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PLANNING AND DEVELOPMENT ACT 2005

OCEAN REEF MARINA

**IMPROVEMENT
SCHEME No. 1**

PLANNING AND DEVELOPMENT ACT 2005

OCEAN REEF MARINA

IMPROVEMENT SCHEME No. 1

The Western Australian Planning Commission under the powers conferred by the *Planning and Development Act 2005* makes the following Improvement Scheme.

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PLANNING AND DEVELOPMENT ACT 2005

OCEAN REEF MARINA

IMPROVEMENT SCHEME No. 1**PART 1—PRELIMINARY****1. Citation**

This Improvement Scheme is the *Ocean Reef Marina Improvement Scheme*.

2. Commencement

Under section 87(4) and section 122B of the Act, this Improvement Scheme comes into operation on the day on which it is published in the *Gazette*.

3. Terms used

- (1) Words and expressions defined by this Scheme are listed in Schedule 1.
- (2) A word or expression that is not defined in this Scheme—
 - (a) has the meaning it has in the *Planning and Development Act 2005*; or
 - (b) If it is not defined in that Act—has the same meaning as it has in the R-Codes.

4. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

5. Responsibility for Scheme

The Western Australian Planning Commission (the Commission) is the responsible authority for the enforcement and implementation of this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

7. Contents of Scheme

- (1) In addition to the provisions set out in this document (the Scheme text), this Scheme includes the following Scheme Maps—
 - (a) Improvement Scheme Map; and
 - (b) Improvement Scheme Sub-Precinct Map.
- (2) This Scheme is to be read in conjunction with any Improvement Scheme report (including appendices) for the Scheme area.

8. Purposes of Scheme

The purpose of this Scheme is to give effect to the Improvement Plan and regulate and authorise development within the Scheme area in accordance with the aims of the scheme, and objectives of the Precincts.

9. Aims of Scheme

The aim of this Scheme is to create an iconic waterfront precinct providing a range of recreational, tourism, residential, boating facilities and employment opportunities, by—

- (a) The creation of a vibrant waterfront commercial precinct and public open space that will provide recreational amenity and a tourist destination for local residents and visitors to Perth;
- (b) The creation of sustainable employment opportunities in food and beverage, retail, service, commercial, tourism and marine related industries;
- (c) The provision of diverse housing density and choice, within high-quality residential precincts;

- (d) The delivery of an economically sustainable marina development including—
 - (i) Boat pens, boat stacking facilities, marine facilities and services to meet the future demands of a growing Perth metropolitan population;
 - (ii) Upgraded facilities for existing recreational marine-based clubs and users;
 - (iii) Marine related commercial activities; and
 - (iv) Public boat launching ramps and associated facilities, including trailer parking areas, while providing adequate separation between these activities and other land uses; and
- (e) The appropriate management of environmental values.

10. Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

PART 2—PLANNING FRAMEWORK

Division 1—Improvement Scheme report

11. Improvement Scheme report

The Improvement Scheme report provides the underlying assessments and data that informed the drafting of the Improvement Scheme and planning framework for the Scheme area.

Division 2—Improvement Scheme policies

12. Improvement Scheme policies

- (1) The Commission may prepare an Improvement Scheme policy in respect of any matter related to the planning and development of the Scheme area.
- (2) An Improvement Scheme planning policy—
 - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and
 - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.
- (3) An Improvement Scheme policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
- (4) The Commission may amend or repeal an Improvement Scheme policy.
- (5) In making a determination under this Scheme the Commission must have regard to each relevant Improvement Scheme policy to the extent that the policy is consistent with this Scheme.

13. Procedure for making Improvement Scheme policy

- (1) If the Commission resolves to prepare an Improvement Scheme policy the Commission must, unless the Commission otherwise agrees, advertise the proposed policy as follows—
 - (a) publish a notice of the proposed policy in a manner and form approved by the Commission, giving details of—
 - (i) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) where the proposed policy may be found on the website of the Commission and where it may be inspected in person; and
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
 - (b) seek comments in relation to the proposed Improvement Scheme policy from the City of Joondalup, and any public authority or utility service that the Commission considers appropriate; and
 - (c) give notice of the proposed policy in any other way and carry out any other consultation the Commission considers appropriate.
- (2) The period for making submissions in relation to an Improvement Scheme policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the Commission must—
 - (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to—
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.

(4) If the Commission resolves to proceed with the policy, the Commission must publish a notice of the policy in a manner and form approved by the Commission.

(5) A policy has effect on publication of a notice under subclause (4).

(6) The Commission—

- (a) must ensure that an up-to-date copy of each Improvement Scheme policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the Commission; and
- (b) must publish a copy of each of those Improvement Scheme policies on the website of the Commission.

14. Procedure for amending Improvement Scheme policy

(1) Clause 13, with any necessary changes, applies to the amendment to an Improvement Scheme policy.

(2) Despite subclause (1), the Commission may make an amendment to an Improvement Scheme policy without advertising the amendment if, in the opinion of the Commission, the amendment is a minor amendment.

15. Revocation of Improvement Scheme policy

An Improvement Scheme policy may be revoked—

- (a) by a subsequent Improvement Scheme policy that—
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the Improvement Scheme policy;
- or
- (b) by a notice of revocation—
 - (i) prepared by the Commission; and
 - (ii) published in a manner and form approved by the Commission.

Division 3—Improvement Scheme Design Guidelines

16. Preparation and amendment of design guidelines

(1) The Commission may prepare Design Guidelines to guide built form, development and the preferred location of land uses within any part of the Scheme area.

(2) Design Guidelines may make reference to, or adopt other documents or policies of the Commission in respect of particular built form and development elements, or more generally.

(3) The Commission must—

- (a) ensure that an up-to-date copy of each Design Guideline made under this Scheme is kept and made available for public inspection during business hours at the offices of the Commission; and
- (b) publish a copy of each of those Design Guidelines on the website of the Commission.

(4) Clause 13, 14 and 15, with any necessary changes, applies to the procedure for making, amending or revoking a Design Guideline.

(5) The Commission, acting under subclause (4) may—

- (a) follow the procedure for making or amending a Design Guideline concurrently with an improvement scheme or amendment to an improvement scheme;
- (b) advertise a Design Guideline concurrently with an improvement scheme or amendment to an improvement scheme;
- (c) proceed with the Design Guideline concurrently with an improvement scheme or amendment to an improvement scheme; and
- (d) publish a notice under clause 13(4), concurrently with the improvement scheme or amendment to an improvement scheme being published in the *Gazette*.

PART 3—RESERVES

17. Reserves

(1) Reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(2) The objectives of the reserves are as follows—

Reserve Name	Objectives
Parks and Recreation	<ul style="list-style-type: none"> • To set aside areas for parks, recreation and conservation. • To provide for a range of active and passive recreation uses such as recreation buildings and associated car parking and drainage.

Reserve Name	Objectives
Public Open Space	<ul style="list-style-type: none"> To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage. To set aside land for local parks, pedestrian access, landscaping, view corridors, and incidental essential services infrastructure.
Waterways	<ul style="list-style-type: none"> To identify waterways within the Scheme area. To provide for a range of active and passive recreation uses consistent with the land use classes capable of approval in the land use permissibility table for the Waterways Precinct.
Public Purpose (Special Use)	<ul style="list-style-type: none"> To set aside land required for a range of essential infrastructure purposes.
Regional Road	<ul style="list-style-type: none"> To set aside land required for road connections within the Scheme Area to areas outside the Scheme Area.
Local Distributor Road	<ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.

18. Additional uses for reserves

Additional uses for land identified by the Scheme Map as a reserve may be approved by the Commission, if the Commission considers the approval of the proposed development—

- (1) Would not negatively impact the function of the reserve; and
- (2) Is appropriate having regard to the matters set out in clause 74 and the objectives of the Precinct within which the reserve is located.

PART 4—PRECINCTS

Division 1—Preliminary

19. Precincts

(1) The Scheme area is divided into Precincts which are shown on the Scheme Map—

- (a) Residential Precinct;
- (b) Mixed Use / Waterfront / Recreation Precinct;
- (c) Marine Enterprise Precinct; and
- (d) Waterways Precinct.

(2) This part sets out—

- (a) the land use permissibility; and
- (b) in relation to each Precinct—
 - (i) the planning objectives; and
 - (ii) development standards and requirements, where they apply within that Precinct.

20. Precinct development standards and requirements

(1) Several documents, read together, govern the built form of each Precinct.

(2) These documents are—

- (a) These scheme provisions, including the building and roof height plans and primary control tables in respect of each Precinct;
- (b) Any Design Guidelines prepared and adopted for the Precinct; and
- (c) Any approved local development plan prepared for land within the Precinct.

21. Relationship between planning documents

(1) If there is an inconsistency between—

- (a) the provisions of this Scheme including the primary controls set out in respect of the Precinct; and
- (b) Improvement Scheme policy, Design Guidelines or an approved local development plan,

the provisions of the Improvement Scheme prevail to the extent of the inconsistency.

(2) If there is an inconsistency between Design Guidelines and an approved local development plan, the approved local development plan prevails to the extent of the inconsistency.

