



**LOT 30 (No1)  
(STRATA LOTS 1 to 17  
& COMMON PROPERTY ON  
STRATA 49418)  
HADDA WAY,  
MAHOMETS FLATS**

**CITY OF GREATER GERALDTON  
LOCAL PLANNING  
SCHEME 1**

**AMENDMENT 15**

## DOCUMENT CONTROL

Project 19225

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## **Summary of Proposal to Amend a Local Planning Scheme**

Local Authority:

City of Greater Geraldton

Description of Scheme:

Local Planning Scheme No 1

Type of Scheme:

Local Planning Scheme

Serial Number of Amendment:

15

Amendment Proposal:

Amend the Local Planning Scheme to include the following lots in the Tourism zone and apply a R80 development density:

Lot 30 (No1) (Strata Lots 1 to 17 and Common Property on Strata 49418)  
Hadda Way, Mahomets Flats.

**Planning and Development Act 2005**

**Resolution to Amend a Local Planning Scheme**

**City of Greater Geraldton Local Planning Scheme No. 1**

**Amendment No. 15**

RESOLVED that the Local Government pursuant to Section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by –

1. Rezoning Lot 30 (No1) (Strata Lots 1 to 17 and Common Property on Strata 49418) Hadda Way, Mahomets Flats from Residential to Tourism;
2. Amending the Residential Density Code from R40 to R80; and
3. Amending the Scheme Map accordingly.

The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

1. The amendment is consistent with the objectives identified in the scheme for the Tourism zone.
2. The amendment is consistent with the Local Planning Strategy for the scheme that has been endorsed by the Commission.
3. The amendment will have minimal impact on land in the scheme area that is not the subject of the amendment.
4. The amendment will not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

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(Chief Executive Officer)



# SCHEME AMENDMENT REPORT

## **CONTENTS**

- 1.0 Introduction
- 2.0 Subject Land
  - 2.1 Location
  - 2.2 Land Description & Ownership
  - 2.3 Existing Land Use
  - 2.4 Existing Statutory Approval
  - 2.5 Adjoining Land Use Context
- 3.0 Planning Framework
  - 3.1 State Planning Strategy 2050
  - 3.2 State Planning Policies
    - 3.2.1 SPP 3.0 Urban Growth & Settlement
  - 3.3 WAPC Tourism Planning Guidelines
  - 3.4 WAPC Planning Bulletin 83
  - 3.5 WA Tourism Commission Geraldton Accommodation Study, 2008
  - 3.6 Geraldton-Greenough Tourism Strategy, 2009
  - 3.7 Mid West Regional Blueprint 2050, 2015
  - 3.8 City of Greater Geraldton Local Planning Strategy
  - 3.9 City of Greater Geraldton Local Planning Scheme No.1
- 4.0 Proposed Scheme Amendment
- 5.0 Justification for Amendment
  - 5.1 Planning Framework
  - 5.2 Land Use Controls
  - 5.3 Location
  - 5.4 Investment Opportunity
- 6.0 Conclusion

Figure 1 Locality Plan

Figure 2 Extract: Aerial Photograph

Figure 3 Existing Development

Figure 4 Existing Development

Figure 5 Existing Development

Figure 6 Surrounding Land Use Context

Figure 7 Surrounding Land Zoning Context

Figure 8 Surrounding Medium Density Housing Context

Appendix 1 Strata Plan 49418

Appendix 2 Local Authority Correspondence

Appendix 3 Strata Plan Management Statement

## **1.0 INTRODUCTION**

Landwest has been engaged by Geraldton Resorts Pty Ltd to seek amendment to the City of Greater Geraldton Local Planning Scheme No 1 to include the subject land in the Tourism zone and amend the permitted density of development. The proposed zone will more accurately reflect the existing approved land holiday accommodation use, being "Geraldton's Ocean West". The amendment will ensure the current use is subject to appropriate development controls. Further development or re-development may also be contemplated, in accordance with the range of uses prescribed for the Tourism zone, which would otherwise be precluded by the current zoning.

Geraldton Resorts Pty Ltd has an established goal to ensure opportunities for the development and business can be realised at an appropriate time. The current zoning does not allow contemplation of investment, and implementation of the appropriate zoning is the initial step required to achieve this.

## 2.0 SUBJECT LAND

### 2.1 Location

The landholding lies approximately 2 kilometres from the Geraldton City Centre, in the locality of Mahomets Flats. It is in proximity the coastal reservation at the corner of Willcock Drive and Hadda Way. The lot also has a small frontage to Nemesis Place on its south-east corner.

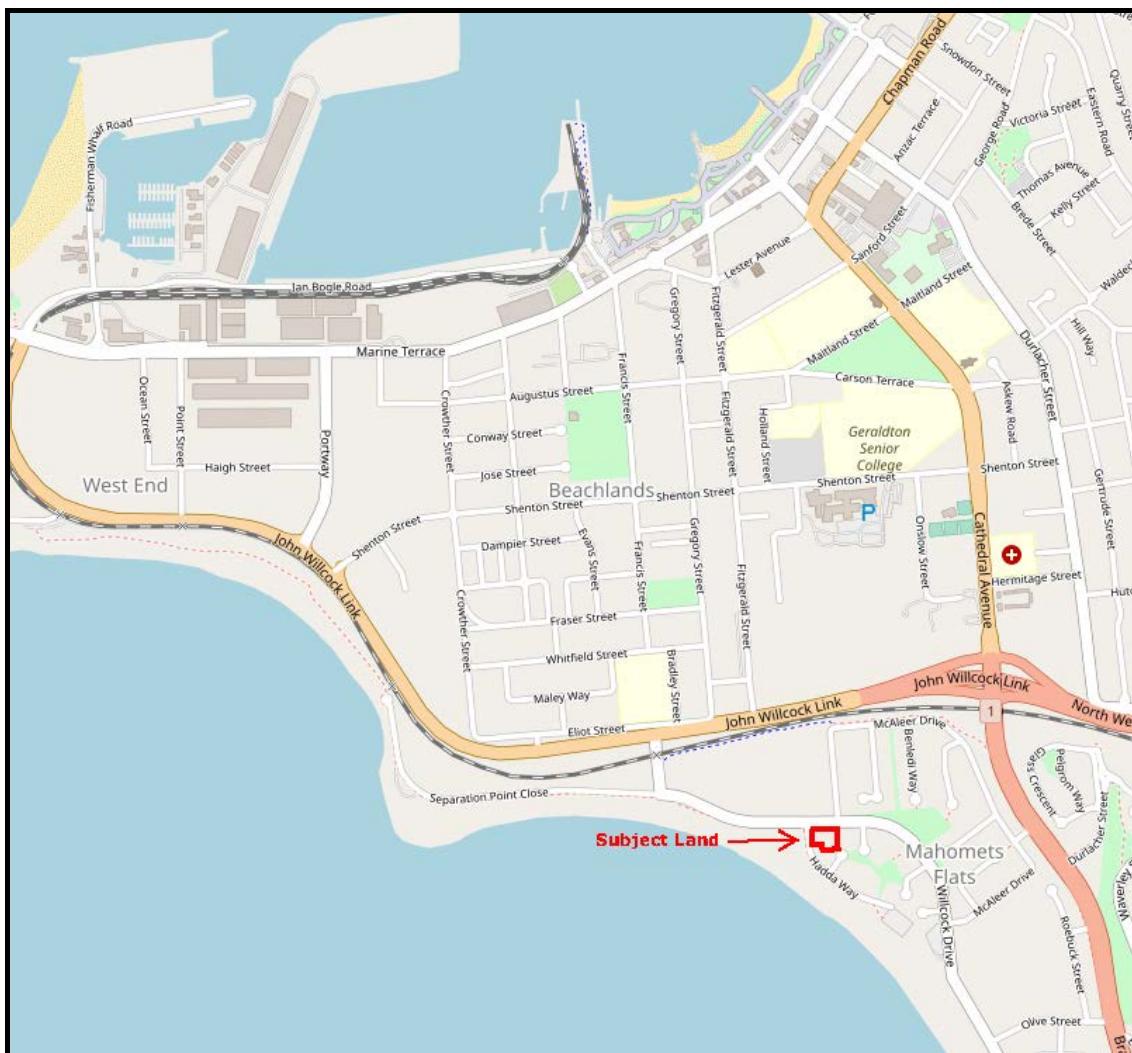


Figure 1 Locality Plan  
(source: OpenStreetMap 2020)

## **2.2 Land Description & Ownership**

The parent lot is known as Lot 30 on Diagram 72714. Lot 30 has been subdivided to create a strata plan:

Strata Plan 49418: Lots 1 to 17 and Common Property

Strata Lot	Certificate of Title	Strata Lot	Certificate of Title
1	2675/6	2	2675/7
3	2675/8	4	2675/9
5	2675/10	6	2675/11
7	2675/12	8	2675/13
9	2675/14	10	2675/15
11	2675/16	12	2675/17
13	2675/18	14	2675/19
15	2675/20	16	2675/21
17	2675/22	CP	N/A

The Strata plan is contained at Appendix 1.

The registered proprietor of all lots is Geraldton Resorts Pty Ltd.

## **2.3 Existing Land Use**

The landholding contains accommodation development known as "Geraldton's Ocean West". The parent lot is 6114.88m<sup>2</sup> in area. Strata lots range in size from 227m<sup>2</sup> to 650m<sup>2</sup>. Lot sizes and development are consistent with the provisions of the R40 residential zone.

All development is single story with the exception of Lot 6. All lots are used for tourism accommodation and associated facilities. Lot 6 is the office/manager's residence. Accommodation options include 1, 2 & 3 bedroom self contained units. The development also includes an on-site laundry, swimming pool and outdoor BBQ area, playground, private parking and other infrastructure associated with an accommodation facility. The property caters for a range of travellers.

A management statement is in place for the strata scheme, refer Appendix 2.

Both the parent lot and all individual units are serviced with the full complement of urban services: underground power, reticulated water, sewerage and telecommunications infrastructures. Internal access, driveways, shared facilities and service corridors are included in common property on the strata plan.

The resort has a Tesla Fast charge station for battery operated vehicles, one of only a small number in the Midwest region. The property is on an established public transport route on Willcock Drive, with bus stops on either of side Willcock Drive within 100metres of the property.

The main property entrance is at the Hadda Way frontage. Some individual units do enjoy access directly to Willcock Drive.



Figure 2 Aerial Photograph Lot 30 (source: CoGG IntraMaps)



Figure 3 Office & Caretakers Residence, Jan 2020



Figure 4 Main Entrance & facilities, Jan 2020



Figure 5 Willock Drive frontage, Jul 2018 (source: Google Street View).

## **2.4 Existing Statutory Approvals**

The accommodation units were built progressively between 1987 and 1993, with additional amenities after that time. Planning approval was granted by the local authority for "Holiday Units". Whilst "Holiday Units" is not a listed use in Local Planning Scheme No 1, the approval remains current and the use is considered a non-confirming use.

A copy of the local authority confirmation of approved use is at Appendix 3.

## **2.5 Adjoining Land Use Context**

The landholding is located at the western extent of the Mahomets Flats locality. The areas to the south, south-east and east of the subject land are all zoned for medium density residential development (R40). All lots are developed for medium density unit development, with the exception of Lot 1 directly to the south, which is vacant.

Lot 28 to the south east is a freehold lot owned by the local authority with limited public open space development. It provides pedestrian connectivity between Hadda Way, Nemesis Place, Sardam Place and Dordrecht Place.

North of Willcock Drive is zoned R30 and the area is predominated by single residential development with some limited unit development.

There are a number of holiday accommodation uses with Mahomets Flats locality.

