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Statement No.1226

STATEMENT THAT A PROPOSAL MAY BE IMPLEMENTED (*Environmental Protection Act 1986*)

KOOMBANA BAY MARINE STRUCTURES

Strategic Proposal: The identification of future proposals to construct and operate the Casuarina Boat Harbour, Koombana Bay Sailing Club Marina and the Dolphin Discovery Centre Finger Jetty as defined by the spatial coordinates referred to in Schedule 1, as listed and described in Tables 1, 2 and 3 of Part A, and represented in Figure 1.

Proponent: South West Development Commission

Australian Business Number 23 250 505 809

Proponent address: 9th Floor Bunbury Tower, 61 Victoria Street, Bunbury
WA 6230

Assessment number: 2049

Report of the Environmental Protection Authority: 1760

Introduction: Pursuant to sections 40B and 45 of the *Environmental Protection Act 1986*, it has been agreed that in the event of a declaration by the Environmental Protection Authority pursuant to section 38E of the Act that it is a derived proposal, a proposal to do one or more of the Developments listed in Tables 1, 2 and 3 in Part A of this Statement and which was identified in the Strategic Proposal to which Report 1760 relates, may be implemented. Upon declaration that the proposal is a derived proposal, subject to the Minister for Environment's identification of relevant conditions under section 45B of the Act, the implementation of the proposal shall be subject to the following implementation conditions and procedures:

Conditions and procedures

Part A: Proposal extent

Published on:02/07/2024

Part B: Environmental outcomes, prescriptions and objectives

Part C: Environmental management plans and monitoring

Part D: Compliance and other conditions

PART A: PROPOSAL EXTENT

A1 Limitations and Extent of Proposal

Proposals referred to the **EPA** and declared to be derived proposals containing one or more of the proposal elements listed in Column 1 of Tables 1, 2 and 3, shall be confined to the locations depicted in Figure 1, and shall not exceed the description of maximum limits or extent relevant to the elements provided for in Column 3 of Tables 1, 2 and 3 within its respective table.

Table 1: Casuarina Boat Harbour (CBH)		
Proposal element	Location	Maximum limits or extent
Physical elements		
CBH disturbance footprint and development envelope	CBH depicted in Figure 1	Total disturbance footprint of up to 32 ha within the 40 ha CBH development envelope.
Construction elements		
Breakwater and reclamation (using imported rock and clean fill)		Up to 3.5 ha within CBH disturbance footprint.
Marine Infrastructure		Floating jetties, boat ramps and boat pens within CBH disturbance footprint.

Table 2: Koombana Bay Sailing Club (KBSC) marina		
Proposal element	Location	Maximum limits or extent
Physical elements		
KBSC marina disturbance footprint and development envelope	KBSC depicted by Figure 1	Total disturbance footprint of up to 10 ha within the 16 ha development envelope.
Construction elements		
Breakwater		Up to 2.5 ha within KBSC disturbance footprint.
Reclamation		Up to 2 ha within KBSC disturbance footprint.
Marine Infrastructure		Floating jetties, boat ramps and boat pens within KBSC disturbance footprint.

Table 3: Dolphin Discovery Centre Finger Jetty (DDC)		
Proposal element	Location	Maximum limits or extent
Physical elements		
DDC finger jetty development envelope and disturbance footprint	DDC depicted by Figure 1	Total disturbance footprint of up to 0.15 ha within the 0.5 ha development envelope.
DDC finger jetty infrastructure	Figure 1	up to 110 m long.

PART B – ENVIRONMENTAL OUTCOMES, PRESCRIPTIONS AND OBJECTIVES

B1 Marine Environmental Quality

B1-1 The proponent of the proposals in Tables 1 and 2 must ensure the implementation of the derived proposals achieves the following environmental outcomes:

- (1) no **adverse impacts** on the **marine environmental values** of Ecosystem Health, Fishing and Aquaculture, Recreation and Aesthetics, Industrial Water Supply, and Cultural and Spiritual outside the Moderate Ecological Protection Area;
- (2) the levels of ecological protection to be achieved inside of the:
 - (a) **Moderate Ecological Protection Area**; and
 - (b) **High Ecological Protection Area**;

are consistent with the corresponding levels of ecological protection described in Appendix 1, Table 1 of the **Marine Water Quality Technical Guidance**, including the method used to derive **Environmental Quality Guidelines** and **Environmental Quality Standards**; and

- (3) within one (1) month following **cessation** of **marine construction activities** required for proposals in Tables 1 or 2, water quality will return to a level of **High Ecological Protection** and at least **Moderate Ecological Protection** as spatially defined in Figure 2.

B1-2 The proponent of the proposals in Tables 1 and 2 shall not conduct:

- (1) dredging; or
- (2) **reclamation**,

during the period of 1 December and 31 March (inclusive) or conduct these activities on separate proposals at the same time.

