government Lead Agency Framework*, and in support of the MOU, the project has been identified as a Level 1 lead agency project. The lead agency provides support and assistance to project proponents and project officers are assigned from within the lead agency to provide advice and coordinate approvals across government agencies, as may be required. A Level 1 proposal is considered to be of such a scale that it can be accommodated through existing environmental, social and economic assessment processes.

The DoP has been nominated as lead agency for the Ocean Reef Marina project and as such may provide advice and support including introduction to the relevant agencies, negotiating with applicants and the referral to the relevant agencies should issues arise.

Environmental and Planning Approvals Strategy

In August 2011, the City commissioned consultants Taylor Burrell Barnett in collaboration with environmental consultants Strategen to formulate an environmental and planning approvals strategy for the Ocean Reef marina project.

At the workshop held on 9 September 2011 (attended by representatives from State Government departments and agencies) it was recommended that the Environmental Protection Authority (EPA) be approached with a request to provide strategic advice on the development pursuant to Section 16 of the EP Act. It was agreed that this process would enable the City to receive upfront advice on the likely environmental acceptability of the project and the management of the key environmental issues.

At its meeting held on 11 October 2011 (C52-10/11 refers) Council endorsed obtaining strategic advice from the EPA via a Section 16 EP Act submission and noted the actions to be taken to obtain this advice.

A Section 16 environmental assessment process was initially seen as a method for gaining upfront advice on the key environmental and approval risks of the project against the identified environmental constraints ahead of a formal submission via Section 38 and/or 48A (EP Act) environmental assessment. The Section 16 environmental assessment process precedes the MRS planning process leaving matters such as the realignment of the Marmion Marine Park boundary to be considered only in the context of the environmental issues.

Through discussions with the various agencies, it became more apparent that a Section 38 and / or 48A environmental assessment process may be more appropriate because the adjustment to the marine park boundary (if required) to accommodate the development should occur as part of an overall MRS amendment process. This ensures that the merits of the project, adjustments, offsets, sustainability and access issues are considered holistically. Impact upon and adjustment to the marine park should be considered in light of the overall project rather than in isolation as a single issue. As a major amendment to the MRS, the project would go before both Houses of Parliament and the project benefits and disbenefits weighed against each other.

At its meeting held on 11 December 2012 (CJ286-12/12), it was agreed, in part, that:

“1 Council ENDORSES an integrated Environmental and Planning Approvals Strategy for the Ocean Reef Marina development and the preparation of a request for a Major MRS Amendment and corresponding Section 48A Environmental Protection Act 1986 assessment.”

DETAILS

Marmion Marine Park and Marine Investigations

The Marmion Marine Park was reserved on 13 March 1987 as an ‘A’ class reserve. It is vested in the *Marine Parks and Reserves Authority* (the Authority) under the provisions of the *Conservation and Land Management Act 1984*. As a statutory body, the authority reports to the Minister for the Environment and management of the marine park is undertaken by the Department of Parks and Wildlife (DPaW – formerly Department of Environment and Conservation).

Originally, management of the marine park was undertaken in accordance with the *Marmion Marine Park Management Plan 1992-2002*, however this plan is now out of date. Until such time as a new plan is developed, the DPaW is applying the targets contained within the *Shoalwater Islands Marine Park Management Plan No 58 (2007-2017)* across all marine parks, including the Marmion Marine Park. The targets associated with this management plan include a long term target of no mass as a result of human activities within the park of:

- perennial seagrass biomass
- microalgae community biomass
- intertidal reef community biomass.

While the existing Ocean Reef boat harbour is located outside the boundaries of the Marmion Marine Park, the expanded development will extend into the park. The portion of the park that would be involved is classified as a “general” management zone under the *Marmion Marine Park Management Plan 1992-2002*. This plan recognised that future development was planned for the Ocean Reef facility and noted that this would change its existing status under the marine park. While the plan discourages the construction of marinas in the marine park, it does not preclude such development and states that any marina development would be subject to environmental impact assessment in accordance with the *Environmental Protection Act 1986*.

Further consultation is required with DPaW and the Marine Parks and Reserves Authority to identify their information requirements for assessing the impact of excision of the near shore reef habitat from the marine park and the increased human use pressure on the conservation values of the marine park.