Lot 3142 Reserve 46860 opposite the subject land to the north of Willcock Drive is Crown Land and vested with the City of Greater Geraldton. The lot is 8ha in area and is zoned Tourism in the local planning scheme. The vesting order for the Reserve prescribes the purpose as "Caravan Park and Chalets", and the management order enables the local authority to lease the property for any term not exceeding 42 years, subject to Ministerial approval. Previously the local authority entered into a lease with a private development company however that lease was subsequently surrendered. The lot remains undeveloped.

To the west, the subject land is directly opposite the coastal reserve and beaches known locally as "Back Beach". Beach access is directly opposite Geraldton's Ocean West, via footpaths and formal car parking. A pedestrian path extends from Willcock Drive along Hadda Way to car parking, additional beach access, surf life saving club facilities, playground and developed open space.

A neighbourhood centre is progressively being developed approximately 1 kilometre from the subject land on Brand Highway. Current uses include a service station also selling convenience goods and takeaway food outlet.

The development is easily accessible from major transport routes of Brand Highway and Willcock Link, via Willcock Drive and local distributor roads.

Surrounding land use and zoning, and locational attributes are all complementary to the proposed Tourism zoning.



Figure 6 Surrounding Land Use Context

 Subject Land



Figure 7 Surrounding Land Zoning Context

LEGEND

Orange	Tourism	Blue	Commercial
Light Beige	Residential	Pink	Mixed Use
Green	Public Open Space	Dark Green	Foreshore
Red	Primary Distributor Road	Blue Dotted	Special Purpose Infrastructure Corridor



Figure 8 Extent of Medium Density Housing immediate residential block bounded by Willcock Drive & Hadda Way

## **3.0 Planning Framework**

### **3.1 State Planning Strategy 2050**

The State Planning Strategy (SPS) provides the strategic context for planning and development decisions throughout the State.

The Strategy supports the Government's intention to undertake a collaborative approach to planning for the State's land availability, physical and social infrastructure, environment, economic development and security.

The State Planning Strategy 2050 will guide and inform:

- local community plans, growth plans and local planning schemes and strategies with structure planning and development assessments;
- project approvals through the Government's Lead Agency Framework;
- planning for the coordination of physical and community infrastructure;
- region scheme amendments, regional planning and infrastructure frameworks, regional investments and service delivery programs; and
- investment proposals into areas and sectors of the State most likely to generate a return in the public interest.

The strategy defines strategic goals and the direction required to achieve the over-arching Strategy vision. Tourism is included under the Economic strategic direction. The State objective for Tourism:

*"To access and enhance a range of experiences unique to the State"*

The approach to achieve this includes:

- The numbers of tourism precincts increases to further contribute to the growth of the State's economy.
- Highly valued tourism sites are secured.
- High quality arts events and festivals are planned for and delivered throughout the State.
- The State's creative industries are engaged to help build upon and promote tourism efforts.
- Tourism planning is delivered in a holistic and collaborative manner
- Geotourism is promoted, capitalising on the State's unique geoheritage values.

The proposed amendment is consistent with the objectives of SPS in relation to tourism. The amendment will secure an existing tourism accommodation site in close proximity to services and facilities and adjacent to a locally iconic coastal precinct. The rezoning will facilitate further investment in Tourism.

## **3.2 State Planning Policies (SPP)**

Section 77(1) (a) of the Planning and Development Act 2005 requires that a scheme amendment to a local planning scheme pay regard to any relevant State planning policy.

### **3.2.1 SPP 3.0 Urban Growth & Settlement**

State Planning Policy 3.0 applies to all urban development throughout Western Australia. SPP 3 provides guidelines for sustainable growth patterns of settlement, with suitable land to provide for a wide variety of housing employment and recreation opportunities.

An objective of SPP 3 is to:

*"to build on existing communities with established local and regional economies, concentrate investment on the improvement of services and infrastructure and enhance the quality of life in those communities".*

The proposed scheme amendment is consistent with the intent of SPP 3 as it seeks to capitalise on existing built form, provide opportunities for investment in the existing development which will enhance the local economy and the amenity of Tourism development.

## **3.3 Western Australian Planning Commission Tourism Planning Guidelines**

The WAPC Tourism Planning Guidelines were adopted in May 2014 and are intended to provide local governments with guidance on tourism considerations, predominately for strategic planning proposals and Local Planning Strategies. These guidelines operate in conjunction with Planning Bulletin 83/2013 (Planning Bulletin 83).

Section 4.4.3 of the Tourism Planning Guidelines discusses how sites should be assessed in identifying suitable land for tourist accommodation. The strategy outlines three key criteria:

1. *the site has been identified in a report/study as having the potential to accommodate a tourism facility; and/or*
2. *the site contains an existing tourist accommodation development; and/or*
3. *the site is located in an area of high tourist amenity and is of an adequate size to accommodate a tourism facility.*

The amendment is for a site which contains existing tourist accommodation and the amendment will ensure suitable zoning for the existing development. The site offers good tourist amenity: proximity to the popular and locally important coastal reserve and its various recreation opportunities; proximity to a regional town centre and neighbourhood centre; and good transport network connections. The existing development is local government approved. The amendment is contended to meet the objectives of the Tourism Guidelines.

### **3.4 Western Australian Planning Commission Planning Bulletin 83**

Planning Bulletin 83 details the WAPC's policy position when considering scheme amendment proposals for tourism purposes. The policy details how the suitability of tourism sites should be determined. Setting aside the existing development on the landholding, the following criteria can be used to assess the value of potential Tourism sites:

- *Accessibility: the site has adequate existing or proposed transport links (such as major road or airport access).* The subject land is located with easy access to Brand Highway which forms part of the north-south regional road network through the greater Geraldton urban area. Willcock Drive links Tarcoola Beach and West End/Beachlands.
- *Uniqueness: the site contains, or is in the vicinity of, an attraction or prominent and/or unique landmark of local, regional or State significance.* The site is located opposite a coastal reserve known as "Back Beach". The area is supported by good access to the coast, car parking and pedestrian access, open space and support facilities.
- *Setting: the setting of the site has an aspect and outlook that supports recreational tourism activities and/or the creation of a tourism character and ambience (e.g. immediately adjacent to a beach).* The site is directly adjacent the coastal reservation.
- *Tourism activities and amenities: the site provides, has easy access to, or is capable of development of supporting activities and amenities such as tours, fishing, historic sites, walk trails, environmental interpretation, cafes, restaurants, shops and the like.* The greater locality offers a range of passive and active recreation opportunities centred on the coastal environment. The locality is well serviced by a system of pedestrian paths, with easy access to the greater locality and the City Centre.
- *Supply of land: the site has an element of scarcity in that it may be the only opportunity, or one of a limited number of opportunities, to achieve a significant tourism development in an area.* There are negligible undeveloped freehold landholdings available in the locality of sufficiently large size to cater for tourism development. Adjoining Lot 3142 is available and zoned for development but has a specific use attached to its leasing and use, and its leasing is subject to State Government approval.
- *Suitability in a land use context: the site is located in a land use context that will not limit the extent of activities available to guests due to amenity impacts on adjoining residents or where the adjoining uses potentially detract from the tourism character of the site (e.g. located within a residential area).* The attractiveness of the site for tourism development comes from its proximity to the coastal environment. Existing or proposed development would not reasonably be expected to

create negative impacts on the adjoining residential use given the uses promoted for tourists in the Greater Geraldton are all located off-site.

- *Capability: the site has the capacity to be developed for tourism purposes and accommodate the associated services in a manner that does not detract from the natural attributes of the site or result in environmental degradation.* The site is fully serviced with the full complement of urban services, most notably, reticulated sewerage.
- *Size: the size of the site should be adequate to accommodate a sustainable tourism facility with respect to its design, operation and function, and its site specific and wider impacts and consideration of future growth/expansion.* The parent landholding is 6115m<sup>2</sup> in area. It is demonstrated to be sufficient size for economically viable tourism development, whilst being able to incorporate suitable management of any impacts on adjoining development.
- *Function: the use of the site meets a particular accommodation, market need and/or ensures a range of tourism accommodation within the locality.* The accommodation use is well established, meets market demand for 3.5 star self contained accommodations and achieves consistent occupancy rates.

### **3.5 Western Australian Tourism Commission Geraldton Accommodation Study, 2008**

The Geraldton accommodation Study was commissioned by the Western Australian Tourism Commission to identify future accommodation requirements for Geraldton with the purpose of informing investment decisions and planning for tourism development.

The study provides estimates on land requirements to meet future accommodation needs. The report adopts a base value of up to 180 rooms per hectare which is equates to an approximate density ratio of R60. The data in the report is based on analysis in 2008 and made assumptions that in the ensuing long term period to 2028, approximately 5.7ha of land would be required to provide an additional 686 rooms, based on the above density. Whilst the data used is dated in 2020, this is counteracted by reduced demand from the mining and infrastructure works sectors.

The study did identify a number of existing and future sites/precincts which could address this supply, however many of these identified sites remain either fully or partially undeveloped including Mahomet's Village Chalets, African Reef Resort redevelopment, Drummond Cove Holiday park redevelopment, Abrolhos Islands, and both Lot 601 Foreshore Drive and Batavia Coast Marina Stage 2 (Western Australia Land Authority landholdings).

The report delineates criteria to identify other potential tourism accommodation sites and suggests these factors to inform the Local Planning Strategy:

- Proximity to demand generators, e.g. tourist attractions, entertainment facilities, office parks, casinos, convention centres etc.
- Visibility / exposure to passing traffic; venues located on main roads or thoroughfares may generate more business than those on back streets due to visibility to passing traffic of visitors.
- Ease of access; describes whether there is any impediment to tourists accessing the site, via roads or other means of transport.
- General amenity; describes the area in terms of amenity, such as shopping facilities, entertainment facilities, proximity to restaurants/cafes, beaches, golf courses etc. and the general appeal of the area to visitors.
- Competitor environment; describes the location of the site in terms of whether competition is high or low.

When comparing the subject land against the criteria in the report and irrespective of the existing business, it would be identified as a suitable location for tourism accommodation: it has proximity to tourist attractions; it has a high exposure and is easily accessed from the regional road network; the site offers proximity to the City Centre and a neighbourhood centre for convenience goods, beaches, facilities at Back Beach and is a walkable area; at present there are no other similar scale developments in the vicinity in competition for the same product and tourist spend.

### **3.6 Geraldton-Greenough Tourism Strategy, 2009**

The Strategy was commissioned by the Midwest Development Commission (MWDC) to assist in determining the tourism vision for the Geraldton-Greenough area and to identify the actions required to achieve this.

*"Geraldton will be recognised as a vibrant and welcoming coastal destination offering an enviable outdoor lifestyle and unique marine, sports, heritage and cultural experiences."*

The vision will be achieved through:

- The development of a range of tourism experiences focused on the nature based and heritage assets and stories of the Abrolhos Islands.
- The sustainable management of the beautiful beaches, natural areas and foreshore to support recreation, adventure and a vibrant community and tourism precinct.
- The engagement of the local community in tourism as a potential significant contributor to the local and regional economy.
- Ongoing planning towards a broader range and capacity of accommodation, an iconic attraction that reflects a Geraldton brand, and packaging of tourism experiences to appropriate markets.

- A marketing strategy that promotes Geraldton for its tourism strengths, links in with Australia's Coral Coast marketing and aims to maintain and expand the existing tourism market, encourage people to stop over and return.

The proposed amendment will assist in realising this vision, by formalising the statutory environment in which the development exists. As a result, options for investment in the property can be realised which will ensure the businesses ongoing viability and can be realised.