B1-3 The proponent of the **Casuarina Boat Harbour Development** proposal in Table 1 must implement the environmental management plan Marine Environmental Quality Management Plan (Only Casuarina Boat harbour Development) (Revision 4, GHD,2024), and the environmental management plan Marine Construction Monitoring and Management Plan (Revision 2, RPS 2023) with the purpose of ensuring the marine environmental quality environmental outcomes in condition B1-1 are achieved, monitored and substantiated.

B1-4 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must ensure the implementation of the derived proposal achieves the

environmental outcome of maintaining the current flushing regime of Leschenault Inlet, or an alternate flushing time which the CEO confirms in writing on the basis of the information provided in condition B1-5 will not have adverse impacts on the marine **environmental values** in B1-1(1).

B1-5 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must submit an Infrastructure Design and Footprint Report at the time of the **referral** of the proposal. The Infrastructure Design and Footprint Report must demonstrate how the marine environmental quality environmental outcomes in condition B1-1 will be met during implementation, and is required to include:

- (1) a final infrastructure design and footprint that achieves an annual median flushing time of less than 8 days in Leschenault Inlet (or an alternate timeframe if it can be demonstrated that the alternate flushing time will not have adverse impacts on the marine environmental values in B1-1(1)). The final design and footprint report must show the locations, disturbance footprints and configuration of marine infrastructure required for the **Koombana Bay Sailing Club Marina** and demonstrate it is consistent with the maximum extents in Table 2 of Part A and will meet the outcomes in conditions B1-1 and B1-4, condition B2-3, condition B3-1; and
- (2) hydrodynamic modelling and an evaluation of the effects of the final design required by condition B1-5(1) which demonstrates that the flushing time of the Leschenault Inlet and maximum extents in Table 2 of Part A will be achieved, using the latest information on the health and condition of the inlet.

B1-6 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must review and revise the environmental management plan Marine Construction Monitoring and Management Plan (Revision 2, RPS 2023) and environmental management plan Marine Environmental Quality Management Plan (Revision 4, GHD 2024), that satisfies the requirements of condition C4 and demonstrates how the achievement of the marine environmental quality environmental outcomes in condition B1-1 and condition B1-4 will be achieved, monitored and substantiated, and submit to the **CEO**.

B2 Benthic Communities and Habitats

B2-1 The proponent of the **Casuarina Boat Harbour Development** proposal in Table 1 must ensure the implementation of the proposal achieves the following environmental outcome:

- (1) no **irreversible loss** of **benthic communities and habitats** outside the **Casuarina Boat Harbour Development** disturbance footprint shown in Figure 1.
- B2-2 The proponent of the **Casuarina Boat Harbour Development** proposal in Table 1 must implement the environmental management plan Marine Environmental Quality Management Plan (Only Casuarina Boat harbour Development) (Revision 4, GHD 2024), and the environmental management plan Marine Construction Monitoring and Management Plan (Revision 3, RPS 2024) with the purpose of ensuring the **benthic communities and habitats** environmental outcome in condition B2-1 is achieved, monitored and substantiated.
- B2-3 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must ensure the implementation of the proposal achieves the following environmental outcomes:
 - (1) no **irreversible loss** of benthic communities and habitats outside the final **disturbance footprint** of the proposal; and
 - (2) no **adverse impacts** on the health and extent of the **Leschenault Inlet mangrove community**.
- B2-4 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must, review and revise the environmental management plan Marine Construction Monitoring and Management Plan (Revision 2, RPS 2023) and environmental management plan Marine Environmental Quality Management Plan (Revision 4, GHD 2024), to include the final design, modelling and evaluation in condition B1-5 and that satisfies the requirements of condition C4 and demonstrates how the achievement of the benthic communities and habitats environmental outcomes in condition B2-3 will be achieved, monitored and substantiated, and submit it to the **CEO**.

B3 Coastal Processes

- B3-1 The proponent must implement the proposal to meet the following environmental outcome;
 - (1) no material wrack, sediment accumulation or beach erosion, within the development envelope and surrounding beaches compared to baseline and which is substantially contributed by the implementation of the future proposals, separately or together, which adversely affects public recreation or **amenity** values.

- B3-2 The proponent of the **Casuarina Boat Harbour Development** proposal in Table 1 must implement the environmental management plan Coastal Processes Management Plan (Only Casuarina Boat Harbour Development) (Revision 1, 30 October 2023) with the purpose of ensuring the coastal processes environmental outcome in condition B3-1 is achieved, monitored and substantiated.
- B3-3 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must review and revise the environmental management plan Coastal Processes Management Plan (Revision 3, 30 October 2023) to include the final design, modelling and evaluation in condition B1-5 and that satisfies the requirements of condition C4, and demonstrates how achievement of the coastal processes environmental outcome in condition B3-1 will be monitored and substantiated, and submit it to the **CEO**.