The City briefed the Marine Parks and Reserves Authority on the project in August 2012 and further engaged with the authority during an open forum held at the Ocean Reef Sea Sports Club in June 2013.

The MRS amendment request also seeks a realignment of the Marmion Marine Park boundary to accommodate the development of the Ocean Reef Marina. Recent announcements by the State Government regarding a potential extension to the Marmion Marine Park may reduce the extent of impact of a boundary extension due to the marina alone. This potential extension may also provide an opportunity to amend the park boundaries at the same time as excluding the marina.

Analyses have been undertaken on existing information and issues likely to be addressed via the formal environmental assessment relevant to the Marmion Marine Park. Six key marine issues have been identified as follows:

- 1 Loss of benthic primary producer habitat from within the Marmion Marine Park.
- 2 Effect of that loss on conservation values of the Marmion Marine Park.
- 3 Loss of recreational and commercial stocks of abalone and lobster from the near shore reef to be consumed within the Ocean Reef Marina.
- 4 Effect of breakwaters on coastal processes and stability.
- 5 Effect of marina construction and operation on near shore water quality within the Marmion Marine Park.
- 6 Effect of increased vessel traffic and recreational fishing on marine resources and conservation fauna within the marine park.

Further detail on the above issues, including potential mitigation and management strategies, is contained with the MRS amendment request provided as Attachment 1 to the report titled *Ocean Reef Marina – MRS Amendment Request*.

Bush Forever

The Ocean Reef Marina will involve clearing of a portion of Bush Forever site 325. Where possible clearing will avoid vegetation identified as in “good – excellent” condition. However, it is likely that some residual impacts will remain.

The City, in collaboration with the Department of Planning (DoP) and other relevant authorities, is in the process of developing a suitable offsets package to mitigate the loss of vegetation within the Bush Forever site 325. The City is also compiling a register of potential suitable land for the offsets package. On-going consultation with the DoP and the finalisation of the offsets package will be undertaken following submission of the MRS amendment request.

Carnaby's Black Cockatoo and Graceful Sun Moth

The development is likely to impact on an area of feeding habitat (within Bush Forever) for the Carnaby's black cockatoo which is an endangered species under both State and Commonwealth legislation.

As the likely area of clearing of the Carnaby's black cockatoo habitat will not be large the approach taken in developing an offsets package focuses on improved protection and management of the habitat within existing conservation areas within the City.

The Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) has been advised of the City's Environmental and Planning Approvals Strategy in particular the intent to seek environmental assessment through Section 48A of the EP Act.

In 2009 the City referred the project to SEWPAC for assessment and the project was declared a Controlled Action under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). At the time, SEWPAC advised that further determination of the level of assessment would be determined by the State Government assessment process. The opportunity may arise to have the project assessed under bilateral arrangements with the State. Once the level of assessment is confirmed by the State (through the MRS amendment request) the City will review whether to continue negotiations with SEWPAC under the existing referral or to withdraw that referral and resubmit.

Changes have recently been made in terms of offset policy at Commonwealth level in relation to matters under the EPBC Act. The City's investigations, collaboration with departments and agencies and development of offset packages (both Commonwealth and State) are cognisant of these and further potential changes at State level.

The Graceful Sun Moth has recently been removed from both the State and Commonwealth threatened species list and will longer form part of either State or Commonwealth assessment.

Traffic and Transport Assessment

As part of the preparation of the MRS amendment request, a Traffic and Transport Assessment was undertaken based on Concept Plan 7.2.

The assessment evaluated the concept plan in relation to the anticipated traffic generation, future traffic expectations and capacity of the design (including vehicle, public transport, cycle and pedestrian traffic). The parking (both boat trailer and car) provisions of the concept plan were also assessed and the requirements validated.

There were no items identified that were unresolvable in subsequent design phases. However several items were identified as requiring further consideration to ensure a safe road environment for all road users. These items will be investigated and considered during the Local Structure Planning phase of the project.

Land Tenure / Assembly

Discussions have been conducted with representatives from the Department of Lands (DoL- formerly the Department of Regional Development and Lands) on the City's preferred planning approvals process as well as potential land assembly strategies.