The strategy identifies the following potential tourism markets:

- Outdoor adventurers
- Relaxers
- Wildflower enthusiasts
- Caravan and campers
- Stopover travellers
- By-passers
- Holiday and business destination visitors
- Conference and convention market
- Stopover travellers
- By-passers
- Holiday and business destination visitors
- Weekend and holiday visitors from Perth
- Cruise ships

User groups require a range of accommodation types, length of stay options, access to a range of recreational opportunities and experiences, and options for dining. They also seek information about attractions and experiences, and how to access them, access to taxis and public transport, and places to eat/dine etc. Geraldton's Ocean West caters to the majority of these visitor groups with exception of Cruise Ships passengers and caravan/campers. They cater to various user groups, with varying length of stays and offer a comprehensive on-site service to provide a full complement of supplementary and support services that tourists require.

As the proposed amendment will allow for additional uses, it will enable proponents to more formally contemplate investment in the accommodation to reflect demand for self contained apartments with on site dining options and other facilities.

### **3.7 MWDC/RDA Mid West Regional Blueprint 2050, 2015**

The Blueprint was development by the Midwest Development Commission (MWDC) in conjunction with Regional Development Australia (RDA). It is intended to be a growth and development plan which informs investment in the region.

The 2050 Vision for the Midwest identifies five Sectors detailing strategies and action to achieve the 2050 vision. Each sector is further divided into

specific areas of interest. Tourism is addressed under the umbrella of Economic Development.

The report notes a number of opportunities for increasing tourist numbers to the Midwest, both domestic and international. The long term objective of the Blueprint is to attract one million overnight visitors annually. To achieve this, the Midwest needs to be a highly development inspiring nature based destination with a range of high quality experiences available.

The report identifies one of the gaps in the tourism product is around accommodation which is generally aged, of varying standard and with supply issues during peak seasons. It also notes that investment in tourism infrastructure is required to encourage longer stays, higher visitation and increased expenditure.

Overarching strategies to achieve the 2050 Aspiration for Tourism, within a suggested short term timeframe (to 2020) include:

- Support initiatives for tourism operators and associated service providers to enhance the quality, value and appeal of experiences for visitors to the region i.e. skills and workforce development and product to cater for the specific needs of visitors.
- Advocate for and facilitate the de-risking of investment opportunities such as ensuring planning and zoning are in place, streamlining approval processes, provision of investment ready sites and projects, provision of headwork's funding to enable investment attraction.

The proposed scheme amendment will ensure appropriate zoning is in place which in turn will provide certainty around making investment decisions for upgrading and/or inclusion of additional facilities to complement the primary accommodation function.

### **3.8 City of Greater Geraldton Local Planning Strategy**

The Local Planning Strategy (LPS) is intended to guide long-term land use planning and provide the rationale for land use and development controls.

The landholding is identified as Urban in the LPS. The adjoining Reserve Lot 3142 is identified as a tourism site. The strategy notes that a number of sites may be developed or re-developed and that planning controls should be in place to ensure a significant tourism component, whilst recognising that other compatible uses may be necessary in order to realise investment in tourism ventures.

The following extract form the LPS indicates the detailed Strategies and Actions for Tourism land use in the City.

Strategies	Actions
1. Facilitate for appropriate tourism	1. Include a Tourism zone for sites

<p>accommodation, activities and related development within the City.</p> <p>2. Ensure flexibility in planning controls for attracting tourism development.</p>	<p>considered to be of a strategic nature to ensure the sites are primarily retained for tourist purposes.</p> <p>2. Accommodate tourism land uses within other zones where considered complimentary and compatible with the purpose of those zones.</p> <p>3. Ensure Caravan Parks retain an adequate supply of caravan and camping sites for short-stay / visitor use.</p> <p>4. Identify opportunities for increased height for tourism developments.</p> <p>5. Allow for incidental and compatible uses in the Tourism zone in recognition that the delivery of tourism facilities in the current economic climate will rely on other compatible land uses.</p>
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### **3.9 City of Greater Geraldton Local Planning Scheme No.1**

Parent Lot 30 and subsequent strata lots are zoned Residential R40 in the local planning scheme. Existing zoning is indicated at Figure 7.

The proposed zoning of the lots is Tourism with residential code of R80. The objectives of the Tourism zone are:

- (a) Promote and provide for tourism opportunities.
- (b) Provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.
- (c) Allow limited residential uses where appropriate.

(d) Encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.

The scheme amendment accords with the objectives of the proposed zone. will preclude it being removed from the tourism use and reverting to permanent residential where a greater economic return could potentially be realised. The established site and business operations are well managed with no impact on the adjoining residential use. It will also acknowledge the sites attributes for tourism development: established road network with good access to regional roads, fully serviced landholding, proximity to City Centre and coastal reserves.

The proposed recoding for future density of development will ensure consistency with the density prescribed for all Tourism sites in the scheme area. The scheme contains a range of development provisions to guide future subdivision and development.

The scheme also makes provision for a combination of short term and permanent residential use on a landholding subject to the following:

(a) the predominant use of the site remains for short-term tourism / holiday accommodation and other tourism uses and provides for a high quality tourism outcome or tourism benefit.

(b) the proposal is not in an isolated location and considers the broader planning and settlement context of the area.

(c) physical infrastructure and services are or will be available, including consideration of the urban infrastructure requirements of a permanent population where residential is proposed.

(d) the scale and design of the site complements the surrounding landscape and character of the area, with the tourism component given priority in those areas of highest tourism amenity (e.g. the beachfront).

(e) the residential component is integrated with both the tourism uses and management structure of the proposal.

(f) where tourism development and permanent residential accommodation are developed on the same site, the protection of residential amenity through careful design of both facilities and accommodation on the site shall occur in order to minimise disturbance and conflicts between land uses.

Additionally, scheme provisions specify requirements for development in the Tourism zone including minimum lot size, setbacks and maximum plot ratio (proportion of floor area to lot area). Additional provisions in the Residential Design Codes also provide guidance as to development requirements including (but not limited to) setbacks, open space, and maximum height of development.

Clause 3.6.2.2 of the scheme requires that where strata titling is proposed, appropriate management arrangements should be in place that restricts the maximum length of stay to three months in any twelve month period (for the tourism accommodation component). The property has previously been strata titled (refer Appendix 1), and a Management Plan applies to the Strata Scheme (refer Appendix 2). At time of any future development or re-development proposals, the local authority may require the endorsed management statement to be updated to reflect the scheme requirement, with the approval of the Western Australian Planning Commission, as required by the Management Statement.

## **4.0 PROPOSED SCHEME AMENDMENT**

The proposed scheme amendment will rezone the landholding from the Residential zone to the Tourism zone and amend the applicable residential density coding. The proposed zoning accords with the existing land use and the proposed coding for density of development accords with Tourism sites within the scheme. The amendment itself will not alter existing development, existing access arrangements, or the management of the current tourism use.

Appropriate zoning will ensure suitable land use controls are in place for existing and future development. The proposed zoning will also provide the proponents with certainty to realise investment opportunities as they arise, which to date could not be contemplated by use restrictions under the existing zoning. The scheme amendment will ensure the tourism use continues and will lead to an enhanced image for the tourism accommodation and its facilities.

## **5.0 JUSTIFICATION FOR AMENDMENT**

### **5.1 Planning Framework**

Various planning documents relating to Tourism development in the Mid West region and Geraldton highlight some inadequacies around vibrancy, amenity and the supply of suitable accommodation options for a range of tourist groups and length of stay guests.

The proposed amendment to ensure an appropriate zoning is in place will secure an existing tourism accommodation site in close proximity to services and facilities and adjacent to a locally iconic coastal precinct. The rezoning will facilitate further investment in Tourism. These outcomes are consistent with the objectives, strategies and actions detailed in various planning documents.

The site meets many of the criteria used in various documents to determine the suitability of a site to be zoned Tourism:

- The lot contains existing tourism development with good tourist facilities and amenity.
- Access to excellent locational features and coastal features.
- Fully serviced lots including reticulated sewerage.
- The zoning will not exacerbate land use conflict.
- It will de-risk investment opportunities by ensuring the site is appropriately zoned.

Existing development accords with the objectives of the local planning scheme provisions for the Tourism zone and appropriate effective scheme provisions will guide to new development particularly around compatible uses and ongoing facility management.

The proposed amendment to the residential design coding for the lot/s accords with all other Tourism zoned land and will ensure consistency across the scheme area.

### **5.2 Land Use Controls**

Provisions contained in the Local Planning Scheme will ensure orderly and appropriate use and redevelopment of the subject land can be contemplated. No change to scheme provisions is required and the proposed recoding will ensure a density of development can be contemplated that is consistent with Tourism accommodation sites.

Of particular note are provisions governing the integration of compatible land uses within the predominant tourist development and length of stay limitations. Planning application/s would require a comprehensive operations management plan to support application/s.

The proposed zoning and its accompanying development provisions will ensure the amenity of the adjoining residential uses is protected at development application stage for land use change and/or redevelopment of lots.

### **5.3 Location**

The inclusion of the landholdings in the Tourism zone is to ensure appropriate zoning for the current tourist accommodation land use. The rezoning will acknowledge the locational attributes of the site for tourism orientated development and services including proximity to the beach and coastal precinct, good exposure and access, walkability and high amenity in the coastal precinct with passive and active recreation opportunities, proximity to the City Centre and a developing Neighbourhood Centre and facilities at Back Beach around the surf club.

The site is in proximity to an undeveloped Crown Land lot which is similarly zoned for Tourism Purposes. These two landholdings represent the last available larger landholdings suitable for tourism development within the Mahomet's Flats locality, but not significantly constrained by coastal process planning requirements, or land contamination.

### **5.4 Investment Opportunity**

The introduction of additional uses to complement the tourism accommodation development cannot be considered at present due to the land use permissibility for the current Residential zone.

The rezoning will provide the certainty required for proponents to make investment decisions that will enable the development to realise its full potential, and meet an identified demand.

Additional investment in the tourism accommodation may ultimately encourage improved quality, facilities and amenity for the tourism use, both on the site itself and in the greater locality. It will facilitate local employment, building and business opportunities.

## **6.0 CONCLUSION**

The scheme amendment meets with the aims and objectives of the local planning scheme and will establish the appropriate zoning and density of development for the site. The provisions of the local planning scheme will ensure that existing and future development can be effectively controlled. This represents the introduction of orderly and proper planning for the site.

The attributes of the immediate and greater locality support the proposed zoning: existing approved holiday accommodation and facilities; the proximity to passive recreation facilities and the coastal reserve; proximity to a neighbourhood centre and City Centre; good access to major transport routes; and proximity to public transport.

The amendment is similarly consistent with the intentions of various strategic planning and tourism planning documents in relation to tourism development.

The zoning will not compromise or impact on the adjoining residential land use, as the tourism accommodation use already exists and operates with comprehensive management plans in place. Land use conflict or impact on residential amenity will not result. It will not detract from other existing tourism uses in other localities or the City Centre.

The amendment will provide the potential for investment for the site. It will strengthen the case to consider additional complementary facilities. Appropriate zoning will allow proponents to be more flexible and responsive to the needs of the tourism market, economy and owners, whilst ensuring the tourism use remains predominant.

Investment will also generate additional commercial and building activity at the development and will assist the ongoing vibrancy of the tourism sector in Geraldton.

