

22/12/2009  
C126**SCHEDULE 9 TO THE DEVELOPMENT PLAN OVERLAY**Shown on the planning scheme map as **DPO9****WYNDHAM HARBOUR****PURPOSE**

The development plan provides the criteria to ensure the coordinated and integrated development of Wyndham Harbour.

**1.0****Requirement before a permit is granted**22/12/2009  
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Before a Development Plan has been prepared to the satisfaction of the Responsible Authority, a permit may be granted:

- for minor drainage works
- for minor earthworks
- for demolition of farm sheds
- to remove, destroy or lop vegetation
- for the provision of infrastructure services to the site
- to use and develop the land for the purpose of a temporary sales office and/or temporary display suite associated with the development of the land
- to erect and display advertising signage associated with the development

Prior to the grant of any permit under this clause, the Responsible Authority must:

- send a copy of the permit application to the Department of Sustainability and Environment within 7 days of receipt of that permit application which the Responsible Authority considers provides sufficient information so as to allow assessment; and
- consider any written comments received from Department of Sustainability and Environment received within 14 days of sending that permit application to the Department of Sustainability and Environment.

**2.0****Conditions and requirements for permits**22/12/2009  
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A planning permit authorising the development of the Wyndham Harbour must include the following conditions:

- The proponent must submit to the Responsible Authority a works methodology report to the satisfaction of Southern Rural Water demonstrating that the construction of the marina basin and inlet generally in accordance with the approved development plan will not have a material adverse effect upon the beneficial use of the underlying aquifer which forms part of the Deutgam Water Supply Protection Area (the Works Methodology Report).
- A Works Methodology Report to the satisfaction of Southern Rural Water must be submitted prior to the commencement of the construction of the marina basin and inlet.
- Prior to the submission of the Works Methodology Report, it must be reviewed by an independent hydrogeologist agreed by the proponent and Southern Rural Water or, failing agreement, as nominated by the President of the Australian Chapter of the

International Association of Hydrogeologists (the independent review). A copy of the independent review must be submitted with the Works Methodology Report.

- The construction of the marina basin and inlet must be undertaken generally in accordance with the requirements of the approved development plan and the Works Methodology Report to the satisfaction of the Responsible Authority and Southern Rural Water.
- Any modification to the Works Methodology Report must be to the satisfaction of the Responsible Authority and Southern Rural Water.
- No access or works are to commence on Southern Rural Water's drainage reserve until a 'Private Works Agreement' has been entered into by the proponent and Southern Rural Water to the satisfaction of Southern Rural Water.
- Should the proponent wish to divert water from Southern Rural Water Drain 5 the proponent will need to enter into a separate agreement (to the satisfaction of Southern Rural Water) prior to any diversion commencing.
- Should a 'Private Works Agreement' be entered into between both parties, Southern Rural Water will not accept any responsibility or liability for the quality of water diverted to or from the proponents land or any escape of water from that land.

### 3.0 Requirements for development plan

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A Development Plan submitted for approval pursuant to this Schedule must be generally in accordance with a Land Use Framework Plan for Wyndham Harbour which has been submitted to and approved by the Responsible Authority.

The Land Use Framework Plan must show the general location of all proposed land uses within the plan area (onshore and offshore) and may be amended to the satisfaction of the Responsible Authority from time to time.

The Responsible Authority must consider the views of owners and occupiers of land and berths in Wyndham Harbour by giving not less than 21 days to provide comments on any changes to the Land Use Framework Plan.