Division 2—Land Use Permissibility

22. Land use permissibility table

The land use permissibility table for all land in this Scheme other than land identified as a reserve is as follows—

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Amusement parlour	<i>amusement parlour</i> means premises— (a) that are open to the public; and (b) that are used predominantly for amusement by means of amusement machines including computers; and (c) where there are 2 or more amusement machines.	X	X		A	X		X		X	
Aquaculture	<i>aquaculture</i> means premises including outbuildings and earthworks, used for intensive commercial production of aquatic-based animals and plants.	X	X		X	X		D		D	
Art gallery	<i>art gallery</i> means premises— (a) that are open to the public; and (b) where artworks are displayed for viewing or sale.	A	A		D	D		X		X	
Bed and breakfast	<i>bed and breakfast</i> means a dwelling— (a) used by a resident of the dwelling to provide short term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms.	A	A		D	D	In multiple dwelling residential configuration only (X in single house / grouped dwelling)	X		X	
Betting agency	<i>betting agency</i> means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .	X	X		X	X		X		X	
Boat sales	<i>boat sales</i> means premises used to sell or hire boats.	X	X		X	X		A	Land use is subject to clause 40	A	
Brewery	<i>brewery</i> means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> .	X	X		A	A		A	Land use is subject to clause 40	I	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Bulky goods showroom	<p>bulky goods showroom means premises—</p> <p>(a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes—</p> <p>(i) automotive parts and accessories;</p> <p>(ii) camping, outdoor and recreation goods;</p> <p>(iii) electric light fittings;</p> <p>(iv) animal supplies including equestrian and pet goods;</p> <p>(v) floor and window coverings;</p> <p>(vi) furniture, bedding, furnishings, fabrics, manchester and homewares;</p> <p>(vii) household appliances, electrical goods and home entertainment goods;</p> <p>(viii) party supplies;</p> <p>(ix) office equipment and supplies;</p> <p>(x) babies' and childrens' goods, including play equipment and accessories;</p> <p>(xi) sporting, cycling, leisure, fitness goods and accessories;</p> <p>(xii) swimming pools;</p> <p>or</p> <p>(b) used to sell by retail goods and accessories by retail if—</p> <p>(i) a large area is required for the handling, display or storage of the goods; or</p> <p>(ii) vehicular access is required to the premises for the purpose of collection of purchased goods.</p>	X	X		X	X		X		X	
Caretaker's dwelling	<p>caretaker's dwelling means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant.</p>	X	X		X	X		I		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Car park	<i>car park</i> means premises used primarily for parking vehicles whether open to the public or not but does not include— (a) any part of a public road used for parking or for a taxi rank; or (b) any premises in which cars are displayed for sale.	X	X		D	D		D		X	
Child care premises	<i>child care premises</i> means premises where— (a) an education and care service as defined in the <i>Education and Care Services National Law</i> (Western Australia) section 5(1), other than a family day care service as defined in that section, is provided; or (b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.	D	D		D	D		X		X	
Cinema/theatre	<i>cinema/theatre</i> means premises where the public may view a motion picture or theatrical production.	X	X		D	D		X		X	
Civic use	<i>civic use</i> means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.	D	D		D	D		D	Land use is subject to clause 40	D	
Club premises	<i>club premises</i> means premises used by a legally constituted club or association or other body of persons united by a common interest.	X	X		D	D		D	Land use is subject to clause 40	D	
Commercial vehicle parking	<i>commercial vehicle parking</i> means premises used for parking of one or 2 commercial vehicles but does not include— (a) any part of a public road used for parking or for a taxi rank; or (b) parking of commercial vehicles incidental to the predominant use of the land.	X	X		X	X		D		D	
Community purpose	<i>community purpose</i> means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.	X	X		D	D		D	Land use is subject to clause 40	D	
Consulting rooms	<i>consulting rooms</i> means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.	A	A		D	D		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Convenience store	<i>convenience store</i> means premises— (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and (b) operated during hours which include, but may extend beyond, normal trading hours; and (c) the floor area of which does not exceed 300 m ² net lettable area; and (d) excludes the provision of service station facilities, and repair or maintenance of motor vehicles, and the sale of fuel by retail into a vehicle for use by the vehicle.	D	X		D	X		X		X	
Educational establishment	<i>educational establishment</i> means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.	X	X		D	D		D	Land use is subject to clause 40	D	
Exhibition centre	<i>exhibition centre</i> means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.	X	X		D	D		D	Land use is subject to clause 40	I	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.
Family day care	<i>family day care</i> means premises where a family day care service as defined in the <i>Education and Care Services National Law</i> (Western Australia) is provided.	P	P		D	D		X		X	
Fast food outlet	<i>fast food outlet</i> means premises with a facility for drive through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten— (a) without further preparation; and (b) primarily off the premises.	X	X		X	X		X		X	
Garden centre	<i>garden centre</i> means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.	X	X		D	X		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Grouped dwelling	<i>grouped dwelling</i> has the meaning given in the R-Codes.	D	D	Located in Apartments, Laneway, Hill-view, Park-edge, Transition, Coast-view sub-precincts in accordance with the Sub-Precinct Map	X	X		X		X	
		X	X	Located in Hospitality sub-precinct in accordance with the Sub-Precinct Map							
Holiday accommodation	<i>holiday accommodation</i> means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot.	D	D		D	D		X		X	
Holiday house	<i>holiday house</i> means a single dwelling on one lot used to provide short term accommodation but does not include a bed and breakfast.	D	D		X	X		X		X	
Home business	<i>home business</i> means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession— (a) does not involve employing more than 2 people who are not members of the occupier's household; and (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and (c) does not occupy an area greater than 50 m ² ; and (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and	D	D		I	D		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
	(g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.										
Home occupation	<p>home occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that—</p> <p>(a) does not involve employing a person who is not a member of the occupier's household; and</p> <p>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</p> <p>(c) does not occupy an area greater than 20 m²; and</p> <p>(d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and</p> <p>(e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and</p> <p>(f) does not—</p> <p>(i) require a greater number of parking spaces than normally required for a single dwelling; or</p> <p>(ii) result in an increase in traffic volume in the neighbourhood; and</p> <p>(g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and</p> <p>(h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and</p> <p>(i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.</p>	D	D		I	P		X		X	
Home office	<p>home office means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation—</p> <p>(a) is solely within the dwelling; and</p>	P	P		P	P		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
	(b) does not entail clients or customers travelling to and from the dwelling; and (c) does not involve the display of a sign on the premises; and (d) does not require any change to the external appearance of the dwelling.										
Hospital	<i>hospital</i> means premises that are a hospital within the meaning given in the <i>Health Services Act 2016</i> section 8(4).	X	X		A	A		X		X	
Hotel	<i>hotel</i> means premises the subject of a hotel licence other than a small bar or tavern licence granted under the <i>Liquor Control Act 1988</i> including any betting agency on the premises.	X	X		A	A		X		I	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.
Industry	<i>industry</i> means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes— (a) the storage of goods; (b) the work of administration or accounting; (c) the selling of goods by wholesale or retail; (d) the provision of amenities for employees; (e) incidental purposes.	X	X		X	X		X		X	
Industry—light	<i>industry—light</i> means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.	X	X		X	X		A		X	
Liquor Store—large	<i>liquor store—large</i> means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 200 m ² .	X	X		X	X		X		X	
Liquor Store—small	<i>liquor store—small</i> means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 200 m ² .	X	X		D	X		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Lunch bar	<i>lunch bar</i> means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.	X	X		X	X		D	Land use is subject to clause 40	X	
Marina	<i>marina</i> means— (a) premises and other facilities used for providing mooring, fuelling, servicing, repairing, storage for boats; and (b) all jetties, piers, embankments, quays, moorings, boat lifting structures, boat ramps, fixtures, and storerooms used in connection with the provision of the above services; and (c) associated offices, incidental retail and sale of any boating gear or equipment in connection with the provision of the above services.	X	X		X	X		P	Uses defined in paragraph (c) of the land use are subject to clause 40. Uses defined in paragraphs (a) and (b) are not subject to clause 40.	P	
Marine filling station	<i>marine filling station</i> means premises used for the storage and supply of liquid fuels and lubricants for marine craft, and excludes the repair or maintenance of marine craft.	X	X		X	X		D	Land use is subject to clause 40	D	
Market	<i>market</i> means premises used for the display and sale of goods from stalls by independent vendors.	X	X		D	D		D	Where the use is consistent with the Statement of Intent and objectives of the Precinct.	X	
Medical centre	<i>medical centre</i> means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.	X	X		P	P		X		X	
Multiple dwelling	<i>multiple dwelling</i> has the meaning given in the R-Codes.	D	D		D	P		X		X	
Nightclub	<i>nightclub</i> means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .	X	X		I	D		X		D	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.
Office	<i>office</i> means premises used for administration, clerical, technical, professional or similar business activities.	X	X		P	P		I	Land use is subject to clause 40	X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Place of worship	<i>place of worship</i> means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.	X	X		D	D		X		X	
Reception centre	<i>reception centre</i> means premises used for hosted functions on formal or ceremonial occasions.	X	X		I	D		X		I	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.
Recreation—private	<i>recreation—private</i> means premises that are— (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.	X	X		D	D		D	Where the use is consistent with the Statement of Intent and objectives of the Precinct.	D	
Renewable energy facility	<i>renewable energy facility</i> means premises used to generate energy from a renewable energy source and includes any building, battery storage, or other structure used in, or in connection with, the generation of energy by a renewable resource. It does not include anemometers, solar panels, wind turbines or other infrastructure used to generate energy located on a lot with premises where the energy produced principally supplies that use.	X	X		X	X		A		A	
Residential aged care facility	<i>residential aged care facility</i> means a residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet nursing and personal care of residents; meals and cleaning services; furnishings; furniture and equipment. May also include residential respite (short-term) care but does not include a hospital or psychiatric facility.	D	D		D	D		X		X	
Residential building	<i>residential building</i> has the meaning given in the R-Codes.	D	D		D	D		X		X	
Resource recovery centre	<i>resource recovery centre</i> means premises other than a waste disposal facility used for the recovery of resources from waste.	X	X		X	X		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Restaurant/café	<i>restaurant/café</i> means premises used for the preparation, sale and serving of food and drinks for consumption on or off the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .	A	X	Land use is subject to clause 30	P	P		D	Land use is subject to clause 40	I	Incidental in respect of an area contiguous with development which has been approved in an adjoining Precinct.
Restricted premises	<i>restricted premises</i> means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of— (a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); or (b) compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or (c) smoking-related implements.	X	X		X	X		X		X	
Service station	<i>service station</i> means premises other than used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for— (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; and/or (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles; and (c) has a convenience store component with a net lettable area of not more than 15 m ² ; and (d) has a maximum limit of two bowzers for the sale of fuel by retail into a motor vehicle for use by the vehicle.	X	X		X	X		D	Land use is subject to clause 40	X	
Serviced apartment	<i>serviced apartment</i> means a group of units or apartments providing— (a) self contained short-term accommodation for guests; and (b) any associated reception or recreational facilities.	D	D		D	D		X		X	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Shop	<i>shop</i> means premises other than a bulky goods showroom, supermarket, a liquor store—large or a liquor store—small or a convenience store, used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.	X	X		P	D	Land use is subject to clause 35	D	Where the use is consistent with the Statement of Intent and objectives of the Precinct. Land use is subject to clause 40	X	
Single house	<i>single house</i> has the meaning given in the R-Codes.	P	P	Located in Laneway, Hill-view, Park-edge, Transition, Coast-view sub-precincts in accordance with the Sub-Precinct Map							
		D	D	Located in Apartments sub-precinct in accordance with the Sub-Precinct Map	X	X		X		X	
		X	X	Located in Hospitality sub-precinct in accordance with the Sub-Precinct Map							
Small bar	<i>small bar</i> means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .	X	X		A	A		A	Land use is subject to clause 40	X	
Supermarket	<i>supermarket</i> means a single, large retail premises selling primarily food products and other incidental goods to meet daily needs, organised into aisles, but does not include a convenience store.	X	X		D	D	Maximum NLA of 2,000 m ²	X		X	
Tavern	<i>tavern</i> means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .	X	X		A	A		X		X	
Telecommunications infrastructure	<i>telecommunications infrastructure</i> means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.	D	D		D	D		D		D	