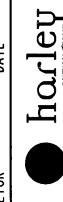
**Appendix 1  
Strata Plan 49418**

STRATA PLAN <b>49418</b>		LIMITED IN DEPTH TO 12.19 METRES BELOW NATURAL GROUND LEVEL		ED/VER	AMENDMENT	BY	SIGNATURE	DATE
SHEET 1 OF 3 SHEETS				1/2	AUDIT REQUIREMENTS	HSG		17/5/07
<p><b>JS BOLHUS</b> I hereby certify that this plan is accurate and is a correct representation of the survey made by me or under my direction and that it contains no material omissions. I declare that the calculations from measurements taken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.</p> <p><i>[Signature]</i> Sebastian Bolhus 2007/05/17 12:57:04 +0800</p> <p>LICENSED SURVEYOR Date</p>								
<b>PLAN OF LOT 30 ON DIAGRAM 72714</b>								
CERT. OF TITLE VOL. 1785 FOL. 670		LOCAL GOVERNMENT CITY OF GERALDTON		INDEX PLAN BE43 (2) 15.13				
FIELD BOOK NUMBER		SCALE 1 : 500		NAME OF SCHEME 1 HADDA WAY - MAHOMETS FLATS				
ADDRESS OF PARCEL 1 HADDA WAY MAHOMETS FLATS WA 6530		MANAGEMENT STATEMENT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		LOGGED CERTIFIED <i>✓</i> NO 10-Jan-07 COR. 1749-2005 Vol 6				
FEE PAID \$1034.00		IN ORDER FOR DEALINGS SUBJECT TO FORM 7		ASSESS. No. 1825688				
DATE 25/10/2007		REGISTERED <i>✓</i> 401107 <i>RS Robins</i> 25/10/07		APPLICATION DATE <i>✓</i> 35/05/06		WESTERN AUSTRALIAN PLANNING COMMISSION W.A.P.C. REF 35/05/06 Certificate of Approval of W.A.P.C. under Section 25B(2) of Strata Titles Act 1985 Dated <i>25/10/2007</i> S16 P & O REG'D		
HOURLY survey group		SUBJECT		STATUTORY REFERENCE		ORIGIN	LAND BURDENED	BENEFIT TO COMMENTS
21 Spencer Street Bunbury WA		HSG Ref Fax No 131178 U1-01A.lcd						



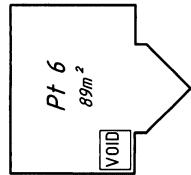
# STRATA PLAN **49418**

SHEET 3 OF 3 SHEETS

JS BOIJHUIS Surveyor 2007/05/17 12:37:52 489000	DATE
LICENCED SURVEYOR	
	 21 Spencer Street Bunbury WA 6230

HSG Ref  
Fax No 9721 9611  
1378 U1-03A.lcd

LIMITED IN DEPTH TO 12.19 METRES BELOW NATURAL GROUND LEVEL



NOTES-

1. ALL LINEAR CONNECTIONS ARE TO THE EXTERNAL SURFACE OF THE WALL AND/OR PARCEL BOUNDARY.
2. THE STRATA OF THE LOTS EXTENDS BETWEEN 10 METRES ABOVE AND 5 METRES BELOW THE UPPER SURFACE OF THE GROUND FLOOR OF THE MAIN BUILDING OF THE RESPECTIVE LOT INCLUDING WHERE COVERED.
3. THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE EXTERNAL SURFACES OF THOSE BUILDINGS, AS PROVIDED BY SECTION 3AB OF THE STRATA TITLES ACT 1985.
4. WHERE TWO LOTS HAVE A COMMON OR PARTY WALL OR HAVE BUILDINGS ON THEM WHICH ARE JOINED, THE CENTRE PLANE OF THAT WALL, OR THE PLANE AT WHICH THEY ARE JOINED, IS THE BOUNDARY.
5. "A" DENOTES BOUNDARY IS CENTRE OF WALL PRODUCED.
6. FOR OTHER PARTS OF LOT 6 SEE SHEET 2

FIRST FLOOR PLAN  
SCALE 1 : 300  
5 2.5 0 5 10 15

ORIGINAL

**Appendix 2  
Management Statement on  
Strata Plan 49418**

FORM B2

WESTERN AUSTRALIA  
TRANSFER OF LAND ACT 1893 AS AMENDED

## BLANK INSTRUMENT FORM

**FORM 25**

(Note 1)

*Strata Titles Act 1985*  
Section 5C(1)  
SURVEY STRATA PLAN No.

*"Oceanwest Villas"*

### **MANAGEMENT STATEMENT**

Hillstek Holdings Pty Ltd (ACN: 076 179 961) as proprietor of the Land described in Lot 30 on Diagram 72714 being the whole of the land described in Certificate of Title Volume 1785 Folio 670 ("*the land*").

This Management Statement to be lodged with the Survey Strata Plan in respect of the above land sets out the by-laws of the Strata Company or amendments to the by-laws contained in Schedule 1 and Schedule 2 of the Strata Titles Act 1985 that are to have effect upon registration of the Survey Strata Plan.

#### **WARNING**

The proposed amended By-laws contained in this Management Statement are not binding on the Western Australian Planning Commission, local government or any other relevant public or statutory authority. Any of these authorities may not approve, or may require changes and additions before approving this Management Statement, which is proposed for the purpose of s69A of the Act.

1. The Schedule 1 by-laws are hereby amended, repealed, and added to as follows: -

The by-laws in Schedule 1 of the Act and numbered 1 to 15, inclusive, as they apply to the scheme referred to in the Survey Strata Plan are repealed and the by-laws numbered 1 to 19, inclusive, are adopted as the Schedule 1 by-laws of the Strata Company as follows in Schedule 1 hereof:-

2. The Schedule 2 by-laws are hereby amended, repealed, and added to as follows: -

The by-laws in Schedule 2 of the Act and numbered 1 to 14, inclusive, as they apply to the scheme referred to in the Survey Strata Plan are repealed and the by-laws numbered 1 to 31, inclusive, are adopted as the Schedule 2 by-laws of the Strata Company as follows in Schedule 2 hereof:-

## INDEX TO BYLAWS

	Page No.
1. Interpretation (Schedules 1 and 2 Bylaws), Definitions, Severability and Application.	3
<b>SCHEDULE 1</b>	
2. Duties of proprietors, occupiers and residents	5
3. Constitution of the Council of the Strata Company	6
4. Procedure for the election of the Council	7
5. Election of office bearers of the Council	9
6. Chairman, secretary and treasurer of the Strata Company	9
7. Meeting procedure of the council	10
8. Powers and duties of the secretary of Strata Company	10
9. Powers and duties of the treasurer of Strata Company	11
10. General meetings of Strata Company	11
11. Proceedings at general meetings of the Strata Company	12
12. Restriction on moving motions and nominating members of the Council	13
13. Voting rights of proprietors	13
14. Proxy need not be a lot proprietor	13
15. Common seal of the Strata Company	14
16. Maintenance of common services	14
17. Maintenance of common services within a lot	14
18. Development Approval required for any re-development	14
19. Penalty for Breach of Schedule 1 Bylaw	15
<b>SCHEDULE 2</b>	
1. Use of lots	15
2. Repairs and maintenance of premises	16
3. Alteration to lots	16
4. Airconditioning	17
5. Behaviour of proprietors and their invitees	17
6. Vehicles	18
7. Responsibility for proprietors invitees	19
8. Blockage of drainage pipes	19
9. Proprietor to notify defects	19
10. Drainage to common property	19
11. Instructions to contractor by proprietors	20
12. Garbage Disposal	20
13. Signage and Billboards	20
14. Antennae and communications disks	21
15. Animals and pets	21
16. Temporary buildings	21
17. Moving furniture	22
18. Floor coverings	22
19. Cleaning windows	22
20. Drying laundry	22
21. Storage of inflammable liquid	22
22. Fire proofing	22

23.	Floor loading	23
24.	Parking Bays	23
25.	Rules	23
26.	Penalty for breach of Schedule 2 By-laws	23
27.	Strata Company management	24
28.	Insurance rates	25
29.	Recovery of costs by Strata Company	26
30.	External Appearance of a Lot	26
31.	Dispute Mediation	26
<hr/>		
Execution and interested party consents		27

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## STRATA COMPANY BY-LAWS

### SCHEDULE 1 (s42(2))

#### **1. Interpretation For Schedules 1 and 2 Bylaws**

1. The following words have these meanings in both the Schedule 1 and Schedule 2 Bylaws unless the contrary intention appears:

**"Act"** means the Strata Titles Act, 1985, as amended and any regulations pertaining to the Act, as the context requires;

**"By-laws"** means these bylaws and those that may be adopted by the strata company from time to time;

**"Common Property"** has the same meaning as in the Act;

**"Council"** means the Council of the strata company established pursuant to the bylaws;

**"Fixtures and Fittings"** means any fixtures and fittings in or about a lot or any part of a Lot below at or above ground level;

**"Interest in a Lot"** has the same meaning as a unit entitlement attaching to a Lot as provided in s14 of the Act.

**"Insured Risk"** means fire, lightening, explosion, aircraft (including articles dropped from aircraft) riots, civil commotion, malicious persons, earthquakes, storm, tempest, floor, bursting and overflowing of water pipes, tanks and other apparatus and impact by road vehicles and such other risks as the strata company may from time to time insure against;

**"Land"** means all the land described in the Survey Strata Plan;

**"Local Authority"** means the local authority with jurisdiction over the District of Geraldton;

**"Lot" or "lots"** means a strata lot formed upon registration of the Survey Strata Plan;

**"Original Proprietor"** means the registered proprietor of the land before the scheme was constituted by registration of the Survey Strata Plan, namely Hillstek Holdings Pty Ltd (ACN: 076 179 961);

**"Proprietor"** means the registered proprietor from time to time of a lot and the registered proprietors successors in title, personal representatives, permitted assigns and transferees or registered mortgagee either in possession or exercising any power of sale;

**"Proprietor's Invitee"** means each of the proprietors agents, contractors, tenants, lessees, licensees, invitees, mortgagee and those persons who at any time are under the control of and in or upon a lot or the common property with the consent (express or implied) of a proprietor;

**"Premises"** means the proprietor's entire lot together with the fixtures and fittings and any portion of the common property which is the proprietors exclusive use property;

**"Residential Lot"** means a lot intended for residential use;

**"Rules"** means the rules adopted by the strata company from time to time pursuant to bylaw 25 of the Schedule 2 Bylaws;

**"Schedule 1 Bylaws"** means these Schedule 1 Bylaws 1 to 18 inclusive;

**"Schedule 2 Bylaws"** means these Schedule 2 Bylaws 1 to 31 inclusive;

**"The Scheme"** means the Survey Strata Scheme constituted upon registration of the Survey Strata Plan;

**"Strata Company"** means the strata company constituted by the registration of the Survey Strata Plan to be known as "**Oceanwest Villas**" followed by the number allocated by the Department of Land Administration in respect of the Survey Strata Plan,

**"Strata Company Manager"** means the person who is appointed from time to time as strata company manager pursuant to bylaw 27 of the Schedule 2 Bylaws;

**"Survey Strata Plan"** means Survey Strata Plan "**Oceanwest Villas**" and any further re-subdivision thereof that may be registered from time to time in respect of the land.

## 1.2 Interpretation

In the Schedule 1 and Schedule 2 Bylaws:

1.2.1 Reference to any statute or statutory provision includes a reference to:-

- 1.2.1.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and
- 1.2.1.2 all statutory instruments or orders made pursuant to it.
- 1.2.2 Words denoting the singular number shall include the plural and vice versa.
- 1.2.3 Words denoting any gender include all genders and words denoting persons shall include firms and corporations and vice versa.
- 1.2.4 Headings are inserted for convenience only and shall not affect the construction or interpretation of the Schedule 1 or Schedule 2 Bylaws.

### **1.3 Severability**

If any Schedule 1 or 2 Bylaw is invalid or unenforceable, then it shall be read down to the extent to which it is invalid or unenforceable with the offending portion to be severed and the remaining Schedule 1 or 2 Bylaws shall be construed as being valid and enforceable to the extent permissible under the Act.

### **1.4 Application**

The Schedule 1 and 2 Bylaws:

- 1.4.1 apply in respect of the common property (if any) and all lots; and
- 1.4.2 bind a proprietor's invitees and mortgagee exercising any power of re-entry or sale.