B4 Marine Fauna

- B4-1 The proponent shall implement the proposal to achieve the following environmental objectives from the derived proposals, separately or together:
- (1) minimise the risk of physical injury or mortality from vessel strike on **significant marine fauna**;
 - (2) minimise the risk of behavioural changes, health impacts (including temporary or permanent hearing loss), physical injury or mortality from underwater noise emissions from construction to **significant marine fauna**; and
 - (3) minimise the risk of construction displacing dolphins that sustain the dolphin tours and education in Koombana Bay.
- B4-2 The proponent must implement the environmental management plan Marine Fauna Management Plan (Revision 3, January 2024) with the purpose of ensuring the environmental factor environmental objectives in condition B4-1 are achieved.
- B4-3 During construction, the proponent of the **Casuarina Boat Harbour Development** proposal in Table 2 must implement the proposal to meet the following environmental outcome:
- (1) no displacement of **actively nesting** Australian fairy terns (*Sternula nereis nereis*) from within the **Casuarina Boat Harbour Development** envelope.

- B4-4 Prior to the completion of the construction of the northern breakwater, the proponent of the **Casuarina Boat Harbour Development** shall not conduct piling during the period of 1 December and 31 March (inclusive).
- B4-5 The proponent of the **Koombana Bay Sailing Club Marina** and **Dolphin Discovery Centre finger jetty** shall not conduct piling during the period of 1 December and 31 March (inclusive).

B5 Environmental Performance Report – Conditions and Procedure

Condition

- B5-1 The proponent of the **Strategic Proposal** must within one, two and five years of the completion of construction of each proposal in Tables 1 and 2, report on the direct and indirect impacts, including cumulative impacts of the proposals on:
- (1) **Marine environmental quality** outcomes in condition B1-1
 - (2) **Benthic communities and habitats** outcomes in conditions B2-1 and B2-3
 - (3) **Coastal processes** outcomes in condition B3-1
 - (4) **Marine fauna** objectives in condition B4-1 and B4-3
- B5-2 In the event that the environmental performance reports show the environmental outcomes are not achieved by any or all of the derived proposals, the proponent of the Strategic Proposal will implement contingency actions with the proponents of derived proposals to ensure the environmental outcomes are achieved as soon as practicable. These may include staging of the later derived proposals until the environmental outcomes of the existing derived proposals have been achieved.

Procedure

- B5-3 The proponent of the **Strategic Proposal** must co-ordinate the communication, information and data sharing between, and co-operation on environmental management approaches of the proponents of the derived proposals to ensure the requirements of condition B5-1 and B5-2 can be achieved.
- B5-4 The proponent of the **Strategic Proposal** must ensure there are communication and complaints procedures in place in relation to impacts from the derived proposals.

PART C – ENVIRONMENTAL MANAGEMENT PLANS AND MONITORING

C1 Environmental Management Plans: Conditions Related to Commencement of Implementation of the Proposal

- C1-1 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must not undertake **marine construction activities** until the **CEO** has **confirmed** in writing that the environmental management plans required by condition B1-6 meets the requirements of that condition and condition C4.
- C1-2 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must not undertake **marine construction activities** until the **CEO** has **confirmed** in writing that the environmental management plan required by condition B2-4 meets the requirements of that condition and condition C4.
- C1-3 The proponent of the **Koombana Bay Sailing Club Marina** proposal in Table 2 must not undertake **marine construction activities** until the **CEO** has **confirmed** in writing that the environmental management plan required by condition B3-3 meets the requirements of that condition and condition C4.

C2 Environmental Management Plans: Conditions Relating to Approval, Implementation, Review and Publication

- C2-1 Upon being required to implement an environmental management plan under Part B, or after receiving notice in writing from the **CEO** under condition C1-1, C1-2 and C1-3 that the environmental management plans required in Part B satisfy the relevant requirements, the proponent must:
- (1) implement the most recent version of the **confirmed** environmental management plan; and
 - (2) continue to implement the **confirmed** environmental management plan referred to in condition C2-1(1), other than for any period which the **CEO** confirms by notice in writing that it has been demonstrated that the relevant requirements for the environmental management plan have been met, or are able to be met under another statutory decision-making process, in which case the implementation of the environmental management plan is no longer required for that period.
- C2-2 The proponent:
- (1) may review and revise a **confirmed** environmental management plan provided it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan;