Precinct		Residential	Residential	Residential	Mixed Use	Mixed Use	Mixed Use	Marine Enterprise	Marine Enterprise	Waterways	Waterways
Land Use	Definition	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility Ground Floor	Permissibility Above Ground Floor	Conditions / Qualifications	Permissibility	Conditions / Qualifications	Permissibility	Conditions / Qualifications
Tourist development	<p><i>tourist development</i> means a building, or a group of buildings forming a complex, other than a bed and breakfast or holiday accommodation, used to provide—</p> <p>(a) short-term accommodation for guests; and</p> <p>(b) onsite facilities for the use of guests; and</p> <p>(c) facilities for the management of the development.</p>	X	X		D	D		X		X	
Veterinary centre	<p><i>veterinary centre</i> means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.</p>	X	X		D	D		X		X	
Warehouse/storage	<p><i>warehouse/storage</i> means premises including indoor or outdoor facilities used for—</p> <p>(a) the storage of goods, equipment, plant or materials; or</p> <p>(b) the display or sale by wholesale of goods.</p>	X	X		X	X		D		X	
Waste disposal facility	<p><i>waste disposal facility</i> means premises used—</p> <p>(a) for the disposal of waste by landfill; or</p> <p>(b) the incineration of hazardous, clinical or biomedical waste.</p>	X	X		X	X		X		X	
Waste storage facility	<p><i>waste storage facility</i> means premises used to collect, consolidate, temporarily store or sort solid and/or liquid waste generated from land uses within the Improvement Scheme area, before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.</p>	X	X		I	I		I		X	

23. Interpreting the land use permissibility table

(1) The permissibility of uses of land in the various Precincts in the Scheme area is determined by the land use permissibility table.

(2) Where a specific use class is not listed and defined in the land use permissibility table, that land use is generally not permitted by this Scheme. Notwithstanding this, where a proposed use class is not listed and defined in the land use permissibility table, the land use may be considered as set out in subclause (5).

(3) The symbols used in the land use permissibility table have the following meanings—

P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the Commission has exercised its discretion by granting development approval;

A means that the use is not permitted unless the Commission has exercised its discretion by granting development approval after giving notice in accordance with clause 71;

X means that the use is not permitted by this Scheme.

Notes:

1. The development approval of the Commission may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 68.

2. In considering an application for development approval, the Commission will have regard to clause 74.

(4) A specific use class referred to and defined in the land use permissibility table is excluded from any other use class described in more general terms.

(5) The Commission may, in respect of a use that is not specifically listed and defined in the land use permissibility table, and that cannot reasonably be determined as falling within a use class referred to and defined in the land use permissibility table—

(a) determine that the use is consistent with the objectives of a particular Precinct and is therefore a use that may be permitted in the Precinct subject to conditions imposed by the Commission; or

(b) determine that the use may be consistent with the objectives of a particular Precinct and give notice under clause 71 before considering an application for development approval for the use of the land; or

(c) determine that the use is not consistent with the objectives of a particular Precinct and is therefore not permitted in the Precinct.

(6) If a use of land is identified in a Precinct as being a class P or class I use, the Commission may not refuse an application for development approval for that use in that Precinct but may require works that are to be undertaken in connection with that use to have development approval.

(7) If a use of land is identified in a Precinct as being a class X not permitted use, the Commission must refuse an application for development approval for that use in that Precinct unless—

(a) the development approval application relates to land that is being used for a non-conforming use; and

(b) the Commission considers that the proposed use of the land would be less detrimental than the non-conforming use.

24. Lawful development pre-dating this Scheme

A development that was lawfully being carried out on land immediately before this Scheme applied to the Scheme area is governed by section 122C of the Act.

25. Non-conforming uses

(1) Unless specifically provided, this Scheme does not prevent—

(a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or

(b) the carrying out of development on land if—

(i) before the commencement of this Scheme, the development was lawfully approved; and

(ii) the approval has not expired or been cancelled.

(2) Subclause (1) does not apply if—

(a) the non-conforming use of the land is discontinued; and

- (b) a period of 6 months, or a longer period approved by the Commission, has elapsed since the discontinuance of the non-conforming use.

(3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the Commission—

- (a) purchases the land; or
- (b) pays compensation to the owner of the land in relation to the non-conforming use.

26. Changes to non-conforming use

(1) A person must not, without development approval—

- (a) alter or extend a non-conforming use of land; or
- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
- (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
- (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.

(2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 71.

(3) The Commission may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the Commission, the proposed use—

- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) is closer to the intended objectives of the Precinct in which the land is situated.

27. Register of non-conforming uses

(1) The Commission may prepare a register of land within the Scheme area that is being used for a non-conforming use.

(2) A register prepared by the Commission must set out the following—

- (a) a description of each area of land that is being used for a non-conforming use;
- (b) a description of any building on the land;
- (c) a description of the non-conforming use; and
- (d) the date on which any discontinuance of the non-conforming use is noted.

(3) If the Commission prepares a register under subclause (1) the Commission—

- (a) must ensure that the register is kept up-to-date; and
- (b) must make a copy of the register available for public inspection during business hours at the offices of the Commission; and
- (c) may publish a copy of the register on the website of the Commission.

(4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

Division 3—Residential Precinct

28. Statement of Intent

The intent of the Residential Precinct is to provide for a variety of permanent residential housing types, some tourist accommodation and related amenities, and local public open spaces.

29. Objectives of the Precinct

The objectives of the Residential Precinct are to—

- (a) Create public open spaces that provide high-quality landscape and leisure amenity for residents and visitors, and provide visual and physical connections to the waterfront.
- (b) Encourage a range of housing typologies, including high-density multiple dwellings, medium density single, multiple and grouped dwellings.
- (c) Ensure that the height and mass of buildings respects the outlook considerations from existing residential areas in the immediate vicinity.
- (d) Provide a high-quality interface between private development sites and public realm by ensuring that built form, private landscaped areas and edges along streets and open spaces respect and enhance the experience of streetscapes, connections and parks.
- (e) Allow for limited short-term accommodation in the form of serviced apartments or short-term holiday accommodation.

- (f) Enable a limited amount of hospitality and retail uses adjacent to the waterfront that is compatible with the surrounding residential area, to provide some activation and to service the needs of the population in this Precinct.
- (g) Encourage innovation and excellence in planning and design.

30. Precinct specific requirements

(1) Notwithstanding the permissibility of the Restaurant/Café land use set out in the land use permissibility table for the Residential Precinct, the floorspace of the Restaurant/Café land use shall not exceed 200 m² NLA.

(2) Despite subclause (1), any additional floorspace may be considered and approved subject to being located with an active street frontage and pedestrian access.

31. Precinct subdivided into sub-precincts

(1) The Residential Precinct is subdivided into sub-precincts, as identified in the Improvement Scheme Sub-Precinct Map.

(2) Different development standards and requirements apply to each sub-precinct, contained in clause 32 and the Residential Precinct Design Guidelines.