## **2. Duties of Proprietor, occupiers and residents**

### **1.1 A proprietor shall:**

- 1.1.1 forthwith carry out all work that may be ordered by any competent public authority or local government in respect of his lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his lot;
- 1.1.2 repair insure and maintain his lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

### **1.2 A proprietor shall:**

- 1.2.1 notify the strata company forthwith upon the death of any owner or any change of ownership, including in the notice an address of the proprietor for service of notices and other documents under the Act; and

- 1.2.2 if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with their lot, including in the case of a lease of a lot, the name of the lessee and the term together with any Options for Renewal of the lease.
- 1.3 A proprietor, occupier or other resident of a lot shall: -
- 1.3.1 use and enjoy the common property in such a manner so as not unreasonably to interfere with the use and enjoyment thereof by proprietors, occupiers or residents, or of their invitees ; and
  - 1.3.2 not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to any occupier of another lot (whether a proprietor or not) or the family of such an occupier;
  - 1.3.3 take all reasonable steps to ensure that his invitees do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor, occupier or other resident of another lot or of any person lawfully using common property; and
  - 1.3.4 take all reasonable steps to ensure that his invitees comply with the Bylaws of the strata company relating to the parking of motor vehicles.

### **3. Constitution of the Council of the Strata Company**

- 3.1 The powers and duties of the strata company shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present shall be competent to exercise all or any of the authorities, functions or powers of the council.
- 3.2 Until the inaugural meeting of the strata company under s49 of the Act, the original proprietor of all the lots shall constitute the council. So long as the original proprietor is the proprietor of any lot it may nominate one person to be a member of the Council without the necessity of the nominee requiring to nominate for election each year. When the original proprietor is no longer the proprietor of a lot its nominee shall resign and this bylaw shall no longer apply.
- 3.3 The council shall consist of not less than 3 nor more than 7 proprietors as is determined by the strata company from time to time.
- 3.4 The current members of the council shall be elected at each annual general meeting of the strata company.
- 3.5 In determining the number of proprietors for the purposes of this bylaw, co-proprietors of a lot or more than one lot shall be deemed to be one proprietor and a person who owns more than one lot shall also be deemed to be one proprietor.

- 3.6 If there are co-proprietors of a lot, one only of the co-proprietors shall be eligible to be, or to be elected, a member of the council and the co-proprietor who is so eligible shall be nominated by his co-proprietors, but, if the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot shall be the nominee or if there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name appears first in the certificate of title for the lot shall be the nominee.
- 3.7 On an election of members of the council, a proprietor shall have one vote in respect of each lot owned by him.
- 3.8 The strata company may by special resolution remove any member of the council before the expiration of his term of office.
- 3.9 A member of the council vacates his office as a member of the council: -
- 3.9.1 if he dies or ceases to be a proprietor or a co-proprietor of a lot;
  - 3.9.2 upon receipt by the strata company of notice in writing of his resignation from the office of member;
  - 3.9.3 at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which he is not elected or re-elected; or
  - 3.9.4 where he is removed from office under bylaw 3.8 of Schedule 1.
- 3.10 Any casual vacancy on the council may be filled by the remaining members of the council, except that, in a case where a casual vacancy arises because of the removal from office of a member under bylaw 3.8, the strata company may resolve that the casual vacancy shall be filled by the strata company at a general meeting.
- 3.11 Except where the original proprietor constitutes the council, a quorum of the council shall be 2 where the council consists of 3 or 4 members 3, where it consists of 5 or 6 members and 4, where it consists of 7 members.
- 3.12 The continuing members of the council may act notwithstanding any vacancy in the council, but so long as the number of members is reduced below the number fixed by these bylaws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- 3.13 All acts done in good faith by the council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, be as valid as if that member had been duly appointed or had duly continued in office.

#### 4. Election of Council

- 4.1 The procedure for nomination and election of members of a council shall be in accordance with the following rules:
- 4.1.1 The meeting shall determine, in accordance with the requirements of bylaw 3.3 of Schedule 1 the number of persons of whom the council shall consist.
  - 4.1.2 The chairman shall call upon those persons entitled to nominate candidates to nominate candidates for election to the council.
  - 4.1.3 A nomination is ineffective unless supported by the consent of the nominee to his nomination, given: -
    - 4.1.3.1 in writing, and furnished to the chairman at the meeting;
    - 4.1.3.2 orally by nominee who is present at the meeting.
  - 4.1.4 When no further nominations are forthcoming, the chairman: -
    - 4.1.4.1 where the number of candidates equals the number of members of the council determined in accordance with the requirements of bylaw 3.3 of Schedule 1, shall declare those candidates to be elected as members of the council;
    - 4.1.4.2 where the number of candidates exceeds the number of members of the council as so determined, shall direct that a ballot be held.
  - 4.1.5 If a ballot is to be held, the chairman shall: -
    - 4.1.5.1 announce the names of the candidates; and
    - 4.1.5.2 cause to be furnished to each person present and entitled to vote a blank paper in respect of each lot in respect of which he is entitled to vote for use as a ballot-paper.
  - 4.1.6 A person who is entitled to vote shall complete a valid ballot paper by: -
    - 4.1.6.1 writing thereon the names of candidates, equal in number to the number of members of the council so that no name is repeated;
    - 4.1.6.2 indicating thereon the number of each lot in respect of which his vote is cast and whether he so votes as proprietor or first mortgagee of each such lot or as proxy of the proprietor or first mortgagee;
    - 4.1.6.3 signing the ballot-paper; and
    - 4.1.6.4 returning it to the chairman.

- 4.1.7 The chairman, or a person appointed by him, shall count the votes recorded on valid ballot-papers in favour of each candidate.
- 4.1.8 Subject to bylaw 4.1.9 of Schedule 1, candidates, being equal in number to the number of members of the council determined in accordance with bylaw 3.3 of Schedule 1, who receive the highest number of votes shall be declared elected to the council.
- 4.1.9 Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in bylaw 4.1.8 of Schedule 1:-
- 4.1.9.1 that number equals the number of votes recorded in favour of any other candidate; and
- 4.1.9.2 if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election shall be decided by a show of hands of those present and entitled to vote.

## **5. Chairman, Secretary and Treasurer of Council**

- 5.1 The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.
- 5.2 A person:-
- 5.2.1 shall not be appointed to an office referred to in bylaw 5.1 of Schedule 1 unless he is a member of the council; and
- 5.2.2 may be appointed to one or more of those offices.
- 5.3 A person appointed to an office referred to in bylaw 5.1 of schedule 1 shall hold office until:-
- 5.3.1 he ceases to be a member of the council;
- 5.3.2 receipt by the strata company of notice in writing of his resignation from that office; or
- 5.3.3 another person is appointed by the council to hold that office, whichever first happens.
- 5.4 The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.

## **6. Chairman, Secretary and Treasurer of Strata Company**

6.1 Subject to bylaw 6.2 of Schedule 1 the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.

6.2 A strata company may at a general meeting authorise a person who is not a proprietor to act as the chairman of the strata company for the purposes of that meeting.

6.3 A person appointed under bylaw 6.2 of Schedule 1 may act until the end of the meeting for which he was appointed to act.

## 7. Meetings of Council

7.1 At meetings of the council, all matters shall be determined by a simple majority vote.

7.2 The council may: -

7.2.1 meet together for the conduct of business and adjourn and otherwise regulate its: -

7.2.1.1 meetings as it thinks fit, but the council shall meet when any member of the council gives to the other members not less than 7 days notice of a meeting proposed by him, specifying in the notice the reason for calling the meeting;

7.2.1.2 subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.

7.2.2 A member of a council may appoint a proprietor, or an individual authorised under section 45 of the Act by a corporation which is a proprietor, to act in his place as a member of the council at any meeting of the council and any proprietor or individual so appointed shall, when so acting, be deemed to be a member of the council.

7.2.3 A proprietor or individual may be appointed under bylaw 6.3 of Schedule 1 whether or not he is a member of the council.

7.2.4 If a person appointed under bylaw 6.3 of Schedule 1 is a member of the council he may, at any meeting of the council, separately vote in his capacity as a member and on behalf of the member in whose place he has been appointed to act.

7.3 The council shall keep minutes of its proceedings.

## 8. Powers and Duties of Secretary of Strata Company

8.1 The powers and duties of the secretary of a strata company include: -

- 8.1.1 the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting;
- 8.1.2 the giving on behalf of the strata company and of the council of the notices required to be given under the Act;
- 8.1.3 the supply of information on behalf of the strata company in accordance with section 43(1)(a) and (b) of the Act;
- 8.1.4 the answering of communications addressed to the strata company;
- 8.1.5 the calling of nominations of candidates for election as members of the council; and
- 8.1.6 subject to sections 49 and 103 of the Act the convening of meetings of the strata company and of the council.

## **9. Powers and Duties of Treasurer of Strata Company**

- 9.1 The powers and duties of the treasurer of a strata company include: -
  - 9.1.1 the notifying of proprietors of any contributions levied pursuant to the Act;
  - 9.1.2 the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company;
  - 9.1.3 the preparation of any certificate applied for under section 43 of the Act; and
  - 9.1.4 the keeping of the books of account referred to in section 35(l) (f) of the Act and the preparation of the statement of accounts referred to in section 35 (1) (g) of the Act.

## **10. General Meetings of Strata Company**

- 10.1 General meetings of the strata company shall be held once in each year and so that not more than 15 months shall elapse between the date of one annual meeting and that of the next.
- 10.2 All general meetings other than the annual general meeting shall be called extraordinary general meetings.
- 10.3 The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to a quarter or more of the aggregate unit entitlement of the lots convene an extraordinary general meeting.
- 10.4 If the council does not within 21 days after the date of the making of a requisition under Schedule 1 proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one-

quarter of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the requisition was made.

- 10.5 Not less than 14 days notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of that business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the strata company, but accidental omission to give the notice to any proprietor or to any registered first mortgagee or non-receipt of the notice by any proprietor or by any registered first mortgagee does not invalidate any proceedings at any such meeting.
- 10.6 If a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting of the strata company, the secretary shall include that item on the agenda accordingly and shall give notice of that item as an item of special business in accordance with bylaw 10.5 of Schedule 1.

## 11. Proceedings at General Meetings of Strata Company

- 11.1 All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.
- 11.2 Except as otherwise provided in these bylaws, no business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- 11.3 One-half of the persons entitled to vote present in person or by duly appointed proxy constitutes a quorum.
- 11.4 If within half an hour from time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of proprietors, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons entitled to vote and present constitute a quorum.
- 11.5 The chairman, may with the consent of the meeting, adjourn any general meeting from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 11.6 All resolutions must be proposed by a proprietor or his or her duly appointed proxy and seconded by another proprietor or his or her duly appointed proxy.
- 11.7 Except where otherwise required by or under the Act, resolutions may be passed at a general meeting by a simple majority vote.

- 11.8 At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy.
- 11.9 Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- 11.10 A demand for a poll may be withdrawn
- 11.11 A poll if demanded shall be taken in such a manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- 11.12 In the case of equality in the votes whether on a show of hands or on a poll, the question is determined in the negative.

## **12. Restriction On Moving Motion Or Nominating Candidate**

A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.

## **13. Votes of Proprietors**

- 13.1 On a show of hands each proprietor has one vote.
- 13.2 On a poll the proprietors have the same number of votes as the unit entitlements of their respective lots.
- 13.3 On a show of hands or on a poll votes may be given either personally or by duly appointed proxy.
- 13.4 An instrument appointing a proxy shall be in writing under the hand of the appointee or his attorney and may be either general or for a particular meeting.