- (2) must review and revise a **confirmed** environmental management plan and ensure it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan, as and when directed by the **CEO**; and
 - (3) must revise and submit to the **CEO** the **confirmed** environmental management plan if there is a material risk that the outcomes or objectives it is required to achieve will not be complied with, including but not limited to as a result of a change to the proposal.
- C2-3 Despite condition C2-1, but subject to conditions C2-4 and C2-5, the proponent may implement minor revisions to an environmental management plan if the revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.
- C2-4 If the proponent is to implement minor revisions to an environmental management plan under condition C2-3, the proponent must provide the **CEO** with the following at least twenty (20) business days before it implements the revisions:
 - (1) the revised environmental management plan clearly showing the minor revisions;
 - (2) an explanation of and justification for the minor revisions; and
 - (3) an explanation of why the minor revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes or objectives which the environmental management plan is required to achieve.
- C2-5 The proponent must cease to implement any revisions which the **CEO** notifies the proponent (at any time) in writing may not be implemented.
- C2-6 **Confirmed** environmental management plans, and any revised environmental management plans under condition C2-4(1), must be published on the proponent's website and provided to the **CEO** in electronic form suitable for on-line publication by the Department of Water and Environmental Regulation within twenty (20) business days of being implemented, or being required to be implemented (whichever is earlier).

C3 Conditions Related to Monitoring

- C3-1 The proponent must undertake monitoring capable of:

- (1) substantiating whether the proposal limitations and extents in Part A are exceeded; and
- (2) **detecting** and substantiating whether the environmental outcomes identified in Part B are achieved (excluding any environmental outcomes in Part B where an environmental management plan is expressly required to monitor achievement of that outcome).

C3-2 The proponent must submit as part of the Compliance Assessment Report required by condition D2, a compliance monitoring report that:

- (1) outlines the monitoring that was undertaken during the implementation of the proposal;
- (2) identifies why the monitoring was capable of substantiating whether the proposal limitation and extents in Part A are exceeded;
- (3) for any environmental outcomes to which condition C3-1(2) applies, identifies why the monitoring was scientifically robust and capable of **detecting** whether the environmental outcomes in Part B are met;
- (4) outlines the results of the monitoring;
- (5) reports whether the proposal limitations and extents in Part A were exceeded and (for any environmental outcomes to which condition C3-1 (2) applies) whether the environmental outcomes in Part B were achieved, based on analysis of the results of the monitoring; and
- (6) reports any actions taken by the proponent to remediate any potential non-compliance.

C4 Environmental Management Plans: Conditions Relating to Monitoring and Adaptive Management for Outcomes Based Conditions

C4-1 The environmental management plans required under conditions B1-6, B2-4, and B3-3 must contain provisions which enable the substantiation of whether the relevant outcomes of those conditions are met, and must include:

- (1) **threshold criteria** that provide a limit beyond which the environmental outcomes are not achieved;
- (2) **trigger criteria** that will provide an early warning that the environmental outcomes are not likely to be met;
- (3) monitoring parameters, sites, control/reference sites, methodology, timing and frequencies which will be used to measure **threshold criteria** and **trigger criteria**. Include methodology for determining alternate

monitoring sites as a contingency if proposed sites are not suitable in the future;

- (4) baseline data;
- (5) data collection and analysis methodologies;
- (6) adaptive management methodology;
- (7) **contingency measures** which will be implemented if **threshold criteria** or **trigger criteria** are not met; and
- (8) reporting requirements.

C4-2 The environmental management plan required under condition B1-6 (marine environmental quality) is also required to include:

- (1) map(s) spatially representing any improvements in the **High Ecological Protection Areas** and/or **Moderate Ecological Protection Areas** to apply to proposal in Table 2, to the extent that improvements have been achieved as a result of the with revised design submitted in condition B1-5;
- (2) revised monitoring program that incorporates any improvements in the **High Ecological Protection Areas** or **Moderate Ecological Protection Area** in condition C4-2 (1);
- (3) specific measures to monitor environmental indicators of reduced flushing and determine whether there are **adverse impacts** on the marine **environmental values** in the Leschenault Inlet;
- (4) proven and technically feasible **contingency measures** and remediation actions that can be readily implemented in a timely manner to ensure the environmental outcomes in condition B1-1 and B1-4 are achieved; and
- (5) consultation with City of Bunbury on the implementation of the plan.

C4-3 The environmental management plans required under condition B2-4 are also required to include:

- (1) procedures to monitor the cover and extent of **perennial seagrass** in Koombana Bay, prior to and following the completion of **marine construction activities**;
- (2) monitoring at impact and reference sites;

- (3) monitoring capable of **detecting** whether there has been a statistically significant irreversible impact (loss) on the cover or extent of **perennial seagrass** in Koombana Bay;
- (4) procedures for monitoring results of (3) above to be reported at two years following the completion of **marine construction activities**; and
- (5) if impact is still evident after two years, then a further three years of monitoring is required with a report submitted five years following the completion of **marine construction activities**.