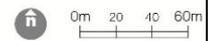
32. Primary controls

The following table and accompanying plan set out the primary development standards for the Residential Precinct—

Key Controls	Sub-Precincts (Refer to Sub-Precinct Plan)							
	Apartments		Laneway	Hill-view	Park-edge	Transition	Coast-view	Hospitality
	Type A	Type B						
SITE PLANNING								
Development Site Frontage Minimum (taken from the frontage(s) permitted for vehicle access shown on the relevant LDP).	25.0 m	25.0 m	6.0 m	10.0 m	6.0 m and 10.0 m, as per Residential Precinct Design Guidelines	6.0 m	6.0 m	6.0 m
Site Area Minimum (m ²)	4,000 m ²	1,000 m ²	80 m ²	250 m ²	180 m ²	150 m ²	180 m ²	As determined at subdivision
Open Space—Ground Level Minimum	20%	20%	As per Residential Precinct Design Guidelines					
Deep Soil Area Minimum ⁽¹⁾ Subject to Ocean Reef Marina Residential Precinct Design Guidelines	As per Residential Precinct Design Guidelines		18 m ²	18 m ²	18 m ²	9 m ² ⁽¹⁾ -18 m ²	18 m ²	18 m ²
BUILDING HEIGHT								
Tops of External Walls—Minimum (at the building line of the Primary Interface or Mixed Use Interface)	9.0 m (3 storeys)	9.0 m (3 storeys)	3.0 m (1 storey)	6.0 m (2 storeys)	6.0 m (2 storeys)	6.0 m (2 storeys)	6.0 m (2 storeys)	6.0 m (2 storeys)
Tops of External Walls Maximum	Refer to Building and Roof Height Plan							
Roof Height Maximum (inclusive of structures and projections)	Refer to Building and Roof Height Plan							



BUILDING HEIGHT PLAN
Residential Precinct



LEGEND

-  Improvement Scheme Boundary
-  Precinct Boundary
-  Parks and Recreation Reserve
-  Waterways Reserve
-  Bush Forever Area
-  Local Distributor Road Reserve
-  Local Road Reserve
-  Public Open Space

MAXIMUM BUILDING HEIGHT - TO TOPS OF EXTERNAL WALLS

-  6.4m (2-Storeys)
-  9.6m (3-Storeys)
-  12.8m (4-Storeys)
-  19.2m (6-Storeys)

MAXIMUM ROOF HEIGHT ENVELOPE

-  **Roof Height - Type 1**
1.5m above Tops of External Walls Maximum Height
-  **Roof Height - Type 2**
Within 30-degree pitch angle maximum and 3.0m rise maximum above Tops of External Walls or 1.5m above Tops of External Walls Maximum Height

Note: Building setbacks apply when determining extent of building height on the lot.

*Division 4—Mixed Use / Waterfront / Recreation Precinct***33. Statement of Intent**

As the heart of the Ocean Reef Marina, it is envisaged that the Mixed Use / Waterfront / Recreation Precinct will be a world-class, premier destination for Perth. It is intended to be a high-quality mixed-use node, drawing on its attractive waterfront environment, offering tourism, recreation and community facilities, retail, hospitality and commercial uses, residential and short-term accommodation. The intent is for the Precinct to provide activity drawcards and operate as a vibrant, safe and welcoming place to live, visit and work.

34. Objectives of the Precinct

The objectives of the Mixed Use / Waterfront / Recreation Precinct are to—

- (a) Ensure that the height and mass of buildings respects the outlook considerations from existing residential dwellings in the immediate vicinity and, where possible, ameliorates the impact of the dominant winds on the public realm experience in the Precinct and along the waterfront.
- (b) Provide different public open spaces that accommodate a variety of water-based, passive, active and socialising activities and events.
- (c) Facilitate the growth of retail, commercial and hospitality uses over time whilst encouraging predominantly active, non-residential uses at ground-floor level.
- (d) Provide a continuous, immersive and interactive public experience along the water-edge via a wide pedestrian pathway and the provision of retail and food and beverage offerings in key locations that would appeal to residents, workers, visitors and tourists.
- (e) Provide permanent and short-term accommodation in positions that are compatible with non-residential activities, and that overlook public realm environments to take advantage of views and provide natural-surveillance.
- (f) Encourage innovation and excellence in planning and design.

35. Precinct specific requirements

(1) Notwithstanding the permissibility of the shop use set out in the land use permissibility table, the total shop/retail floorspace within the Precinct shall not exceed 12,000 m² NLA, and no single tenancy shall exceed 20 percent of this limit, and multiple tenancies must not be amalgamated to exceed this limit.

(2) Despite subclause (1), where supported by a Retail Sustainability Assessment, additional shop/retail floorspace may be considered subject to being located with active street frontage and pedestrian access.

36. Precinct subdivided into sub-precincts

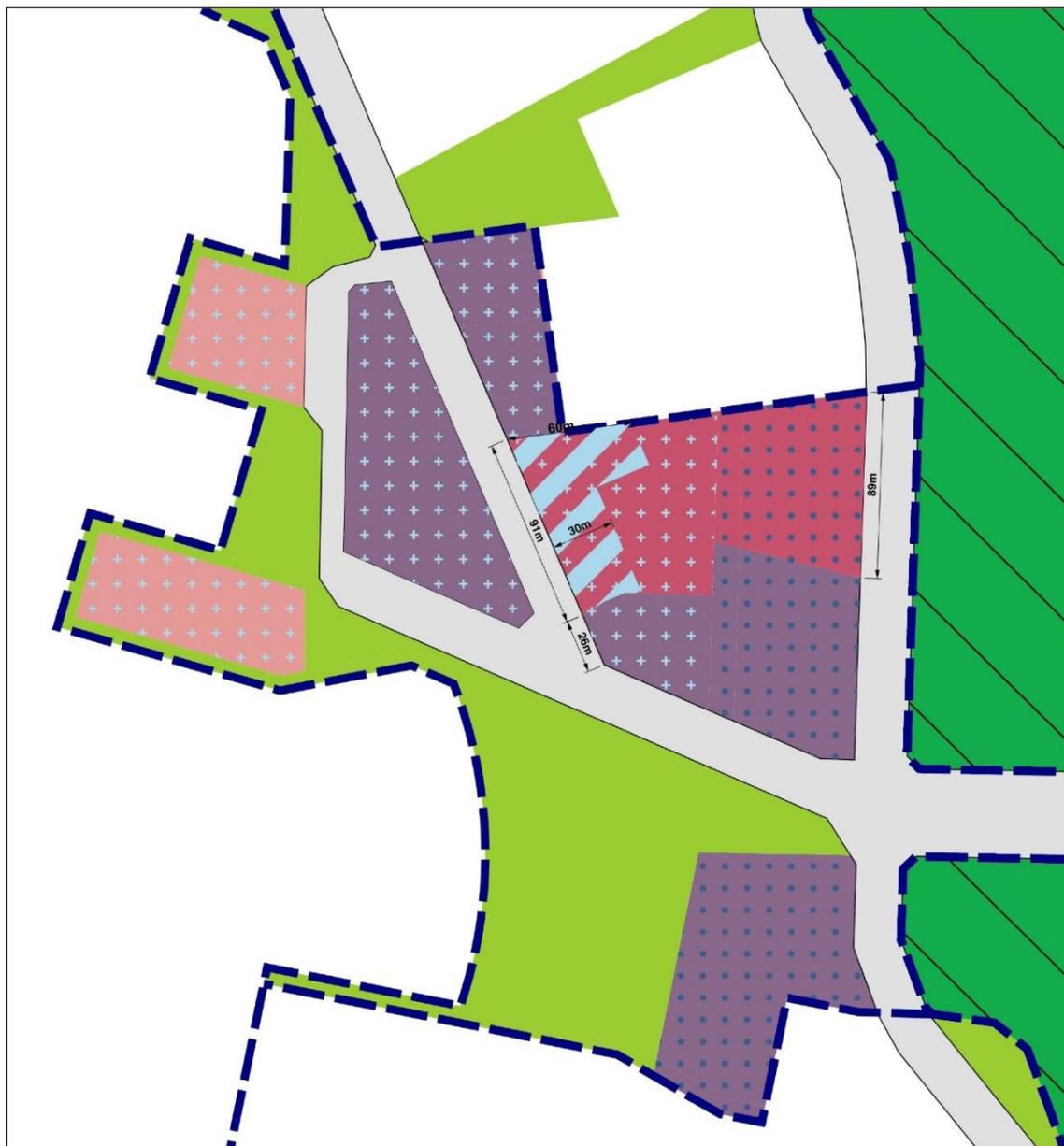
(1) The Mixed Use / Waterfront / Recreation Precinct is subdivided into sub-precincts, as identified in the Improvement Scheme Sub-Precinct Map.

(2) Different development standards and requirements apply to each sub-precinct, contained in clause 37 and the Mixed Use Precinct Design Guidelines.