## **14. A Proxy Need Not Be a Proprietor**

- 14.1 Except in cases where by or under the Act a unanimous resolution or resolution without dissent is required, no proprietor is entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid and any other moneys recoverable under the Act by the strata company from him at the date of the notice given to proprietors of the meeting have been duly paid before the commencement of the meeting.
- 14.2 Co-proprietors may vote by proxy jointly appointed by them and in the absence of such a proxy are not entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act.

14.3 On any poll each co-proprietor is entitled to such part of the vote applicable to a lot as is proportionate to his interest in the lot.

14.4 The joint proxy (if any) on a poll has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.

## **15. Common Seal**

15.1 The common seal of the strata company shall at no time be used except by authority of the council previously given and in the presence of the members of the council of at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one member of the strata company his signature shall be sufficient for the purpose of Schedule 1.

15.2 The council shall make provision for the safe custody of the common seal.

## **16. Maintenance of Common Services.**

Where any services such as sewer, water supply, gas, electricity and telephone supply and any other service are provided to the scheme and such service or supply is shared in common by all lots;

16.1 the cost of any maintenance, repair or replacement of such service or supply will be the responsibility of the Strata Company and;

16.2 any costs of any maintenance, repair or replacement of such service or supply will be divided between all lot proprietors and will be payable by the individual lot proprietor in proportion to the individual unit entitlement of each lot bears in ratio to the aggregate unit entitlement of the scheme.

## **17. Maintenance of Common Services Within a Lot**

While it is the responsibility of the registered proprietors of the individual lots to maintain all buildings and services contained within the boundaries of the individual lot to which they relate, this responsibility will not apply to any common services that may be contained within the boundaries of the lot that are subject to section 11 of the Strata Titles Act, 1985, as amended, and in this regard sections 38 and 39 of the Strata Titles Act 1985, as amended, shall apply.

## **18. Developmental Approval**

18.1 The Development or re-redevelopment (including advertising signage) of the strata lots must comply with an existing Development Approval issued by the City of Geraldton or such alternative development approval as the Council may grant, which complies with the Grouped Dwelling requirements of the current City of Geraldton Town Planning Scheme.

18.2 Amendments to or repeal of the above provision cannot be effected without the Western Australian Planning Commissions Agreement.

## **19. Penalty for Breach of Bylaw**

Any person who breaches any provision of any Bylaw contained in Schedule 1 is, subject to section 42A(2) of the Act, liable to pay a penalty of \$400.00 or such other amount as is prescribed by the Act from time to time.

## **Schedule 2**

### **1. Use of Lots**

- 1.1 Subject to this Schedule 2 bylaw 1.2 a proprietor of a residential lot may only use his lot as a residence consistent with user restrictions indorsed upon the title and for associated incidental purposes such as parking vehicles.
  - 1.1.1 notwithstanding bylaw 1.1 a proprietor of a residential lot may with prior written permission of the council:-
    - 1.1.1.1 grant occupancy rights in respect of his lot to residential tenants;
    - 1.1.1.2 conduct business from his lot so long as he:-
      - 1.1.1.2.1 the proprietor does not invite customers of the business to visit the lot for the purpose of conducting the business;
      - 1.1.1.2.2 the conduct of the business from the lot does not breach any local authority bylaw or regulation;
      - 1.1.1.2.3 the conduct of the business does not cause any inconvenience to the proprietors of other lots;
      - 1.1.1.2.4 the business does not involve the manufacture storage or vending of goods.
  - 1.2 Notwithstanding bylaw 1.1 the original proprietor of the land may use any lot owned by the original proprietor for the purposes of display to prospective purchasers of that or any other lots within the scheme.
  - 1.3 If a proprietor grants occupancy rights in respect of his lot he shall:
    - 1.3.1 promptly provide the council with the full name of each occupier;
    - 1.3.2 give each occupier a copy of the bylaws and the rules (if any) at the commencement of the occupation; and

1.3.3 procure that the occupancy agreement contains a provision to the effect that the occupier will comply with the bylaws and the rules and that any breach thereof will constitute a breach of the occupancy agreement which will entitle the proprietor to terminate the occupancy agreement with the occupier.

## **2. Repair and Maintenance of Premises**

2.1 A proprietor shall at that proprietor's own cost: -

2.1.1 maintain his entire premises in a good state of repair and condition;

2.1.2 maintain his entire premises in a clean condition free from all vermin and insects;

2.1.3 replace in a timely fashion all those parts of his premises which are beyond repair or which may become a nuisance or a hazard;

2.1.4 maintain and keep clean and tidy that portion of common property comprising garden and flower beds as directly adjoins their common area driveway.

## **3. Alterations to Lot**

3.1 A proprietor shall not commence any structural alterations building or associated works of any kind to his lot before he has:

3.1.1 obtained all the necessary approvals and permits of the local authority;

3.1.2 obtained the consent of the strata company if the structural alterations are prescribed improvements within the meaning of section 7 of the Act;

3.1.3 given to the strata company at least 14 days written notice of the proposed structural alterations and the date that work is to commence and true and complete copies of all relevant plans and specifications in respect there to and the approvals and permits obtained from the local authority pursuant to bylaw 3.1.1

3.1.4 indemnified in writing the strata company in respect of any cost expense or liability that may be incurred by the strata company consequent upon the proprietor undertaking the structural alterations building or associated works which indemnity shall be in writing in a form reasonably required by the strata company and prepared and stamped at the cost of the proprietor. An Australian Architectural standard – wind and weather applies to buildings by the ocean – incorporate if by reference.

3.2 In causing or allowing any structural alterations building or associated works of any kind to be carried out on his lot, a proprietor shall ensure: -

- 3.2.1 that all tradesman's vehicles are parked, stored or kept within the part of the proprietor's lot intended for use as a car parking bay;
- 3.2.2 that no refuse, rubbish, trash or building materials are stored on or within any part of the common property;
- 3.2.3 that no security door or gate within the scheme remains open while the works are carried out;
- 3.2.4 that any common property damaged as a result of conducting the works is cleaned and restored to the same state and condition as it was prior to the works commencing;
- 3.2.5 that access to or egress from the proprietor's lot by all tradesman bringing materials to the lot for the purpose of carrying out the works is pre-arranged with the caretaker or, in the absence of the caretaker, the strata company manager;
- 3.2.6 that no noxious or offensive activity shall be carried on upon his lot between the hours of 5.00pm and 8.30am nor shall anything be done thereon which may be or may become an annoyance or nuisance to the proprietor's of other lots or which shall in any way interfere with the quiet enjoyment of other proprietors and without limiting the generality of the foregoing no mechanical or pneumatic tools shall be used in the performance of the works during the hours hereinbefore defined in this bylaw;
- 3.2.7 that all works are carried out in an enclosed environment so as to prevent the escape of dust debris and other materials from the lot.

#### **4. Airconditioning**

No proprietor or their invitee shall install any airconditioning system or any part thereof (other than internal ducting and outlets) in any part of the lot other than within the designated roof cavity and in such manner that same shall not be externally visible. In particular, no compressor or intake duct shall be affixed to any external wall or otherwise externally mounted.

#### **5. Behaviour of Proprietors**

- 5.1 A proprietor shall not:
  - 5.1.1 use his premises or any part of the common property for any purpose which may be a breach of the bylaws, the regulations or bylaws of the local authority or any other government regulation or law;
  - 5.1.2 use his premises for any purpose that may be illegal or immoral or injure the reputation of the scheme as a luxury residential complex;
  - 5.1.3 obstruct the lawful use of the common property (other than his exclusive use property) by any person or permit to be done anything whereby any obstruction, restriction or hindrance may be caused to the entrances, exits, access roads, pathways, of any lot or any part of

the common property (other than his exclusive use property) to any person lawfully using the same;

- 5.1.4 deposit or throw upon the common property any rubbish, dirt, cigarette butts, dust or other material likely to interfere with the peaceful enjoyment of any other person lawfully using the common property;
- 5.1.5 make undue noise in or about his premises or the common property that disturbs any other person or that contravenes the regulations, or bylaws of the local authority or any other governmental regulation or law;
- 5.1.6 Suffer or permit excessive or offensive kitchen or bathroom odours to emit into any common area.
- 5.1.7 permit any child of whom he has control to play upon common property or use the facilities unless accompanied by an adult person exercising effective control;
- 5.1.8 use language or behave in a manner likely to cause offence or embarrassment to any person lawfully using common property;
- 5.1.9 inadequately or inappropriately clothed when upon common property;
- 5.1.10 ride bicycles, skateboards or rollerblades or like equipment on any portion of the common property;
- 5.1.11 without the written consent of the strata company, maintain within his premises anything visible from outside his premises which is not in keeping with the amenity or reputation of the scheme as a residential complex;
- 5.1.12 allow the escape of water from the proprietor's garden or balconies in or on any adjacent lot.
- 5.1.13 permit or suffer any proprietor's invitee to engage in any conduct in breach of any part of clause 21.

## 6. Vehicles

6.1 Neither a proprietor nor a proprietor's invitee shall;

- 6.1.1 drive or control any vehicle at a speed in excess of ten (10) kilometres per hour within the Scheme;
- 6.1.2 conduct repairs on or restoration to any vehicle, on any portion of the common property or premises or on any lot;
- 6.1.3 use a designated parking bay for any purpose other than parking one motor vehicle;

- 6.1.4 park or stand any vehicle upon those portions of the common property not allocated for that purpose, except with the prior written approval of the strata company;
- 6.1.5 use any part of the common property for the parking or standing of a caravan, camper van, trailer, marine craft or commercial vehicle;
- 6.1.6 park or leave any vehicle in such a position where it is likely to be a nuisance or obstruct access or egress to any car parking area, or any part of the common property.

## **7. Responsibility for Proprietor's Invitees**

7.1 proprietor shall:

- 7.1.1 take reasonable steps to ensure that the proprietor's invitees observe and comply with the bylaws and the rules and if the proprietor is unable to ensure such compliance then the proprietor upon written notice from the strata company must take reasonable steps to have the proprietor's invitees leave the scheme;
- 7.1.2 compensate the strata company for any damage, loss, expense or claim occasioned by the strata company and caused or contributed to by the proprietor's invitees.

## **8. Blockage of Drainage Pipes**

- 8.1 The toilets and other water apparatus including waste pipes and drains shall not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance shall be deposited therein.
- 8.2 Any cost incurred by the strata company in repairing any damage or blockage resulting to such toilets, water apparatus, waste pipes and drains caused by a breach of bylaw 8.1 of Schedule 2 shall be borne by the proprietor whether the same is caused by his own actions or those of the proprietor's invitees.

## **9. Proprietor to Notify Defects**

- 9.1 a proprietor shall give the strata company manager or in their absence the strata company secretary prompt notice of any accident to or defect in or want of repair in respect to the supply of sewer, water, gas, electricity, telephone or any other service situated within his lot or premises or the common property which comes to his knowledge.
- 9.2 The strata company shall have authority to enter upon any premises at all reasonable times, by its agents or contractors, having regard to the urgency involved, to carry out such repairs or renovations to common property as may be necessary.

## **10. Damage to Common Property**

Should any damage be caused to any part of the common property by any proprietor or proprietor's invitees then that proprietor shall be responsible for the cost to the strata company of making good such damage.

## **11. Instructing Contractors by Proprietors**

- 11.1 Neither a proprietor nor a proprietor's invitee shall instruct any contractor or workmen employed by the strata company unless authorised to do so by the caretaker or in the absence of the caretaker the strata company manager.
- 11.2 If a proprietor or proprietor's invitees instructs a contractor or workmen without authorisation the proprietor shall be responsible for the payment to the strata company of any additional cost or expense to the strata company arising from that instruction and shall be further responsible for the cost of removing or altering any work performed by the contractor or workmen pursuant to that instruction.