A Development Plan must show, as appropriate:

- the location of all proposed land uses within the plan area (onshore and offshore) generally in accordance with the Wyndham Harbour Land Use Framework Plan;
- A proposed layout pattern which provides:-
  - a convenient and safe internal road network and car parking layout;
  - a convenient and safe pedestrian network;
  - convenient and safe pedestrian and road linkages to surrounding areas including coastal paths;
  - pedestrian linkages between the car park and the beach;
  - a continuous public path between the northern and southern sections of the foreshore reserve while allowing for movements associated with boating activities and marina operations;
  - for energy efficient building design elements that address energy efficiency and greenhouse gas emissions;
  - a sensitive interface with adjoining rural land;
  - for commercial and service facilities necessary to support the marina operations;
  - details of access arrangements to and from Duncans Road;

- details of existing vegetation to be removed;
- appropriate public open space which:-
- Includes land within the Public Park and Recreation Zone to be generally set aside for beach recreation, coastal paths and landscaping including revegetation.
- Takes into account the sensitivities of the coastal location, existing coastal vegetation and proposed water management systems such as water bodies
- Includes appropriate public access areas and facilities
- areas which are accessible to the public;
- The stages (if any) by which the development of the site is to proceed and information as to the timing and provision of infrastructure and other key facilities associated with the staging of the development;
- Building materials and colours to be muted tonings of low-reflective material;
- An outline of infrastructure treatment including road reservations, water supply, wastewater, overall drainage management plan, energy and telecommunication services;
- The location of the proposed pump houses for the sand by-pass operation and sewerage reticulation;
- The areas of the land where applications for licensed premises may be made in the future;
- Details of the variations to the requirements of clause 52.14 in relation to any boat sales on the land;
- Any other matters necessary to support the Wyndham Harbour development.

In accordance with clause 43.04-3, the development plan may be prepared in stages and a particular stage may provide only the relevant detail for the use and development of the part of the land in that stage to the satisfaction of the Responsible Authority.

Subdivision of the land must be generally in accordance with the development plan.

Prior to the approval of any development plan or any modification or amendment to an approved development plan under this clause, the Responsible Authority must:

- consider the views of owners and occupiers of land and berths in Wyndham Harbour by giving not less than 21 days to provide comments;
- send a copy of the development plan or the request for modification or amendment to an approved development plan to the Department of Sustainability and Environment within 7 days of receipt of that development plan or request which the Responsible Authority considers provides sufficient information so as to allow assessment; and
- consider any written comments received from Department of Sustainability and Environment received within 14 days of sending that development plan or request to the Department of Sustainability and Environment.

Any amendment or modification to the development plan relating to the Groundwater Protection Management Plan or the components of the Construction Environment Management Plan or the Operations Environment Management Plan which relate to groundwater protection must be to the satisfaction of Southern Rural Water. Southern Rural Water must notify the Responsible Authority as to whether it is satisfied with the amendments or modifications within 14 days of receiving notice of those amendments or modifications.

A Development Plan must be accompanied by:-

- the Site Analysis and the Design Guidelines Report
- the Transport Management Plan
- the Overall Drainage Management Plan
- the Landscape Plan
- the Supplementary Archaeological Report
- the Groundwater Protection Management Plan
- the Construction Environment Management Plan; and
- the Operations Environment Management Plan

('the Plans').

The Plans may be prepared in stages to the satisfaction of the Responsible Authority. The Plans may be amended from time to time in accordance with the requirements of this clause to the satisfaction of the Responsible Authority. The Plans must be implemented to the satisfaction of the Responsible Authority.

### **Site Analysis and Design Guidelines Report**

The Site Analysis and Design Guidelines Report must be to the satisfaction of the Responsible Authority and include design guidelines for all built form including indicative elevations, maximum building heights, setbacks and floor areas. The report must include an assessment of the proposed Development Plan against the Wyndham Harbour Design Guidelines approved by the Responsible Authority (or as subsequently amended to the satisfaction of the Responsible Authority from time to time). The Report must include a site analysis and design response for the Development Plan demonstrating a response to the site's opportunities and constraints, with particular regard to:

- the need to provide a safe harbour accessible to all craft in adverse weather conditions with associated services including haul out, refuelling , pump out and mechanical servicing facilities;
- the outcomes of the Wyndham Cove Marina Environment Effects Statement 2005;
- the physical constraints of the site;
- the need for creation of public access areas generally along the coastline and linking of coastal pathways;
- the need for rehabilitation of degraded indigenous coastal vegetation along the coastline;
- the interface with adjoining land used for rural purposes;
- any other matters which the Responsible Authority deems to be appropriate

The Report must also include information on the provision and enhancement of visitor amenities, the treatment of the interface between residential and non-residential land uses and outline arrangements for the maintenance of common areas in private ownership and public areas, including responsibilities of the stakeholders.