C4-4 The environmental management plan required under condition B3-3 is also required to include:

- (1) shoreline mapping and beach profiles on Ski Beach and Koombana Beach using on-ground surveys which monitor beach width and slope;
- (2) procedures to track cumulative changes in sediment distribution;
- (3) **management actions** to maintain beach profiles and minimise wrack accumulation at Ski Beach and Koombana Beach during and following construction;
- (4) specific measures for wrack disposal locations and procedures for undertaking sediment and wrack management so that impacts to seagrass and macroalgal communities are avoided;
- (5) outline of community engagement to be undertaken prior to and during implementation of the **contingency measures** and wrack disposal processes to ensure impacts on **amenity** are minimised;
- (6) detail the agreed arrangements with the City of Bunbury and roles of the proponent and the City of Bunbury in the maintenance of beach profiles and wrack at Ski Beach and Koombana Beach.

C4-5 Without limiting condition C4-1, failure to achieve an environmental outcome, or the exceedance of a **threshold criteria**, regardless of whether threshold **contingency measures** have been or are being implemented, represents a non-compliance with these conditions.

C5 Environmental Management Plans: Conditions Related to Management Actions and Targets for Objective Based Conditions

C5-1 The environmental management plan required under condition B4-2 must contain provisions which enable the achievement of the relevant objectives of those conditions and substantiation of whether the objectives are reasonably likely to be met, and must include:

- (1) management actions;
- (2) management targets;
- (3) contingency measures if management targets are not met; and
- (4) reporting requirements.

C5-2 Without limiting condition C5-1, the failure to achieve an environmental objective, or implement a **management action**, regardless of whether **contingency measures** have been or are being implemented, represents a non-compliance with these conditions.

PART D – COMPLIANCE, TIME LIMITS, AUDITS AND OTHER CONDITIONS

D1 Non-compliance Reporting

D1-1 If the proponent becomes aware of a potential non-compliance, the proponent must:

- (1) report this to the **CEO** within ten (10) days;
- (2) implement **contingency measures**;
- (3) investigate the cause;
- (4) investigate environmental impacts;
- (5) advise rectification measures to be implemented;
- (6) advise any other measures to be implemented to ensure no further impact;
- (7) advise timeframe in which contingency, rectification and other measures have and/or will be implemented; and
- (8) provide a report to the **CEO** within twenty-one (21) days of being aware of the potential non-compliance, detailing the measures required in conditions D1-1(1) to D1-1(7) above.

D1-2 Failure to comply with the requirements of a condition, or with the content of an environmental management plan required under a condition, constitutes a non-compliance with these conditions, regardless of whether the **contingency measures**, rectification or other measures in condition D1-1 above have been or are being implemented.

D2 Compliance Reporting

D2-1 The proponent must provide an annual Compliance Assessment Report to the **CEO** for the purpose of determining whether the implementation conditions are being complied with.

D2-2 Unless a different date or frequency is approved by the **CEO**, the first annual Compliance Assessment Report must be submitted within fifteen (15) months of the date of this Statement, and subsequent reports must be submitted annually from that date.

D2-3 Each annual Compliance Assessment Report must be endorsed by the proponent's Chief Executive Officer, or a person approved by proponent's Chief Executive Officer to be delegated to sign on the Chief Executive Officer's behalf.

D2-4 Each annual Compliance Assessment Report must:

- (1) state whether each condition of this Statement has been complied with, including:
 - (a) exceedance of any proposal limits and extents;
 - (b) achievement of environmental outcomes;
 - (c) achievement of environmental objectives;
 - (d) requirements to implement the content of environmental management plans;
 - (e) monitoring requirements;
 - (f) implement **contingency measures**;
 - (g) requirements to implement adaptive management; and
 - (h) reporting requirements;
- (2) include the results of any monitoring (inclusive of any raw data) that has been required under Part C in order to demonstrate that the limits in Part A, and any outcomes or any objectives are being met;
- (3) provide evidence to substantiate statements of compliance, or details of where there has been a non-compliance;
- (4) include the corrective, remedial and preventative actions taken in response to any potential non-compliance;
- (5) be provided in a form suitable for publication on the proponent's website and online by the Department of Water and Environmental Regulation; and
- (6) be prepared and published consistent with the latest version of the Compliance Assessment Plan required by condition D2-5 which the **CEO** has confirmed by notice in writing satisfies the relevant requirements of Part C and Part D.

D2-5 The proponent must prepare a Compliance Assessment Plan which is submitted to the **CEO** at least six (6) months prior to the first Compliance Assessment Report required by condition D2-2, or prior to implementation of the proposal, whichever is sooner.

D2-6 The Compliance Assessment Plan must include:

- (1) what, when and how information will be collected and recorded to assess compliance;
- (2) the methods which will be used to assess compliance;
- (3) the methods which will be used to validate the adequacy of the compliance assessment to determine whether the implementation conditions are being complied with;
- (4) the retention of compliance assessments;
- (5) the table of contents of Compliance Assessment Reports, including audit tables; and
- (6) how and when Compliance Assessment Reports will be made publicly available, including usually being published on the proponent's website within sixty (60) days of being provided to the **CEO**.