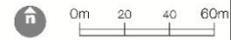
37. Primary controls

The following table and accompanying plans set out the primary development standards for the Mixed Use / Waterfront / Recreation Precinct—

Key Controls	Development Sites / Sub-Precincts (Refer to Sub-Precinct Plan)									
	Main Street					Beach Park	Waterfront			
	22	26A	26B	27A	27B	28	29A	29B	30A	30B
SITE PLANNING										
Plot Ratio	2:0	3:0	3:0	2:0	2:0	2:0	2:0	4:0	2:0	3:0
Land Uses	Refer to Ground Floor Uses Plan									
BUILDING HEIGHT										
Building Height Maximum (Refer to Building and Roof Height Plan)	22.5 m (6 storeys)	33 m (9 storeys)	22.5 m (6 storeys)	19 m (5 storeys)	22.5 m (6 storeys)	22.5 m (6 storeys)	15.5 m (4 storeys)	22.5 m (6 storeys)	15.5 m (4 storeys)	22.5 m (6 storeys)
Top of External Walls—Minimum (at the building line of the Primary / Pedestrian Interface)	15 m (4 storeys)	11.5 m (3 storeys)	11.5 m (3 storeys)	8 m (2 storeys)	8 m (2 storeys)	8 m (2 storeys)	8 m (2 storeys)	8 m (2 storeys)	8 m (2 storeys)	8 m (2 storeys)
Top of External Walls—Maximum	Refer to Building and Roof Height Plan									
Roof Height Maximum (inclusive of structures and projections)	Refer to Building and Roof Height Plan									
Building Height Envelope for Third Storey and Above	Refer to Lot Specific Requirements in Mixed Use Precinct Design Guidelines									



BUILDING & ROOF HEIGHT PLAN
Mixed Use Precinct



LEGEND

- Improvement Scheme Boundary
- Precinct Boundary
- Parks and Recreation Reserve
- Bush Forever Area
- Local Road Reserve
- Public Open Space

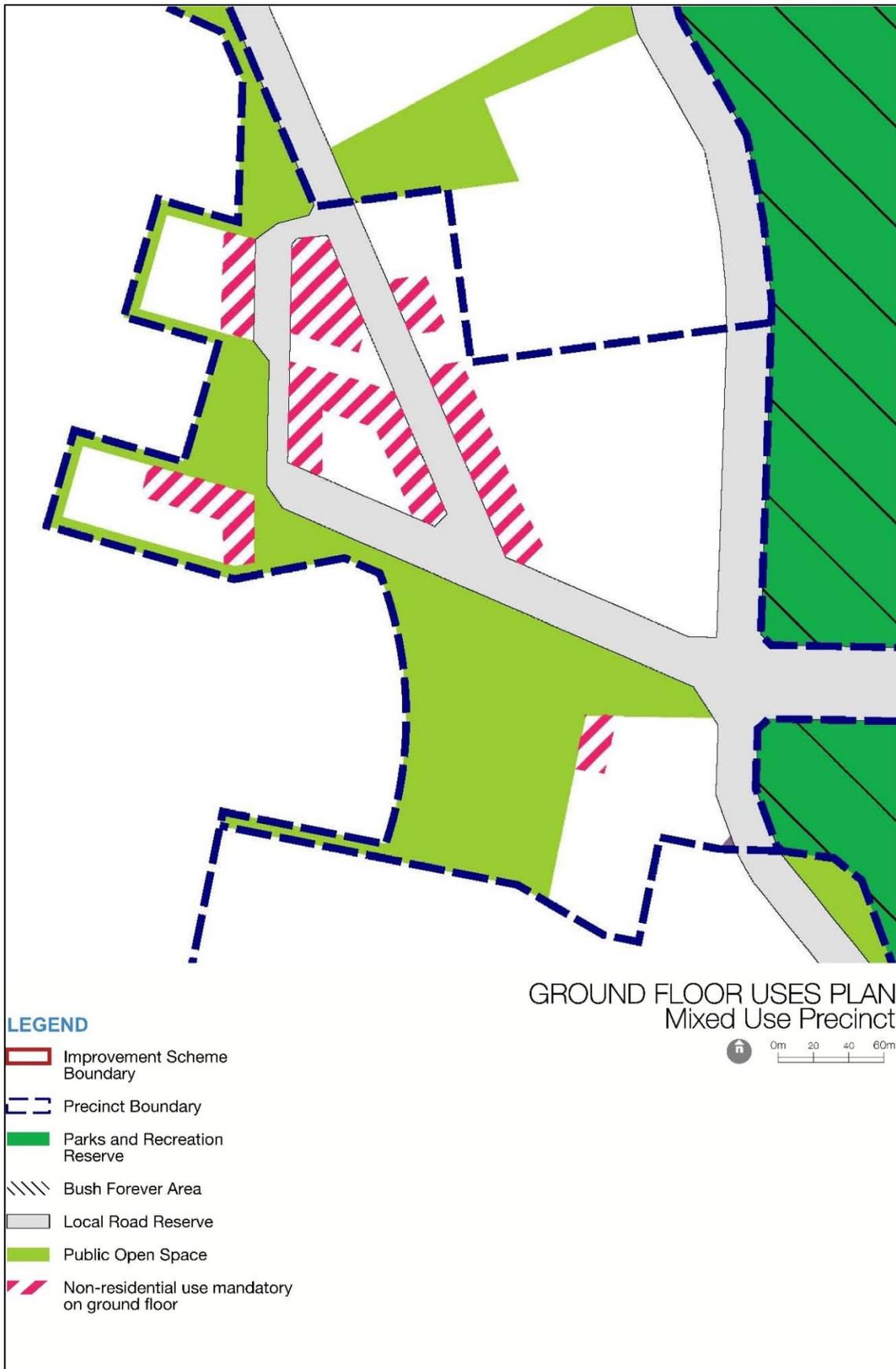
MAXIMUM BUILDING HEIGHT - TO TOPS OF EXTERNAL WALLS

- 15.5m (4-Storeys)
- 19m (5-Storeys)
- 22.5m (6-Storeys)
- 33m (9-Storeys)

MAXIMUM ROOF HEIGHT ENVELOPE

- Roof Height - Type 1
1.5m above Tops of External Walls Maximum Height
- Roof Height - Type 2
4m rise maximum above Tops of External Walls Maximum Height

Note: Building setbacks apply when determining extent of building height on the lot.



*Division 5—Marine Enterprise Precinct***38. Statement of Intent**

The Marine Enterprise Precinct is intended to deliver a high quality boating hub to accommodate marine services facilities including some industries relevant to marina or boating services, boat lifting, boat stacking, administrative office, all infrastructure required for public boat launching, club houses and associated parking.

39. Objectives of the Precinct

The objectives of the Marine Enterprise Precinct are to—

- (a) Provide safe access to public boat ramps, trailer parking and related facilities as directly as possible from Ocean Reef Road.
- (b) Construct, operate and maintain facilities and services necessary in the interests of safe and effective boating.
- (c) Provide for protection of the Water Corporation's ocean outfall pipe and to ensure land uses and activities in this location are mutually compatible.
- (d) Facilitate safe and legible movement and circulation within the Precinct for all users including motorised machinery, vehicles, trailered vessels, pedestrians, cyclists and emergency transport.
- (e) Provide for the appropriate standards and clearly identified locations for vehicle parking, boat and equipment storage for all users of the Precinct and to ensure that height, mass and materiality of parking and storage facilities are aesthetically suitable for a world class marina.
- (f) Plan for the development of facilities for a Boat Club, Volunteer Sea Rescue and Returned and Services League of Australia (RSL).
- (g) Provide for a limited range of commercial and light industrial operations and complementary retail uses related to the provision of marine services.
- (h) Ensure there is a fitting interface between this Precinct and the adjacent Mixed Use / Waterfront / Recreation Precinct to provide an appropriate level of visual appearance, landscape amenity and pedestrian connectivity.
- (i) Ensure appropriate management of land uses and activities to avoid noise, odour, or other emissions or lighting impacts to the adjacent Mixed Use / Waterfront / Recreation, Residential and Waterways Precincts.
- (j) Facilitate innovation and high standards of sustainability in all land uses and public areas.

40. Precinct specific requirements

(1) Notwithstanding the permissibility of those identified uses in the land use permissibility table, total floorspace of those uses within the Precinct shall not exceed 7,000 m² NLA.

(2) Despite subclause (1) any additional floorspace for those identified uses in the land use permissibility table may be permitted where it is justified through technical studies as required by the Commission, and addresses the street frontage with customer access from this location.

41. Precinct subdivided into sub-precincts

(1) The Marine Enterprise Precinct is subdivided into sub-precincts, as identified in the Improvement Scheme Sub-Precinct Map.

(2) Different development standards and requirements apply to each sub-precinct contained in the Marine Enterprise Precinct Design Guidelines.