### **Transport Management Plan**

- The Transport Management Plan must be to the satisfaction of the Responsible Authority and address:

- the impact of the development on the road network, mitigation works required on the road network, funding responsibilities, road hierarchy, proposed traffic management devices, carparking areas, areas for the loading and unloading of commercial vehicles, pedestrian and bicycle networks;
- carparking for the residential components in accordance with the requirements of clause 54 or 55 as appropriate;
- carparking for the non-residential components to the satisfaction of the Responsible Authority;
- details of safe, secure and accessible bicycle parking facilities in and around the Wyndham Harbour development and beach areas and demonstrating continuity of the Bay Trail;
- Prior to the approval of any development plan under this clause, the Responsible Authority must:
  - send a copy of the Transport Management Plan to VicRoads within 7 days of receipt of that Transport Management Plan which the Responsible Authority considers provides sufficient information so as to allow assessment; and
  - consider any written comments received from VicRoads within 14 days of sending that Transport Management Plan to VicRoads.

#### **Overall Drainage Management Plan**

- The Overall Drainage Management Plan, must be to the satisfaction of the relevant Drainage Authority and include details of any external catchments and a Stormwater Management Plan detailing how the stormwater will be collected and treated within the development;

#### **Landscape Plan**

- The Landscape Plan must be to the satisfaction of the Responsible Authority and include details of street trees, understorey and ground planting, rehabilitation of indigenous coastal vegetation along the coastline and plantings in other areas to soften built form. The plan should not use weed species known to colonise aquatic, wetland, marine and rural ecosystems and should have regard to the sensitivities of the coastal environment.

The Landscape Plan must be consistent with the following objectives:

- Develop landscapes to enhance and complement the site architecture;
- Integrate the natural environment in a manner appropriate to the site;
- Develop a high quality, long-term landscape theme;
- Assimilate the public with the private landscape to create a cohesive design; and
- Create and sustain a landscape that is aesthetically appealing, culturally appropriate and environmentally sensitive.

#### **Supplementary Archaeological Report**

- The supplementary archaeological report must be to the satisfaction of the Responsible Authority and Aboriginal Affairs Victoria and include an assessment of the marine portion of the development area to determine the likelihood of the presence of material relating to unlocated shipwrecks.

### **Groundwater Protection Management Plan**

- The Groundwater Protection Management Plan must be to the satisfaction of Southern Rural Water and indicate the measures to be adopted to ensure that there are no materially adverse impacts on the groundwater resource or the existing users of that resource.

### **Construction Environment Management Plan**

- The Construction Environment Management Plan must be to the satisfaction of the Responsible Authority and address:
  - terrestrial and marine ecology;
  - water quality;
  - dredging associated with the boat harbour construction and maintenance activities having regard to the Best Practice Environmental Management Guidelines Environment Protection Authority, October 2001;
  - air quality;
  - erosion mitigation and control;
  - noise;
  - drainage and storm water management;
  - waste management;
  - storage and handling and hazardous materials including fuel;
  - archaeology and heritage;
  - mechanisms for updating and reviewing its operation on the basis of monitoring results and other new information; and
  - details of sea bed surface treatments and monitoring .

Prior to the approval of any development plan under this clause, the Responsible Authority must:

- send a copy of the Construction Environmental Management Plan to the Environment Protection Authority within 7 days of receipt of that Management Plan which the Responsible Authority considers provides sufficient information so as to allow assessment; and
- consider any written comments from the Environment Protection Authority received within 14 days of sending a copy of the Construction Environmental Management Plan to the Environment Protection Authority.