The City's preferred land assembly strategy is the creation of a single title for the land followed by the subdivision of the land parcels for sale / lease according to phasing / market take up. The preferred strategy also includes the re-vesting of Crown Land under the MRS.

The DoL is yet to provide opinion on the preferred strategy and further negotiation and engagement will occur following the submission of the MRS amendment request. However, DoL has indicated their willingness to work with the City to develop a strategy for the land assembly.

Review and validation of existing studies

- Climate Change and Sea Level Rises

The development of the concept for the Ocean Reef Marina included allowances for climate change to 2110 based on the most up-to-date international, national and regional research. This included the expectation that the general sea level would rise 0.9 metres and that the wave and storm surge conditions would not substantially change from present.

The minimum building levels included the full 0.9 metres anticipated rise in sea level. All freehold residential and commercial development, that is not part of the any marine servile facility, will have a finished floor level of three metres ADH (Australian Height Datum – the datum that sets mean sea level as zero elevation). This approach is to avoid the coastal inundation risk from ocean storm surge and climate change.

The breakwaters will protect the internal development from erosion caused by the ocean and the design includes an initial allowance for sea level rise. Provision has also been made for an increase to crest height later in the coming century if required. These approaches meet the recommendations of Engineers Australia's guidelines.

- Water Quality

The detailed water quality investigations undertaken in 2011 were extensive and the calibrated and verified hydrodynamic modelling shows that the proposed marina would have good flushing characteristics and the flushing time would generally be in the order of four days or less. This is similar to that experienced at Hillarys Boat Harbour. In addition, the nutrients in the groundwater inflow would be effectively flushed out of the marina and the resultant concentrations would be generally less than the Australian and New Zealand Environment Conservation Council suggested trigger values.

- Concept Plan 7.2

Concept Plan 7.2 was reviewed taking into consideration the following:

- The combination of green title properties, multi residential premises and short stay accommodation.
- The combination of land uses and built form outcomes, inclusive of yield and car parking provisions.
- Response to the natural features of the site.

- Additional investigations

Contributing to both the MRS amendment request, documentation required for the Section 48A EP Act assessment and the development of the Local Structure Plan validation of previous investigations and assumptions included:

- Geotechnical conditions
- Servicing requirements
- Mapping, cadastral and surveying
- Commercial analysis/assessment.

Government Liaison

Liaison, consultation and engagement with the following State government departments and agencies was also undertaken. The primary purpose of the liaison was to provide these bodies with information on the project in general and the approach of the City in relation to the approvals process.

- Water Corporation.
- Department of Transport.
- Department of Lands (formerly the Department of Regional Development and Lands).
- Department of Fisheries.
- Perth Transport Authority.
- Department of Planning.
- Department of Environment Regulation (formerly Department of Environment and Conservation).
- Department of Parks and Wildlife (formerly Department of Environment and Conservation).
- Office of the Environmental Protection Authority.
- Western Australian Planning Commission.

Project Program

The activities undertaken to inform the preparation of the MRS amendment request also form the basis of the required documentation for a Section 48A EP Act assessment and for future tasks including the development of a Local Structure Plan.

Following submission of the MRS amendment request, it is proposed that the City will focus on the preparation of documentation for the Section 48A EP Act assessment and the development of a Local Structure Plan, including the relevant business plan(s), concurrently with ongoing liaison with the WAPC, EPA and DoP throughout the assessment process.

Based on available information and the processes undertaken for similar marina-type developments, a project program has been prepared (Attachment 1 refers). The timelines proposed are approximate only and will be determined by the WAPC, EPA and OEPA as the assessment process progresses.

Issues and options considered

Not applicable.

Legislation / Strategic Community Plan / policy implications

Legislation

The City is governed by the requirements of the *Local Government Act 1995* in relation to dealings involving commercial undertakings and land development.

Other applicable legislation includes:

- *Planning and Development Act 2005*
- *Environmental Protection Act 1986*
- *Environmental Protection, Biodiversity and Conservation Act 1999*

Strategic Community Plan

Key theme

Economic prosperity, vibrancy and growth.

Objective

Destination City.