42. Restricted developable area

The Table below sets out—

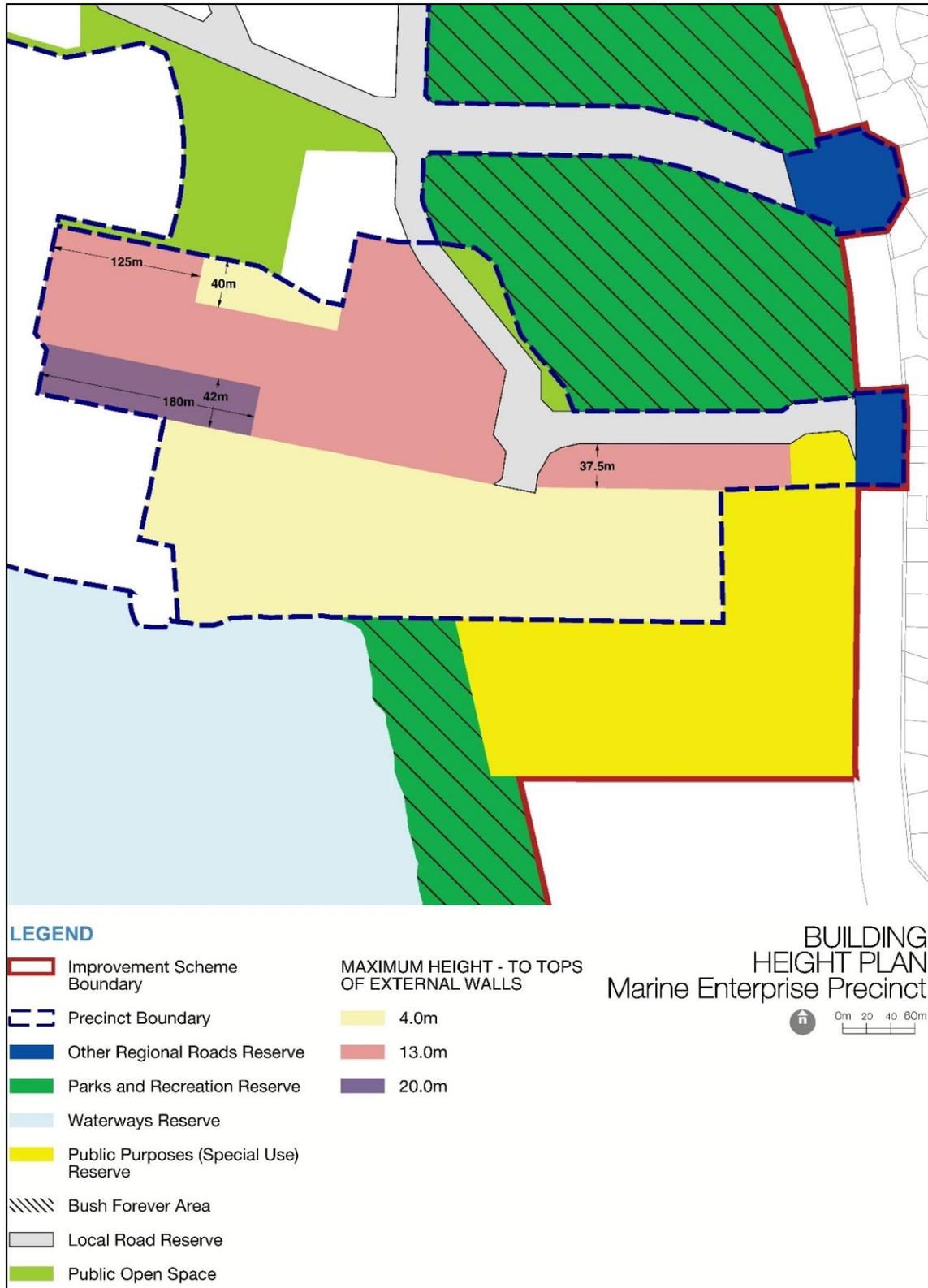
- (1) Restricted use classes that apply within the Restricted Developable Area instead of the specific use classes listed in the land use permissibility table for the Precinct; and
- (2) The conditions that apply to the restricted use.

No.	Description of Land	Restricted Use	Conditions
R1	Ocean Reef trailer car park— Part Lot 9000 (420) Ocean Reef Road, DP 54595 Part Lot 10098 Ocean Reef Road, DP 216093	<ul style="list-style-type: none"> • Aquaculture—D use • Car Park—D use • Civic Use—D use • Community Purpose—D use • Marina—P use • Marine Filling Station—D use • Market—D use • Renewable Energy Facility—A use • Telecommunications Infrastructure—D use • Waste Storage Facility—I use 	<ul style="list-style-type: none"> • No building, structure or outbuilding shall be constructed over the alignment of the Water Corporation's ocean outfall pipe. • Land use to demonstrate it has had regard to the ocean outfall pipe and does not prevent Water Corporation from accessing the infrastructure. • Referral to Water Corporation in accordance with clause 73.

Note: a restricted use is the only use or uses that are permitted on a specific portion of land, and other uses that would otherwise be permissible in the Precinct are not permitted.

43. Primary controls

The following Building Height Plan sets out the maximum building heights for the Marine Enterprise Precinct—



Division 6—Waterways Precinct

44. Statement of Intent

The Precinct is intended to accommodate water-based use and development, including jetties, boat pens, areas for swimming and leisure and some aquatic-based commercial activities.

45. Objectives of the Precinct

The objectives of the Waterways Precinct are to—

- (a) Construct, operate and maintain facilities and services necessary in the interests of safe and effective boating.
- (b) Provide for permanent mooring of vessels and potentially berths for recreational and commercial vessels.
- (c) Provide an appropriate location for boat lifters adjacent to the Marine Enterprise Precinct.
- (d) Provide for appropriate standards and clearly identified locations for all water-based activities and user groups including a safe swimming beach, recreational fishing, motorised and non-motorised vessels, club and public facilities and limited commercial outlets.
- (e) Provide for public access to the breakwaters and public jetties, and controlled access to private jetties and pens.

PART 5—GENERAL DEVELOPMENT REQUIREMENTS**46. Quality of design**

- (1) All applications for development approval must satisfy the Design Principles for Good Design set out in State Planning Policy 7: Design of the Built Environment.
- (2) All applications for sites identified in the relevant Design Guidelines as landmark or gateway sites must also satisfy the requirements for Design Excellence set out in the relevant Design Guidelines.
- (3) Parts of the R-Codes are to be read in accordance with the Design Guidelines.

47. Car parking

- (1) Car parking spaces are to be provided in respect of any development, calculated in accordance with the requirements set out in the relevant Improvement Scheme policy.
- (2) Satisfaction of the requirement for the provision of car parking can be achieved—
 - (a) By the provision of the requisite number of bays on the development site;
 - (b) With the agreement of the Commission—
 - (i) by way of cash-in-lieu in an amount calculated on a per car parking bay basis; or
 - (ii) by the provision of car parking on another site or suitable location within the Improvement Scheme area.
- (3) In respect of the payment of cash-in-lieu in clause 47(2)(b)(i), the value of a car parking bay is to be specified, from time to time, by the relevant Improvement Scheme policy.
- (4) In respect of the provision of car parking bays on another site within the relevant Precinct in clause 47(2)(b)(ii), an agreement must be finalised prior to making application for a Building Permit under the *Building Regulations 2012*, which provides the location of the bays and the mechanism by which those bays will be secured during the life of the development.

48. Public Art

- (1) In approving an application for development approval, the Commission may impose a condition requiring the provision of public art, or a monetary contribution towards the provision of public art.
- (2) The nature of the public art to be provided, or the contribution payable, is to be specified, from time to time, by the relevant Improvement Scheme Policy.

49. Environmental conditions

There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

50. Variations to site and development requirements

- (1) The Commission may approve an application for a development approval that does not comply with site and development requirements.
- (2) An approval under subclause (1) may be unconditional or subject to any conditions the Commission considers appropriate.
- (3) If the Commission is of the opinion that the non-compliance with a site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the Commission must—
 - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 71; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (4) The Commission may only approve an application for development approval under this clause if the Commission is satisfied that—
 - (a) approval of the proposed development would be appropriate having regard to the matters that the Commission is to have regard to in considering an application for development approval as set out in clause 74; and
 - (b) the non-compliance with the site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

51. Variations to Improvement Scheme provisions for response to and recovery from state of emergency

- (1) The Commission may exempt or vary any site or development requirement specified anywhere in the Scheme to facilitate a response to, or recovery from, a state of emergency.
- (2) An exemption or variation under subclause (1) may be unconditional or subject to conditions the Commission considers appropriate.
- (3) An exemption or variation under subclause (1) must be set out in an Improvement Scheme policy, which must be prepared in accordance with the procedure set out in clauses 13, 14, and 15 of this Scheme.

52. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant—
 - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
 - (b) the Commission must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 71.

PART 6—LOCAL DEVELOPMENT PLANS**53. Term used: local development plan**

In this Part—

local development plan means a plan setting out specific and detailed guidance for a future development including one or more of the following—

- (a) site and development standards that are to apply to the development; and
- (b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

54. When local development plan may be prepared

A local development plan in respect of an area of land in the Scheme area may be prepared if—

- (a) the area is identified in this Scheme as an area requiring a local development plan to be prepared before any future subdivision or development is undertaken; or
- (b) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or
- (c) the Commission considers that a local development plan is required for the purposes of orderly and proper planning.

55. Preparation of local development plan

(1) A local development plan must—

- (a) be prepared in a manner and form approved by the Commission; and
- (b) include any maps or other material considered by the Commission to be necessary; and
- (c) set out the following information—
 - (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies; and
 - (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.

(2) The Commission may prepare a local development plan in the circumstances set out in clause 54.

(3) A person may make an application to the Commission for a local development plan prepared by the person in the circumstances set out in clause 54 to be assessed and advertised if the person is—

- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
- (b) an agent of a person referred to in paragraph (a).

56. Action by Commission on receipt of application

(1) On receipt of an application for a local development plan to be assessed and advertised, the Commission—

- (a) must consider the material provided by the applicant and advise the applicant in writing—
 - (i) if the local development plan complies with clause 55(1); or
 - (ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising; and
- (b) must give the applicant an estimate of the fee for dealing with the application as if the local development plan was a local development plan of a type referred to in regulation 48 of the *Planning and Development Regulations 2009*.

(2) The local development plan is to be taken to have been accepted for assessment and advertising if the Commission has not given written notice of its decision to the applicant by the latest of the following days—

- (a) 14 days after receipt of an application;
- (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);
- (c) if the Commission has given the applicant an estimate of the fee for dealing with the application—the day on which the applicant pays the fee.

57. Advertising of local development plan

(1) The Commission must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised—

- (a) advertise the proposed local development plan in accordance with subclause (2); and
- (b) seek comments in relation to the proposed local development plan from the City of Joondalup, and any public authority or utility service that the Commission considers appropriate.

(2) The Commission must advertise the local development plan in one or more of the following ways—

- (a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the Commission, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
- (b) by publishing a notice of the proposed plan in a manner and form approved by the Commission including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the notice is published;
- (c) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the sign is erected.

(3) Despite subclause (1) the Commission may decide not to advertise a local development plan if the Commission is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.

(4) The Commission—

- (a) must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the Commission; and
- (b) may publish the local development plan and the material accompanying it on the website of the Commission.