## **12. Garbage Disposal**

- 12.1 A proprietor shall:
- 12.1.1 maintain on his lot or on such part of the common property as may be designated by the strata company for that purpose, in a clean and dry condition and adequately covered, a receptacle for garbage;
- 12.1.2 ensure that before garbage is placed in the receptacle that it is securely wrapped or in the case of tins, bottles and other containers is completely drained;
- 12.1.3 comply with all local authority bylaws regulations and ordinances relating to the disposal of garbage;
- 12.1.4 ensure that the health, hygiene and comfort of other proprietors is not adversely affected by the disposal of his garbage.

## **13. Signs**

- 13.1 No sign or billboard of any kind shall be displayed within public view on any portion of a residential lot without prior written consent of the council which consent may be granted or withheld at the absolute discretion of the council and otherwise on such terms and conditions as the council determines (if any). Nothing in the bylaw shall prevent the original proprietor from displaying "For Sale" signs within the scheme.
- 13.2 If the proprietor has first obtained permission from the Council under by-law 1.1.3 he may install one sign on the exterior of the lot;

- 13.2.1 limited to the proprietor's trading name, the description of its business and the proprietor's trade mark or insignia;
  - 13.2.2 the size of the sign shall not exceed the dimensions approved by the Council;
  - 13.2.3 in a style substantially similar to signs any other or any other lot in the vicinity;
  - 13.2.4 with painted or plastic characters which are not illuminated, moving, flashing or animated.
- 13.3 Any signs or notices installed by the proprietor of the lot shall be maintained by the proprietor of the lot in good repair and condition at all times.

#### **14. Antennae**

No antenna, aerial or communication transmission or receiver dish may be installed by any proprietor without prior written consent of the council, which consent may be given upon conditions to be complied with by the proprietor.

#### **15. Animals and Pets**

- 15.1 Neither a proprietor nor a proprietor's invitee may keep any animal within a lot without the prior written consent of the council.
- 15.2 The council will not withhold its consent if the animal is of a breed or size which in all the circumstances is suitable and appropriate to be kept as a domestic pet in a communal residential complex.
- 15.3 The proprietor will:
  - 15.3.1 be responsible for the health, hygiene, control and supervision of any animal in his care;
  - 15.3.2 prevent any animal from consistently making a noise or behaving in a manner which disturbs the proprietors or occupiers of any other lot and will take every action reasonably necessary to remedy such behaviour within fourteen (14) days after written notice is served on the proprietor or the proprietor's invitee by the council;
  - 15.3.3 not keep any animal on his lot if:
    - 15.3.3.1 the keeping of the animal breaches any regulation or bylaw of the local authority;
    - 15.3.3.2 he has failed to comply with a notice given by the Council pursuant to bylaw 31.3.2;
    - 15.3.3.3 he has within a twelve (12) month period received three notices issued under bylaw 15.3.2 in which event the council may enter the lot within which the animal is kept

and remove the same if the animal has not already been removed.

**16. Temporary Building**

- 16.1 No temporary outbuilding, shed or other building or improvement of any kind shall be placed upon any part of the scheme, except with the prior written approval of the strata company.
- 16.2 No garage, trailer, camper, motor home or recreational vehicle shall be used as a temporary or permanent residence within the scheme.

**17. Moving Furniture**

Neither a proprietor nor a proprietor's invitees shall move any furniture or large object through or within the scheme unless he has first given to the strata company sufficient notice of his intention to do so in order to enable the caretaker or in the absence of the care taker the strata company manager to be present at the time to ensure that no damage is caused to the common property.

**18. Floor Coverings**

A proprietor shall ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietors of other lots.

**19. Cleaning Windows**

Without derogating from the generality of bylaw 2 a proprietor shall keep clean all glass in windows and doors (both internally and externally) on the boundary of the lot and all roof and skylight windows (if applicable) including so much thereof as is common property which may be cleaned safely and without risk of injury to the proprietor.

**20. Laundry**

Neither a proprietor nor a proprietor's invitee shall, except with the prior written consent of the strata company hang any washing, bedding, clothing or other article on any part of a lot or the premises in such a way as to be visible outside the lot or the premises.

**21. Storage of Inflammable Liquids**

Neither a proprietor nor a proprietor's invitee shall, except with the approval in writing of the strata company, use or store upon the lot or the premises or the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **22. Fire Proofing**

- 22.1 A proprietor shall ensure that adequate fire protection exists within his lot and the premises and is maintained at his costs so as to prevent the spread of fire into any adjoining lot or the common property.
- 22.2 For the purposes of this bylaw 22 adequate fire protection shall consist of:
  - 22.2.1 carbon dioxide type fire extinguisher;
  - 22.2.2 smoke detector alarms in the kitchen and sleeping area of the lot.

## **23. Floor Loading**

Neither a proprietor nor a proprietor's invitee shall do any act or thing which may result in excessive stress or floor loading to any part of a lot or the premises.

## **24. Car Bays**

A proprietor shall not:

- 24.1.1 erect any form of structure within or on the boundary of any part of his lot intended for use as a car bay which may prevent access to contiguous car bays;
- 24.1.2 grant any lease, licence or other occupancy right to any person who is not a lot proprietor in respect of any portion of his or her lot used as a car bay or storage area.

## **25. Rules**

- 25.1 The strata company may from time to time make, withdraw or amend rules for the use and management of the common property including but not limited to the management or control of:
  - 25.1.1 the affixing of external aerials, antennae and communication dishes;
  - 25.1.2 visitors' vehicles parking
  - 25.1.3 security;
  - 25.1.4 use of Common Property;
  - 25.1.5 approval for keeping pets;
  - 25.1.6 rubbish collection;
  - 25.1.7 advertising and signs;
  - 25.1.8 designating parking areas for boats, trailers and caravans;

25.2 A proprietor and a proprietor's invitees will comply at all times with the rules.

**26. Penalty for Breach of Bylaws**

Any person who breaches any provision of any Bylaw contained in Schedule 2 is, subject to section 42A(2) of the Act, liable to pay a penalty of \$400.00 or such other amount as is prescribed by the Act from time to time.

**27. Strata Company Management**

27.1 The strata company may appoint from time to time a suitably competent strata company manager upon such terms and conditions as are usual and reasonable for such appointment.

27.2 Unless otherwise provided in the bylaws the strata company may delegate all of the strata company's power, authorities, duties and functions to the strata company manager (to the extent that the same are capable of being delegated).

27.3 The strata company manager shall have the following powers, authorities, duties and functions, in addition to those conferred at a General Meeting of the strata company:

27.3.1 to arrange as required by the strata company normal day to day maintenance, repair and replacement of any personal property vested in the strata company, but excluding any special attendance at the land and common property for this purpose;

27.3.2 to inspect the improvements within the scheme on at least 12 occasions in each year;

27.3.3 arrange and attend the annual general meeting and not less than one other meeting (of the strata company or council) during any yearly period;

27.3.4 act upon request by, or in the absence of, the chairman:

27.3.4.1 as Chairman of any meeting of the strata company, or;

27.3.4.2 its council if so agreed by all the members of the council present at the meeting;

27.3.4.3 to ensure that insurances are effected and promptly renewed in accordance with Act and make all necessary insurance claims;

27.3.5 as agent for the strata company to engage or employ and supervise the caretaker and any employees authorised by the strata company to be employed, and to keep any wage, income tax or other records required by any law from time to time in respect of any caretaker, employees or contractors of the strata company and complete and submit any returns in respect thereof;

- 27.3.6 to arrange for the preparation and submission of income tax returns on behalf of the strata company and accept appointment as the public officer of the strata company;
- 27.3.7 to disburse monies in accordance with the Act and the term of the bylaws;
- 27.3.8 to maintain the records of the strata company required by law;
- 27.3.9 to prepare as necessary budgets and reports and keep all records necessary to facilitate such preparation;
- 27.3.10 to provide, so far as is reasonable, any assistance to the strata company and the members of its council;
- 27.3.11 to take possession of and care for the records and documents of the strata company;
- 27.3.12 implement credit control procedures in respect of maintenance contributions and advise regarding recovery;
- 27.3.13 have custody of the common seal and attest its affixation for the purpose of exercising or performing any of the powers, authorities, duties or functions conferred or imposed by bylaw 15 of Schedule 1;
- 27.3.14 generally implement the decisions of the strata company and its council;
- 27.3.15 to make applications and submissions to the strata titles referee and the local authority on behalf of the strata company;
- 27.3.16 to attend on behalf of the strata company and to the extent permitted by law to represent the strata company at any hearing conducted by a strata titles referee or any tribunal or court;
- 27.3.17 to instruct Solicitors, attend conferences and generally supervise legal proceedings involving the strata company;
- 27.3.18 to arrange other than normal day to day maintenance, repair and replacement of the property vested in the strata company;
- 27.3.19 to liaise with architects, engineers, surveyors, builders and the like in relation to any work carried out on the land;
- 27.3.20 on behalf of the council the power and authority to approve suitable signs that shall be in keeping and harmonious with the scheme.

## **28. Insurance Rates**

- 28.1 Nothing shall be done or kept on a lot or within the scheme which will increase the rate of insurance on any property insured by the strata company without the approval of the council nor shall anything be done or kept on a lot within the scheme which would result in the cancellation of insurance on any property insured by the strata company or which would be in violation of any law.

- 28.2 If by reason of any machine, appliance or other thing brought upon or installed upon a lot or the scheme by any proprietor the amount of any insurance premium is increased then the amount of such increase shall be paid by and apportioned between those proprietors having possession or control of the use or benefit of any such machines appliances or things.
- 29. Recovery of Costs by Strata Company**
- Where a bylaw provides that a proprietor shall reimburse the costs or expenses of or compensate the strata company, the strata company may in the event that a proprietor fails to pay an amount due to the strata company 14 days after written demand has been served on the proprietor recover such costs or expenses or compensation, subject to the Act in a court of competent jurisdiction.
- 30. External Appearance of a Lot**
- Each proprietor of a Lot shall oversee that the roof, gutters, external walls and window frames, any shed, carport, pergola or veranda is constructed and maintained in such manner, both as to its colour and constituent materials as shall be in keeping (in terms of its style and appearance) with all other Lots within the Survey Strata Scheme.
- 31. Dispute Mediation**
- If any dispute arises between a proprietor and the Strata Company or any other proprietor, be it in relation to the interpretation or application of any By-law or any other matter provided for under the Act, then before either party may resort to proceedings under division three of Part VI of the Act, the party aggrieved must:
- 31.1 Firstly, serve upon the other party a Notice of Dispute detailing the basis of the dispute and the remedy sought by that party.
  - 31.2 Secondly and in any event serve upon the president and secretary of the Strata Council and any strata company manager appointed under by-law 27 a copy of the Notice of Dispute.
  - 31.3 At the same time as serving the Notice of Dispute upon the president and secretary and the strata company manager, request those persons to convene a mediation meeting to be attended by all parties to the dispute.
  - 31.4 Upon being served with a Notice of Dispute, the president, secretary and strata company manager of the Strata Council shall within seven days of the service of such notice convene a meeting between the parties in dispute and shall attempt to mediate a settlement between those parties.
  - 31.5 The president and secretary of the Strata Council may from time to time adjourn such mediation meeting upon such terms as they think fit provided if more than 21 days passes between the date upon which the Notice of Dispute is served and the dispute remains unresolved, then this Clause shall be at an end, and the mediation process shall be deemed exhausted for the purposes of s77B of the Act.

**Appendix 3**  
**Local Authority Correspondence**  
**Confirmation of Approved Use**



File Ref: A18370  
Enquiries: Marnie Bell

10 December 2012

Director  
Geraldton Resorts Pty Ltd  
PO Box 100  
GERALDTON WA 6531

Attention: Lyndon Crudeli

Dear Sir

**HOLIDAY UNITS ON LOT 30 (NO. 1) HADDA WAY, MAHOMETS FLATS**

I refer to your letter dated 3 December 2012 in relation to the above property.