D3 Contact Details

- D3-1 The proponent must notify the **CEO** of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

D4 Time Limit for Proposal Implementation

- D4-1 The proposal must be substantially commenced within five (5) years from the date of the Section 45B Notice.
- D4-2 The proponent must provide to the **CEO** documentary evidence demonstrating that they have complied with condition D4-1 no later than fourteen (14) days after the expiration of period specified in condition D4-1.
- D4-3 If the proposal has not been substantially commenced within the period specified in condition D4-1, implementation of the proposal must not be commenced or continued after the expiration of that period.

D5 Public Availability of Data

- D5-1 Subject to condition D5-2, within a reasonable time period approved by the **CEO** upon the issue of this Statement and for the remainder of the life of the proposal, the proponent must make publicly available, in a manner approved by the **CEO**, all validated environmental data collected before and after the date of this Statement relevant to the proposal (including sampling design, sampling methodologies, monitoring and other empirical data and derived information

products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

D5-2 If:

- (1) any data referred to in condition D5-1 contains trade secrets; or
- (2) any data referred to in condition D5-1 contains particulars of confidential information (other than trade secrets) that has commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published,

the proponent may submit a request for approval from the **CEO** to not make this data publicly available and the **CEO** may agree to such a request if the **CEO** is satisfied that the data meets the above criteria.

D5-3 In making such a request the proponent must provide the **CEO** with an explanation and reasons why the data should not be made publicly available.

D6 Independent Audit

D6-1 The proponent must arrange for an independent audit of compliance with the conditions of this statement, including achievement of the environmental outcomes and/or the environmental objectives and/ or environmental performance with the conditions of this statement, as and when directed by the **CEO**.

D6-2 The independent audit must be carried out by a person with appropriate qualifications who is nominated or approved by the **CEO** to undertake the audit under condition D6-1.

D6-3 The proponent must submit the independent audit report with the Compliance Assessment Report required by condition D2, or at any time as and when directed in writing by the **CEO**. The audit report is to be supported by credible evidence to substantiate its findings.

D6-4 The independent audit report required by condition D6-1 is to be made publicly available in the same timeframe, manner and form as a Compliance Assessment Report, or as otherwise directed by the **CEO**.

[signed on 28/06/2024]

HON DR. TONY BUTI MLA
ACTING MINISTER FOR ENVIRONMENT; CLIMATE ACTION

Key decision-making authorities consulted under section 45(2):
Minister for Planning; and Lands Minister for Transport

Table 4: Abbreviations and definitions

Acronym or abbreviation	Definition or term
Actively Nesting	From the time that nesting behaviours typical of the species on the ground are displayed until the fledged young are no longer dependent on the nest site.
Adverse impact	<p>Negative change that is neither trivial nor negligible that could result in a reduction in health, diversity or abundance of the receptor/s being impacted, or a reduction in environmental value. Adverse impacts can arise from direct or indirect impacts, or other impacts from the proposal.</p> <p>In relation to marine environmental quality in the High Ecological Protection Area this means that:</p> <ul style="list-style-type: none"> • ecosystem processes (e.g. primary production, nutrient cycles) are maintained within the limits of natural variation (no detectable change) • for the quality of water and sediment there can be small detectable changes beyond limits of natural variation, but no resultant effect on biota. <p>In relation to benthic communities and habitats, this includes but is not limited to declining measures of the extent, health and/or condition of perennial seagrass and the Leschenault Inlet mangrove community.</p> <p>In relation to coastal processes, includes but is not limited to changes in erosion/deposition/accretion and edge effects.</p>
Amenity	<p>Amenity is defined in relation to the EPA's Environmental Factor Guideline for Social Surroundings:</p> <p><i>'Amenity' means the qualities, attributes and characteristics of a place that make a positive contribution to quality of life.</i></p> <p><i>'Amenity values' include both visual amenity, the ability for people to live and recreate within their surroundings without any unreasonable interference with their health, welfare, convenience and comfort.</i></p>
Benthic Communities and Habitats	Benthic communities are biological communities that live in or on the seabed. In Koombana Bay this may include seagrass species of <i>Posidonia</i> , <i>Amphibolus</i> , <i>Heterozostera</i> and <i>Zostera</i> and reef with macroalgae benthic communities.
Casuarina Boat Harbour (CBH) Development	<p>As defined in Table 1 and Figure 1.</p> <p>The proposal includes a dredging and dredge spoil component, land reclamation and construction of breakwater and revetment walls. The marine infrastructure includes the construction and operation of floating jetties, boat ramps and boat pens.</p>