58. Consideration of submissions

The Commission—

- (a) must consider all submissions in relation to a local development plan made to the Commission within the period specified in a notice advertising a proposed local development plan; and
- (b) may consider submissions in relation to a local development plan made to the Commission after that time; and
- (c) is to have due regard to the matters set out in clause 74 to the extent that, in the opinion of the Commission those matters are relevant to the development to which the plan relates.

59. Decision of Commission

(1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the Commission must—

- (a) approve the local development plan; or
- (b) require the person who prepared the local development plan to—
 - (i) modify the plan in the manner specified by the Commission; and
 - (ii) resubmit the modified plan to the Commission for approval;

or

- (c) refuse to approve the plan.

(2) The Commission is to be taken to have refused to approve a local development plan if the Commission has not made a decision under subclause (1)—

- (a) if the plan was advertised—within the period of 60 days after the last day for making submissions specified in a notice given or published under clause 57(2) or a longer period agreed between the Commission and a person other than the Commission who prepared the plan; or
- (b) if the plan was not advertised—within the period of 60 days after the resolution not to advertise the plan was made by the Commission or a longer period agreed between the Commission and a person other than the Commission who prepared the plan.

(3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the Commission requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.

(4) Despite subclause (2), the Commission may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.

(5) The Commission must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

60. Local development plan may provide for later approval of details of development

(1) The Commission may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the Commission before the development commences.

(2) The Commission may only approve a local development plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

61. Review

A person who prepared a local development plan may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision by the Commission not to approve the local development plan.

62. Publication of local development plan approved by Commission

If the Commission approves a local development plan the Commission must publish the local development plan on the website of the Commission.

63. Effect of local development plan

(1) The Commission must have due regard to, but is not bound by, an approved local development plan when deciding the application.

(2) The Commission may approve an application for development approval in an area referred to in clause 54 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the Commission, if it is satisfied that—

- (a) the proposed development does not conflict with the principles of orderly and proper planning; and
- (b) the proposed development would not prejudice the overall development potential of the area.

64. Duration of approval

(1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless the Commission earlier revokes its approval.

(2) The Commission may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

65. Revocation of local development plan

The Commission must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

66. Amendment of local development plan

(1) A local development plan may be amended by the Commission.

(2) A person who owns land in the area covered by a local development plan may request the Commission to amend the plan.

(3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.

(4) Despite subclause (3), the Commission may decide not to advertise an amendment to a local development plan if, in the opinion of the Commission, the amendment is of a minor nature.

(5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

PART 7—REQUIREMENT FOR DEVELOPMENT APPROVAL

67. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless—

- (a) the person has obtained the development approval of the Commission under Part 8; or
- (b) the development is of a type referred to in clause 68.

Note: Development includes the erection, placement and display of advertisements.

68. Development for which development approval not required

(1) Development approval of the Commission is not required for the following works—

- (a) the carrying out of internal building work which does not materially affect the external appearance of the building;
- (b) the erection or extension of a single house on a lot where it is a P permitted use in the Residential Precinct that complies with the requirements set out in the relevant Design Guidelines and local development plan;

- (c) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling in the Residential Precinct that complies with the requirements set out in the relevant Design Guidelines and local development plan;
- (d) the demolition of any building or structure;
- (e) temporary works which are in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12 month period;
- (f) the temporary erection or installation of an advertisement if—
 - (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
 - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and
 - (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
- (g) the erection or installation of a sign of a class specified in an Improvement Scheme policy or local development plan that applies in respect of the sign;
- (h) the carrying out of any other works specified in an Improvement Scheme policy or local development plan that applies to the development as works that do not require development approval;
- (i) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval;
- (j) Any required works relating to maritime facilities, services and notices, both on land and water, needed for safe and effective recreational and commercial boating.

Note: The *Planning and Development Act 2005* section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

- (2) Development approval of the Commission is not required for the following uses—
 - (a) development that is a use identified in this Scheme as a use that is permitted P use in the Precinct in which the development is located and—
 - (i) the development has no works component; or
 - (ii) development approval is not required for the works component of the development;
 - (b) the use of premises as a home office;
 - (c) temporary use which is in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12 month period;
 - (d) any other use specified in an Improvement Scheme policy or local development plan that applies to the development as a use that does not require development approval;
 - (e) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) If under subclause (1)(b) or (c), development approval is not required for the carrying out of works on land, the owner of the land may provide to the Commission confirmation of the matters set out in subclause (1)(b) or (c), as relevant, in a manner and form approved by the Commission.

PART 8—APPLICATIONS FOR DEVELOPMENT APPROVAL

69. Form of application

- (1) An application for development approval must be—
 - (a) made in the form of the “Application for development approval” set out in clause 89(1); and
 - (b) signed by the owner of the land on which the proposed development is to be located; and
 - (c) accompanied by any fee for an application of that type as if application was an application of a type referred to in regulation 47 of the *Planning and Development Regulations 2009*; and
 - (d) accompanied by the plans and information specified in clause 70.
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following—
 - (a) a person who is referred to in the definition of owner in respect of freehold land in Schedule 1;
 - (b) a strata company that—
 - (i) is authorised to make an application for development approval in respect of the land under scheme by laws registered under the *Strata Titles Act 1985*; and
 - (ii) if the land is held under a leasehold scheme, has the written consent of the owner of the leasehold scheme to make the application;
 - (c) a community corporation that is authorised under the *Community Titles Act 2018* to make application for development approval in respect of the land;

- (d) a person who is authorised under another written law to make an application for development approval in respect of the land;
- (e) an agent of a person referred to in paragraph (a).

Note: The *Planning and Development Act 2005* section 267A makes provision for the signing of documents by the owner of Crown land.

(3) A term has the same meaning in subclause (2)(b) as is given in the *Strata Titles Act 1985* section 3(1).

(4) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the "Additional information for development approval for advertisements" set out in clause 89(2).

Note: The *Interpretation Act 1984* section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.

70. Accompanying material

(1) An application for development approval must be accompanied by—

- (a) a plan or plans in a form approved by the Commission showing the following—
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
 - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
 - (iv) the structures and environmental features that are proposed to be removed;
 - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (vi) the existing and proposed means of access for pedestrians, cyclists and vehicles to and from the site;
 - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
 - (x) the nature and extent of any open space and landscaping proposed for the site;
- and
- (b) plans, elevations, streetscapes and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
- (c) a report on any specialist studies in respect of the development that the Commission requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering, waste management or urban design studies; and
- (d) any other plan or information that the Commission reasonably requires.

(2) The Commission may waive or vary a requirement set out in subclause (1).

71. Advertising applications

(1) An application for development approval must be advertised under this clause if the proposed development—

- (a) relates to the extension of a non-conforming use; or
- (b) relates to a use if—
 - (i) the use is not specifically referred to in either the land use permissibility table for the Precinct under this Scheme in which the development is located or in the Schedule 1 Definitions; and
 - (ii) the Commission determines that the use may be consistent with the objective of that Precinct and that notice of the application should be given;

or

- (c) does not comply with a requirement of this Scheme; or
- (d) is of a type that this Scheme requires to be advertised.

(2) The Commission may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the Commission is satisfied that the departure from the requirements of this Scheme is of a minor nature.

(3) The Commission may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways—

- (a) by giving notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the Commission, are likely to be

affected by the granting of development approval, including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the notice is given to the person;

- (b) by publishing a notice of the proposed use or development in a manner and form approved by the Commission including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the notice is published;
- (c) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days from the day on which the sign is erected.

(4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of planning proposal” set out in clause 89(3) unless the Commission specifies otherwise.

(5) If an application for development approval is advertised under this clause, the Commission—

- (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the Commission; and
- (b) may publish the application and the material accompanying it on the website of the Commission.

72. Subsequent approval of development

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note: The *Planning and Development Act 2005* section 164 sets out the effect of approval for development already commenced or carried out.

PART 9—PROCEDURE FOR DEALING WITH APPLICATIONS FOR DEVELOPMENT APPROVAL

73. Consultation with other authorities

(1) When, in the opinion of the Commission, an application for development approval may affect any other statutory, public or planning authority, the Commission is to provide a copy of the application to the authority for objections and recommendations.

(2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the Commission must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.

(3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the Commission allows, provide to the Commission a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.

(4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the Commission may determine that the authority is to be taken to have no objections or recommendations to make.

74. Matters to be considered by Commission

In considering an application for development approval the Commission is to have due regard to the following matters to the extent that, in the opinion of the Commission, those matters are relevant to the development the subject of the application—

- (a) the aims, objectives and provisions of this Scheme;
- (b) the requirements of orderly and proper planning including any proposed amendment to this Scheme that has been advertised or any other proposed planning instrument that the Commission is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any Design Guidelines for the Scheme area;
- (h) any Improvement Scheme policy for the Scheme area;
- (i) any local development plan that relates to the development;
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (l) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but

- not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (m) the amenity of the locality including the following—
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
 - (n) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
 - (o) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
 - (p) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslide, bush fire, soil erosion, land degradation or any other risk;
 - (q) the suitability of the land for the development taking into account the possible risk to human health or safety;
 - (r) the adequacy of—
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
 - (s) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
 - (t) the availability and adequacy for the development of the following—
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (v) access by older people and people with disability;
 - (u) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
 - (v) the history of the site where the development is to be located;
 - (w) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
 - (x) any submissions received on the application;
 - (y) the comments or submissions received from any authority consulted under clause 73;
 - (z) any consideration relevant to facilitate a response to, or recovery from, a state of emergency; and
 - (aa) any other planning consideration the Commission considers appropriate.