The City has previously issued approval for holiday units at Lot 30 (No. 1) Hadda Way, Mahomets Flats.

The use of holiday units is a use not listed within Town Planning Scheme No. 3 (Geraldton) however as approval has previously been issued and is current, the use is permitted to continue.

Should you have any queries or require any further information please do not hesitate to contact the City's Town Planning Services on (08) 9956 6900.

Yours faithfully

A handwritten signature in black ink, appearing to read "Neraida Browne".

Neraida Browne  
**COORDINATOR STATUTORY PLANNING**

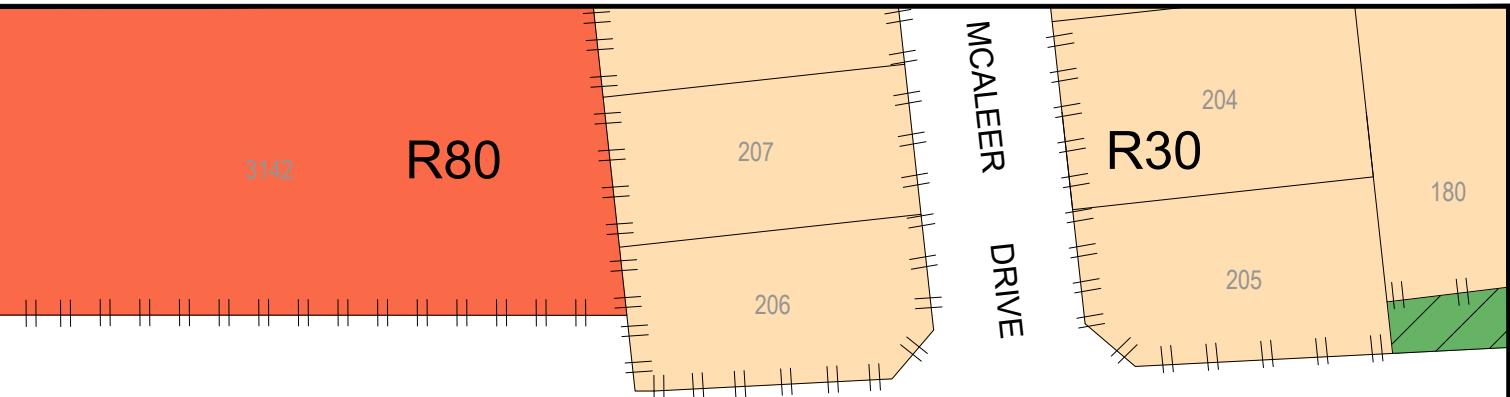
**Planning and Development Act 2005**

**City of Greater Geraldton Local Planning Scheme No. 1**

**Amendment No. 15**

Resolved that the Local Government pursuant to section 75 of the Planning and Development Act, 2005 amend the above Local Planning Scheme by-

1. Rezoning Lot 30 (No1) (Strata Lots 1 to 17 and Common Property on Strata 49418) Hadda Way, Mahomets Flats from Residential to Tourism;
2. Amending the Residential Density Code from R40 to R80; and
3. Amending the Scheme Map accordingly.



WILLCOCK DRIVE

HADDA WAY

30  
R40

301

217

2

1

NEMISIS  
PLACE

100

101

RESIDENTIAL

TOURISM

FOORESHORE RESERVE

PUBLIC OPEN SPACE

R CODE

SUBJECT LAND



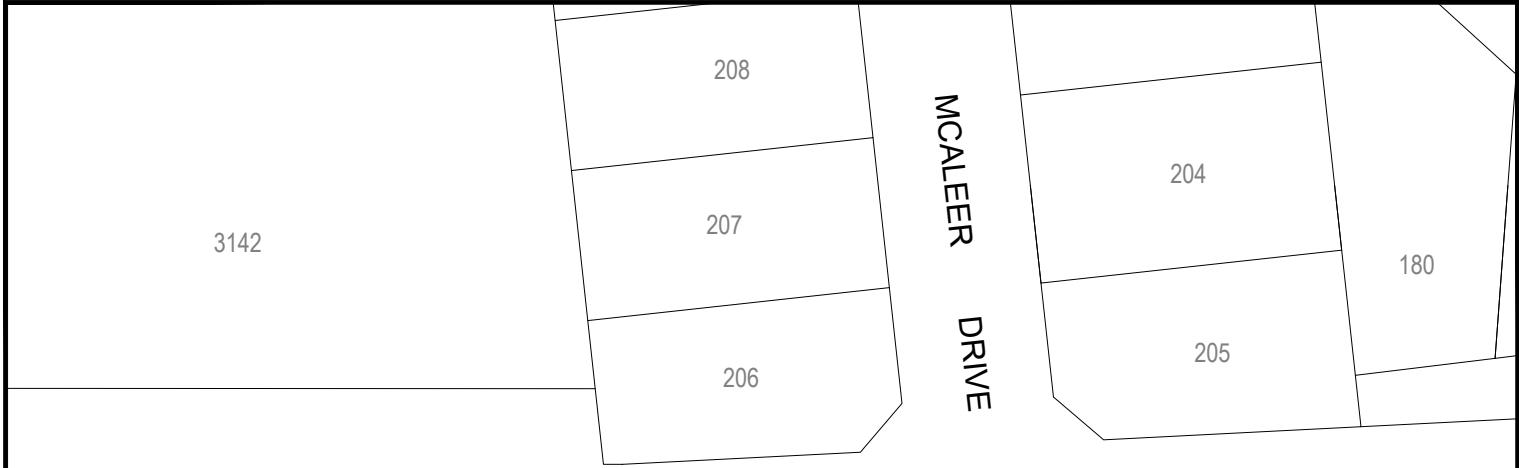
8 Anzac Terrace Geraldton WA 6530  
PO BOX 1597 Geraldton WA 6531  
Email : info@landwest.net.au  
Phone : (08) 9965 0550

CLIENT:	GERALDTON RESORTS PTY LTD		
TITLE:	EXISTING ZONING CITY OF GREATER GERALDTON LPS No1 LOT 30 (LOTS 1-17 & COMMON PROPERTY ON STRATA PLAN 49418)		
HADDA WAY, MAHOMETS FLATS		REV:	DATE:
		DETAILS:	
CERTIFICATE OF TITLE:	VARIOUS	DATE LAST MODIFIED:	16/01/2020
		DESIGNED:	GMB
		DRAWN:	DEW
		APPROVED:	
SCALE:	1 : 1000 @ A4		
PLAN:	EZ		

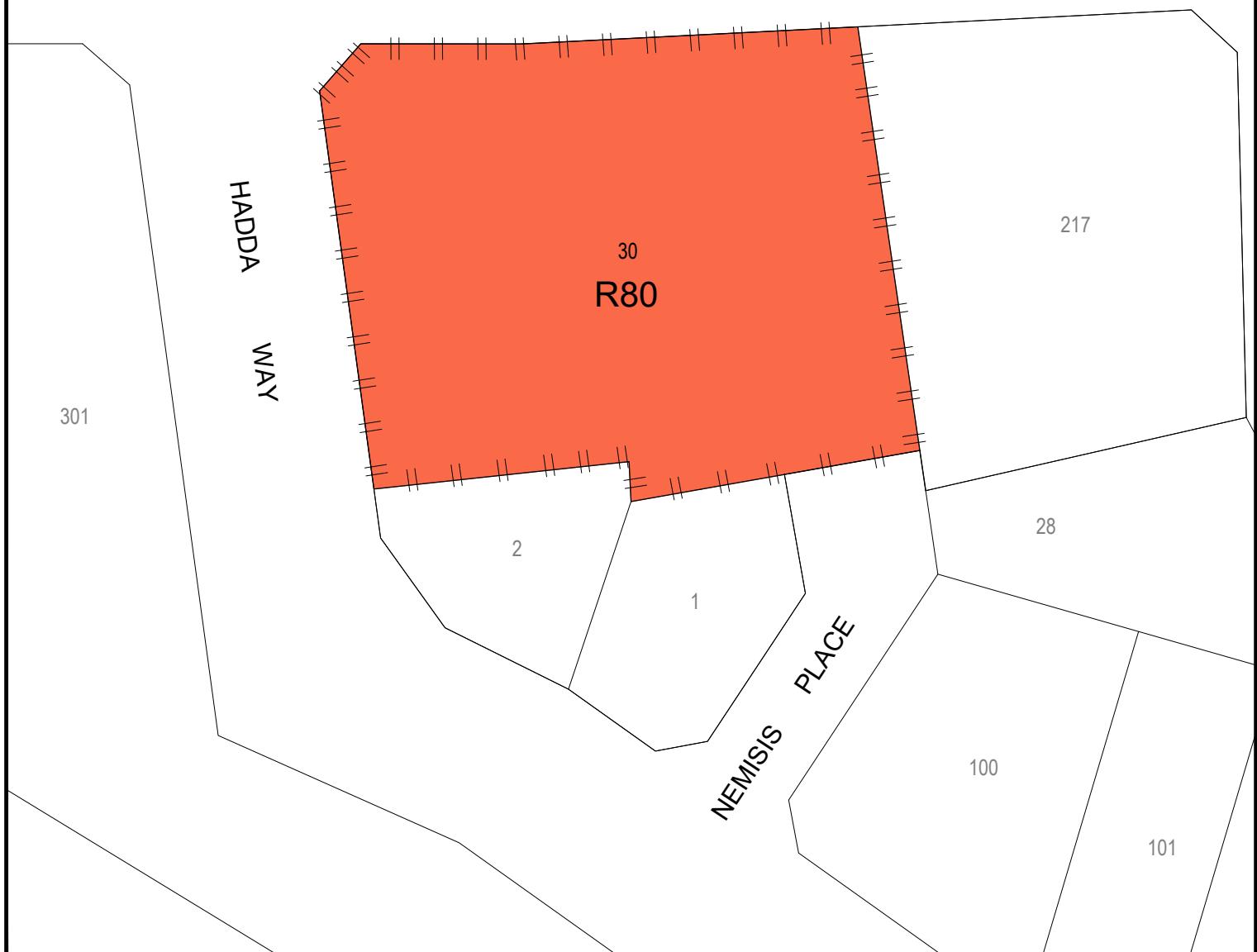
N



\* This plan remains the property of Landwest and must not be used for any purpose other than which it was prepared for, in relation to the land duly described, Landwest accepts no responsibility for any losses or damages caused to any person/s who may use the information for a purpose for which it was not intended.



### WILLCOCK DRIVE



TOURISM



R CODE



## **COUNCIL ADOPTION**

This Standard Amendment was adopted by resolution of the Council of the City of Greater Geraldton at the Ordinary Meeting of the Council held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.  

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MAYOR

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CHIEF EXECUTIVE OFFICER

## **COUNCIL RESOLUTION TO ADVERTISE**

By resolution of the Council of the City of Greater Geraldton at the Ordinary Meeting of the Council held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, proceed to advertise the Amendment.  

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MAYOR

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CHIEF EXECUTIVE OFFICER

## **COUNCIL RECOMMENDATION**

This Amendment is recommended for support /not to be supported by resolution of the of the City of Greater Geraldton at the Ordinary Meeting of the Council held on the \_\_\_\_\_ day of\_\_\_\_\_, 20 \_\_\_\_\_, and the Common Seal of the City of Greater Geraldton was affixed by the authority of a resolution of the Council in the presence of:



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MAYOR

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CHIEF EXECUTIVE  
OFFICER

**WAPC RECOMMENDATION FOR APPROVAL**

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DELEGATED UNDER S.16 OF PDACT 2005

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DATE

**APPROVAL GRANTED**

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MINISTER FOR PLANNING  
S.87 OF THE PDACT 2005

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DATE