Cessation	Refers to a stop or pause of an action that is greater than 30 days.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or the CEO's delegate.
Confirmed	<p>In relation to a plan required to be made and submitted to the CEO, means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition.</p> <p>In relation to a plan required to be implemented without the need to be first submitted to the CEO, means that plan until it is revised, and then means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition.</p>
Contingency measures	Planned actions for implementation if it is identified that an environmental outcome, environmental objective, threshold criteria, environmental quality standard or management target are likely to be, or are being, exceeded. Contingency measures include changes to operations or reductions in disturbance or adverse impacts to reduce impacts and must be decisive actions that will quickly bring the impact to below any relevant threshold, management target and to ensure that the environmental outcome and/or objective can be met.
Detecting	The smallest statistically discernible effect size that can be achieved with a monitoring strategy designed to achieve a statistical power value of at least 0.8 or an alternative value as determined by the CEO .
Disturb/ Disturbed/ Disturbance	<p>Means directly has or materially contributes to the disturbance effect on health, diversity or abundance of the receptor/s being impacted or on an environmental value.</p> <p>In relation to benthic community and habitats (including mangroves), results in death, destruction, removal, severing or substantial damage.</p> <p>In relation to fauna, includes to have the effect of altering the natural behaviour of fauna to its detriment.</p> <p>Direct – causes or immediately has the disturbance effect.</p> <p>Indirect – materially contributes to the disturbance effect.</p>
Dolphin Discovery Centre (DDC) Finger Jetty	<p>As defined in Table 3 and Figure 1.</p> <p>The proposal includes a pilling component and temporary onshore construction laydown area. The marine infrastructure includes the construction and operation of a finger jetty.</p>
Environmental Quality Guidelines	Threshold numerical values or narrative statements which if met indicate there is a high degree of certainty that the associated environmental quality objective has been achieved.

Environmental Quality Standards	Threshold numerical values or narrative statements that indicate a level which if not met indicates there is a significant risk that the associated environmental quality objective has not been achieved and a management response is required.
Environmental value	A beneficial use, or ecosystem health condition (from <i>EP Act</i>) Particular value or uses of the environment that are important for a healthy ecosystem or for public benefit, welfare, safety or health and which require protection from the effects of pollution, waste discharges and deposits as defined in the Technical Guidance <i>Protecting the Quality of Western Australia's Marine Environment</i> , as amended from time to time, and available at www.epa.wa.gov.au .
EPA	Environmental Protection Authority
Ground disturbing activities	Any activity or activities undertaken in the implementation of the proposal, including any clearing, civil works or construction.
Ha	Hectare
High Ecological Protection Area	All of the proximal coastal waters outside of areas defined as Moderate Ecological Protection Areas as shown in Figure 2, defined in spatial data in schedule 1 and as defined in the Marine Water Quality Technical Guidance .
Irreversible loss	Adverse impact which is unlikely to or does not return to pre-impact state within five (5) years following the completion of proposal related activities that are likely to have an impact on benthic communities and habitats.
Koombana Bay Sailing Club (KBSC) Marina	As defined in Table 2 and Figure 1. The proposal includes a dredging component, a piling component, land reclamation and construction of two breakwaters. The marine infrastructure includes the construction and operation of floating jetties, boat ramps and boat pens.
Leschenault Inlet mangrove community	White mangrove (<i>Avicennia marina</i>) community depicted in Figure 1.
Management action	The identified actions implemented with the intent of achieving the environmental objective.
Management target	A type of indicator to evaluate whether an environmental objective is being achieved.
Marine construction activities	Activities involved in the construction of rock walls, breakwaters, dredging, piling, pontoons and jetties in the waters below highest astronomical high tide, areas that have been or in the process of being reclaimed and near shore areas utilised for construction areas.

Marine Water Quality Technical Guidance	<i>Technical Guidance for protecting the quality of Western Australia's marine environment</i> , as amended from time to time, and available at www.epa.wa.gov.au .
Moderate Ecological Protection Area	The area shown in Figure 2 as 'Moderate Ecological Protection Area', defined in spatial data in schedule 1 and as defined in the Marine Water Quality Technical Guidance .
m³	Cubic metres
m	metres
breakwater	The breakwater structures shown in Figure 1 and described in table 1 and 2.
Perennial seagrass	Seagrass which lives and grows all year round. Includes species of <i>Posidonia</i> , <i>Amphibolus</i> , <i>Heterozostera</i> and <i>Zostera</i> .
Pollution	Has the meaning provided by section 3A(1) of the <i>Environmental Protection Act 1986</i> .
Reclamation	Using dredge spoil to create land or foreshore (excludes breakwater construction).
Significant marine fauna	Includes turtles, cetaceans, penguins and pinnipeds.
Strategic Proposal	Has the meaning provided by section 37B(2) of the <i>Environmental Protection Act 1986</i> .
Trigger criteria	Indicators that have been selected for monitoring to provide a warning that, if exceeded, the environmental outcome may not be achieved. They are intended to forewarn of the approach of the threshold criteria and trigger response actions.
Threshold criteria	The indicators that have been selected to represent limits of impact beyond which the environmental outcome is not being met.