Strategic initiative

- Facilitate the establishment of major tourism infrastructure.
- Encourage diverse accommodation options.

Policy

Recognition that the project will conform to the City's governance framework and is aligned with the Project Philosophy and Parameters Report as endorsed by Council (Item JSC5-05/09 refers).

Risk management considerations

The substantial amount of research, consultation and due diligence has enabled the City to prepare a detailed and comprehensive MRS amendment request report.

The project has amassed a substantial amount of information on all aspects of the development over a number of years which will be highly beneficial in ensuring the City is well positioned to respond to requests for information as the approvals process proceeds.

Furthermore, the extensive negotiations with both State and Commonwealth departments and agencies, as well as constant review of the project and knowledge gaps have sought to mitigate the risk of not obtaining approval to proceed with the development.

Financial/budget implications

Account no.	C1001
Budget Item	Ocean Reef Marina
Budget amount	\$ 862,045 (2012-13)
Amount spent to date	\$ 376,393
Proposed cost	\$ N/A
Balance	\$ 485,651

All amounts quoted in this report are exclusive of GST.

The 2013-14 budget allocates an amount of \$922,338 (excluding carry forwards from 2012-13) to progress the Ocean Reef Marina development. The budgeted amount includes provision for undertaking detailed studies to support the environmental assessment process and to progress the development of a Structure Plan and Business Case(s) for the development.

Regional significance

The development of the Ocean Reef Marina will become a significant tourist/visitor destination and a key focal point within the northern Perth corridor.

Sustainability implications

Progression of the structure planning process will facilitate a number of studies / reports that address key issues pertaining to sustainability such as economic feasibility, environmental sustainability. The undertaking of these studies is aligned with the Project Philosophy and Parameters Report as endorsed by Council (JSC5-05/09 refers).

Consultation

Extensive consultation was undertaken with State and Commonwealth Government departments and agencies as well as the City's consultants.

COMMENT

The activities undertaken by the City and the project's experienced team of consultants in bringing the project to the approvals phase have been extensive. The process undertaken is in line with that carried out for similar marina type developments in recent years.

Bringing Council's vision for this development to fruition requires a complex and comprehensive approach. It should be recognised that major developments of this complexity and nature do not come fruition without significant and thorough planning over a number of years.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Hamilton-Prime, **SECONDED** Cr Thomas that the Ocean Reef Marina Committee **NOTES** the:

- 1 Ocean Reef Marina Project Status Report;
- 2 Ocean Reef Marina Project Program forming Attachment 1 to this Report.

AMENDMENT MOVED Mayor Pickard, **SECONDED** Cr Taylor that the Motion be amended to read as follows:

“That:

- 1 *the Ocean Reef Marina Committee NOTES the Ocean Reef Marina – Project Status Report and the Ocean Reef Marina Project Program forming Attachment 1 to this Report;*
- 2 *given the extensive community interest in the Ocean Reef Marina project, the City hosts a series of public information sessions to inform the community on the progress and future milestones of the Ocean Reef Marina project.”*

The Amendment was Put and

CARRIED (8/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Hamilton-Prime, Hollywood, Taylor and Thomas.

The Original Motion as amended, being:

That:

- 1 **the Ocean Reef Marina Committee NOTES the Ocean Reef Marina – Project Status Report and the Ocean Reef Marina Project Program forming Attachment 1 to this Report;**
- 2 **given the extensive community interest in the Ocean Reef Marina project, the City hosts a series of public information sessions to inform the community on the progress and future milestones of the Ocean Reef Marina project.**

was Put and

CARRIED (8/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Fishwick, Hamilton-Prime, Hollywood, Taylor and Thomas.

Appendix 2 refers

To access this attachment on electronic document, click here:

[Attach2aqnORM150713.pdf](#)

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Nil.

CLOSURE

There being no further business, the Presiding Member declared the Meeting closed at 6.44pm; the following Committee Members being present at that time:

Mayor Troy Pickard
Cr Geoff Amphlett, JP
Cr John Chester
Cr Russ Fishwick, JP
Cr Christine Hamilton-Prime
Cr Kerry Hollywood
Cr Philippa Taylor
Cr Sam Thomas