### **Operations Environment Management Plan**

- The Operations Environment Management Plan must be to the satisfaction of the Responsible Authority and address:
  - terrestrial and marine ecology;
  - coastal processes including sand bypassing or dredging and beach monitoring;
  - water quality;
  - air quality;
  - drainage and storm water management;

- waste management;
- storage and handling of hazardous materials including fuel;
- harbour operations and management;
- A description of the sand bypassing or dredging operation which must be sufficiently flexible to accommodate a range of materials and seasonal/climatic conditions
- Details of the proposed monitoring of the sand bypassing or dredging operation including a monitoring protocol to ensure that off-site habitats, including those within the Point Cook Ramsar site, are not detrimentally affected by the proposed longshore sediment bypass system or dredging
- The hours of operation of pumping and the attenuation of noise from any sand bypass and sewerage reticulation pump houses
- The management of activity and public access in the vicinity of the inlet and outlet for any sand bypass pump
- Details of the trigger which will result in the commencement of maintenance dredging associated with the marina and methodologies for the disposal of dredged material as part of any maintenance dredging
- A Residents Information Kit covering issues such as preferred planting species list, domestic animal responsibilities, the sensitivity of rehabilitated natural areas, potential for infrequent odours from the surrounding environment, the role of the wetlands system and sustainability initiatives,
- Details of monitoring and reporting requirements, contingency measures and risk management analysis in respect of issues related to groundwater protection to the satisfaction of Southern Rural Water;
- A marine ecological monitoring program including targets for acceptable copper concentrations pre-set in consultation with the Environment Protection Authority.
- Details of noise mitigation measures including the marine service area.
- A community consultation program.
- Mechanisms for updating and reviewing the operation of the Operations Environmental Management Plan on the basis of monitoring results and other new information

Prior to the approval of any development plan under this clause, the Responsible Authority must:

- send a copy of the Operations Environmental Management Plan to the Environment Protection Authority within 7 days of receipt of that Operations Environmental Management Plan which the Responsible Authority considers provides sufficient information so as to allow assessment; and
- consider any written comments from the Environment Protection Authority received within 14 days of sending a copy of the Operations Environmental Management Plan to the Environment Protection Authority.

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#### Decision Guidelines

In considering whether to approve a Development Plan, the Responsible Authority must consider, as appropriate:

- a) the *Environment Effects Statement Wyndham Cove Marina Development Main Report* dated June 2005 and the Supplementary Reports Volumes 1, 2 and 3 to that document

and the Minister's Assessment which provide a detailed assessment of the environmental values and features of the site;

- b) the Wyndham Harbour Design Guidelines (as amended to the satisfaction of the Responsible Authority from time to time);
- c) the Wyndham Harbour Landscape Concept (as amended to the satisfaction of the Responsible Authority from time to time); and
- d) the purpose of the Schedule.

## 5.0

### Section 173 Agreement

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Prior to the approval of a Development Plan, the owner of the subject site must enter into a Section 173 Agreement to establish the scope, funding responsibilities and timing for the identified works, including but not limited to:

- a) contributing towards mitigating works along and at intersections with Duncans Road, including Aviation Road, Hoppers Lane, Diggers Road and Beach Road; and
- b) contributing towards sealing of shoulders along Duncans Road;
- c) contributing towards the construction of part of the Bay trail;
- d) contributing towards improvements to and in the vicinity of the Werribee South boat ramp.

The Section 173 Agreement must also detail arrangements, to the satisfaction of the Responsible Authority, in relation to:

- a) off-set planting in the upper catchment of the Werribee River;
- b) other sustainability initiatives to be incorporated in the development;
- c) the staging and commencement / completion timelines of the various elements of the development and appropriate security or other measures to ensure commencement and completion of each stage of the development; and
- d) public access to parts of the development.

## 6.0

### Reference Documents

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Wyndham Harbour Design Guidelines (as amended to the satisfaction of the Responsible Authority from time to time)

Wyndham Harbour Land Use Framework Plan (as amended to the satisfaction of the Responsible Authority from time to time)