Figures (attached)

Figure 1 Koombana Bay Marine Structures Development envelopes and indicative footprint, and key features in Koombana Bay and Leschenault Inlet

Figure 2 Marine Ecological Protection Areas



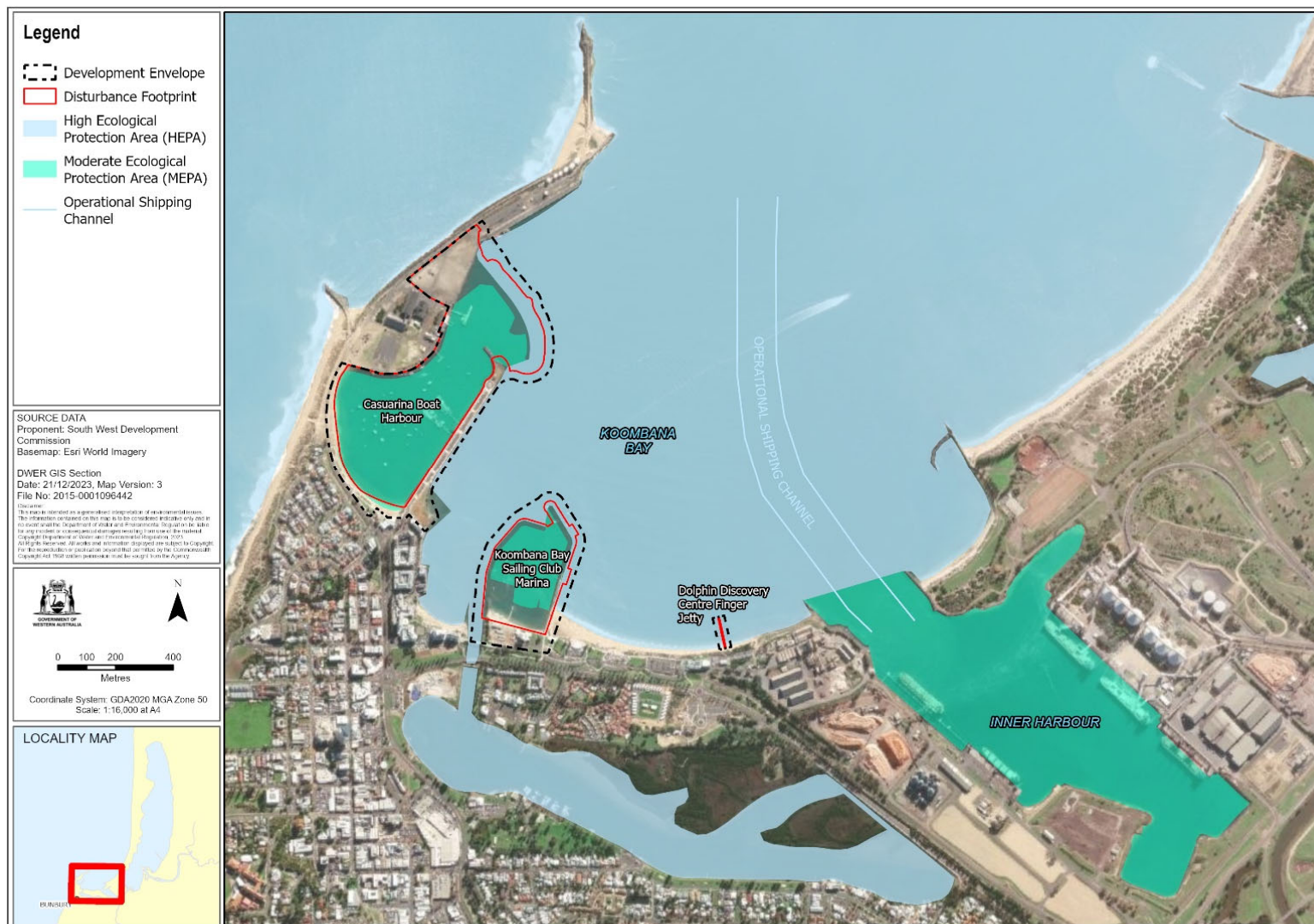


Figure 2: Marine Ecological Protection Areas

Schedule 1

All co-ordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 2020 (GDA2020).

Spatial data depicting the figures are held by the Department of Water and Environmental regulation.

- Figure 1: Development envelopes for the proposals – DWER-801164602-324182
- Figure 2: Marine Ecological Protection Areas –DWER-801164602-324181