

**RESERVES (MARMION MARINE PARK) BILL 2019**

**EXPLANATORY MEMORANDUM**

**HON STEPHEN NOEL DAWSON MLC  
MINISTER FOR ENVIRONMENT; DISABILITY SERVICES;  
ELECTORAL AFFAIRS**

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## **EXPLANATORY MEMORANDUM**

The Marmion Marine Park is a class A marine park which lies off-shore from Perth's northern suburbs, between Trigg Island and Burns Beach. The marine park was created under the *Conservation and Land Management Act 1984* (CALM Act) and was declared on 13 March 1987 as the State's first marine park. The park has an area of approximately 9500 hectares and is one of Perth's most important areas for aquatic recreation. It has high ecological values and is culturally significant to the Whadjuk Noongar people, the traditional custodians of the area comprising Marmion Marine Park.

The expansion of the Ocean Reef Boat Harbour to a large-scale multi-use marina complex has been considered for over 30 years. The site has been identified for development in the *Perth Coastal Planning Strategy* (Western Australian Planning Commission 2008) and the *Perth Recreational Boating Facilities Study* (Department of Planning 2009). A concept plan of the marina was prepared by the City of Joondalup in 2014.

The purpose of this Bill is to excise the Development Area, being 143.0667 hectares of the sea bed/marine waters from Marmion Marine Park (class A, marine reserve no. 1), with the excised area designated as Lot 500 on Deposited Plan 415585 (see Appendix A), to facilitate the expansion of the Ocean Reef Boat Harbour, to be known as the Ocean Reef Marina.

Section 13(4AA) of the CALM Act requires that a marine park remains reserved for that purpose until it is amended either by an Act of Parliament or by the Minister for Environment pursuant to section 13AA of the Act. Section 13AA of the CALM Act deals with approval of minor excisions for the purpose of correcting or resurveying boundaries; or the excision of less than one hectare for public utility works. In this case the proposed excision from the marine park for the expansion of the Ocean Reef Marina is approximately 143 hectares in area and would facilitate use of the area for a commercial and residential marina precinct. On that basis, it does not fall within the category of excision referred to in section 13AA of the CALM Act and therefore, an Act of Parliament is required to facilitate the excision.

The Bill provides for the excision of the area of 143.0667 hectares from the Marmion Marine Park. The Minister for Lands, under powers from Part 4 of the *Land Administration Act 1997* will undertake the necessary actions to reserve the excised area. The creation of a new reserve over the excised area has not been included in the Act of Parliament.

The Ocean Reef Marina proposal has been subject to concurrent Environmental Protection Authority and Western Australian Planning Commission assessments, and received environmental approval under the *Environmental Protection Act 1986* on 7 August 2019.

An explanation of the Bill on a clause by clause basis follows.

**Clause 1      Short Title**

This clause provides that when the Bill is passed by the Parliament and receives Royal Assent, its title will be the *Reserves (Marmion Marine Park) Act 2019*.

**Clause 2      Commencement**

Provides that sections 1 and 2 of the Act come into operation on the day on which the Act receives Royal Assent, with the rest of the Act commencing on a day fixed by proclamation.

**Clause 3      Terms used**

This clause defines several key terms and expressions used throughout the Act to avoid ambiguity and provide legal certainty.

**Clause 4      Act binds the Crown**

This clause defines that the Act will bind the Crown in Western Australia, so far as the legislative power of the Parliament permits.

**Clause 5      Marmion Marine Park – excision of Development Area**

Pursuant to section 13(4AA) of the *Conservation and Land Management Act 1984*, the boundaries of an area classified as class A that is reserved under section 13(1) of this same Act as a marine park cannot be altered except as provided for in section 13AA or by an Act. To progress the development of the Ocean Reef Marina, the identified area of 143.0667 hectares needs to be excised from the Marine Park by an Act of Parliament. Clause 5 is the operative provision which excises the area from the existing Marine Park.

**Clause 6      Registrar of Titles to take certain measures**

Authorises and directs the Registrar of Titles to formally record the excision of the area, in the Register maintained in accordance with the requirements of the *Transfer of Land Act 1893*. Unless and until these amendments are physically registered in that Register, they have no real effect.