75. Determination of applications

- (1) The Commission must not determine an application for development approval until the later of—
 - (a) if the application is advertised under clause 71—the end of each period for making submissions to the Commission specified in a notice referred to in clause 71(3); and
 - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 73—the end of each period for providing a memorandum to the Commission referred to in clause 73(3).
- (2) The Commission may determine an application for development approval by—
 - (a) granting development approval without conditions; or
 - (b) granting development approval with conditions; or
 - (c) refusing to grant development approval.

76. Form and date of determination

- (1) As soon as practicable after determining an application for development approval, the Commission must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 89(4).
- (2) The determination has effect on the day on which the notice of determination is given to the applicant.

77. Commencement of development under development approval

If development approval is granted under clause 75—

- (a) the development must be substantially commenced—
 - (i) if no period is specified in the approval—within the period of 2 years commencing on the date on which the determination is made; or

- (ii) if a period is specified in the approval—within that period; or
 - (iii) in either case—within a longer period approved by the Commission on an application made under clause 83(1)(a);
- and
- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

78. Temporary development approval

The Commission may impose conditions limiting the period of time for which development approval is granted.

Note: A temporary development approval is where the Commission grants approval for a limited period. It does not have any effect on the period within which the development must commence.

79. Scope of development approval

Development approval may be granted—

- (a) for the development for which the approval is sought; or
- (b) for the development for which the approval is sought, except for a part or aspect of that development specified in the approval; or
- (c) for a part or aspect of the development for which approval is sought that is specified in the approval.

80. Approval subject to later approval of details

- (1) The Commission may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the Commission before the developer commences the development.
- (2) The Commission may only impose a condition referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not substantially change the development approved.

81. Time for deciding application for development approval

- (1) The Commission must determine an application for development approval—
 - (a) if the application is advertised under clause 71 or a copy of the application is provided to a statutory, public or planning authority under clause 73—within 90 days of receipt of the application; or
 - (b) otherwise—within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 70; or
 - (c) in either case—within a longer time agreed in writing between the applicant and the Commission.
- (2) If the Commission has not made a determination in the time referred to in subclause (1) the Commission is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the Commission may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The Commission must give the applicant written notice of its decision to grant or refuse to grant development approval.

82. Review of decisions

- (1) In this clause—
 - affected person**, in relation to a reviewable determination, means—
 - (a) the applicant for development approval; or
 - (b) the owner of land in respect of which an application for development approval is made;
 - reviewable determination** means a determination by the Commission to—
 - (a) refuse an application for development approval; or
 - (b) to grant development approval subject to conditions; or
 - (c) to refuse to amend or cancel a development approval on an application made under clause 83.
- (2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with Part 14 of the Act.

83. Amending or cancelling development approval

- (1) An owner of land in respect of which development approval has been granted by the Commission may make an application to the Commission requesting the Commission to do any or all of the following—
 - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
 - (b) to amend or delete any condition to which the approval is subject;
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
 - (d) to cancel the approval.

- (2) An application under subclause (1)—
- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
 - (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the Commission may waive or vary a requirement in Part 8 or this Part in respect of an application if the Commission is satisfied that the application relates to a minor amendment to the development approval.
- (4) The Commission may determine an application made under subclause (1) by—
- (a) approving the application without conditions; or
 - (b) approving the application with conditions; or
 - (c) refusing the application.

PART 10—ENFORCEMENT AND ADMINISTRATION

Division 1—Powers of Commission

84. Delegation

For the avoidance of doubt, the Commission may, in accordance with its powers in section 16 of the Act delegate any of its functions or powers under this Scheme.

85. Entry and inspection powers

- (1) The Commission may, by instrument in writing, designate an officer of the Commission as an authorised officer for the purposes of this clause.
- (2) An authorised officer may, for the purpose of monitoring whether Scheme is being complied with, at any reasonable time and with any assistance reasonably required—
- (a) enter any building or land in the Scheme area; and
 - (b) inspect the building or land and any thing in or on the building or land.

86. Repair of existing advertisements

- (1) The Commission may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the Commission the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.
- (2) A requirement referred to in subclause (1) must—
- (a) be in the form of a written notice given to the person; and
 - (b) specify the advertisement the subject of the requirement; and
 - (c) set out clear reasons for the requirement; and
 - (d) set out full details of the action or alternative courses of action to be taken by the person; and
 - (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.
- (3) If the Commission does not know who the owner of an advertisement is, Commission may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the Commission.
- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.
- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with Part 14 of the Act.

Division 2—Miscellaneous

87. Agreement to use of material provided for Scheme purposes

The Commission may refuse to accept an application made under this Scheme if the Commission is not satisfied that there is in place an agreement for the Commission to use any copyrighted material provided in support of the application—

- (a) for the purposes of advertising the application or implementing a decision on the application; and
- (b) for zero remuneration.

88. Fees

Fees payable for applications made under this Improvement Scheme are imposed as if the application was an equivalent application of a type referred to in Part 7 of the *Planning and Development Regulations 2009*.

PART 11—FORMS REFERRED TO IN THIS SCHEME

89. Forms referred to in this Scheme

(1) The form of an application for development approval referred to in clause 69(1)(a) is as follows—

Application for development approval

Owner details		
Name:		
ABN (if applicable):		
Address:		Postcode:
Phone: Work:	Fax:	Email:
Home:		
Mobile:		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in clause 69(2)		

Applicant details (if different from owner)		
Name:		
Address:		Postcode:
Phone: Work:	Fax:	Email:
Home:		
Mobile:		
Contact person for correspondence:		
The information and plans provided with this application may be made available by Commission for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Signature:		Date:

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:	Suburb:	
Nearest street intersection:		

Proposed development		
Nature of development:	<input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use	
Is an exemption from development claimed for part of the development?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, is the exemption for:	<input type="checkbox"/> Works <input type="checkbox"/> Use	
Description of proposed works and/or land use:		
Description of exemption claimed (if relevant):		
Nature of any existing buildings and/or land use:		
Approximate cost of proposed development:		
Estimated time of completion:		

OFFICE USE ONLY

Acceptance Officer's initials:	Date received:
Commission reference No:	
(The content of the form of application must conform with this form but minor variations may be permitted to the format.)	

(4) The form of a notice of determination on an application for development approval referred to in clause 76 is as follows—

Planning and Development Act 2005
Ocean Reef Marina Improvement Scheme

Notice of determination on application for development approval

Location: _____

Lot: _____ Plan/Diagram: _____

Vol. No: _____ Folio No: _____

Application date: _____ Received on: _____

Description of proposed development:

.....

The application for development approval is—

Approved subject to the following conditions

Refused for the following reason(s)

Conditions/reasons for refusal—

.....

.....

Date of determination:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the Commission having first been sought and obtained.

Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed: _____ Dated: _____

.....

for and on behalf of the Western Australian Planning Commission

(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)

SCHEDULE 1—DEFINITIONS

Division 1—General Definitions

(1) In this Scheme—

Act means the *Planning and Development Act 2005*;

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes—

- (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (b) any airborne device anchored to any land or building used for the display of advertising; and
- (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

amenity means all those factors which combine to form the character of an area and include the present and likely future amenity;

Building Code means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

building envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

building height, in relation to a building is the maximum vertical distance between the natural ground level and the finished roof height directly above, inclusive of structures and minor projections;

commencement day means the day this Scheme comes into effect under section 87(4) and section 122B of the Act;

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including—

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

cultural heritage significance has meaning given in the *Heritage Act 2018* section 5(1);

floor area has meaning given in the Building Code;

frontage, in relation to a building—

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the line where a road reserve and the front of a lot meet and, if a lot abuts 2 or more road reserves, the one to which the building or proposed building faces;

Improvement Scheme area means the area to which this Scheme applies;

Improvement Scheme report means the report referred to in clause 11, as amended from time to time;

incidental use means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

minerals has the meaning given in the *Mining Act 1978* section 8(1);

net lettable area or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas—

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

owner, in relation to land, means—

- (a) if the land is freehold land—
 - (i) a person whose name is registered as a proprietor of the land; and
 - (ii) the State, if registered as a proprietor of the land; and
 - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and
 - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;
- and
- (b) if the land is Crown land—
 - (i) the State; and
 - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

plot ratio means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

precinct means a portion of the Scheme area identified on the Scheme Map as a Precinct for the purpose of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on, land;

predominant use means the primary use of premises to which all other uses carried out on the premises are incidental;

premises means land, buildings or part of land or a building;

R-Codes means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

retail means the sale or hire of goods or services to the public;

reserve means land reserved under this Scheme for a public purpose;

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

substantially commenced means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

wall height, in relation to a wall of a building means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

wholesale means the sale of goods or materials to be sold by others;

works, in relation to land, means—

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works; and

- (c) in the case of a place to which a protection order made under the *Heritage Act 2018* Part 4 Division 1 applies, any act or thing that—
- (i) is likely to damage the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration to the fabric of any building.

WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO ADVERTISE
IMPROVEMENT SCHEME: OCEAN REEF MARINA

Prepared by resolution of the Western Australian Planning Commission on 21 January 2020.

DAVID CADDY, Chairperson,
Western Australian Planning Commission.
p.p. DAVID CADDY, Secretary,
Western Australian Planning Commission.

WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO SUPPORT SCHEME FOR
APPROVAL

Western Australian Planning Commission resolved to support approval of Improvement Scheme: Ocean Reef Marina at its meeting on 18 August 2020.

The Common Seal of the Western Australian Planning Commission was hereunto affixed by authority of a resolution of the Western Australian Planning Commission in the presence of—

DAVID CADDY, Chairperson,
Western Australian Planning Commission.
p.p. DAVID CADDY, Secretary,
Western Australian Planning Commission.

Approval granted.

RITA SAFFIOTI, Minister for Planning.

Date: 16 September 2020.
