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PLANNING & SURVEY SOLUTIONS

Amendment No. 6

Lot 205 Orleans Bay Road, Condingup

Shire of Esperance Local Planning Scheme No.24

ALBANY

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PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO.24

AMENDMENT NO. 6

The Shire of Esperance under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above Local Planning Scheme by:

- 1. Amending Schedule 5 Special Use Zone 3 (SU3) by replacing the description of land with 'Lot(s) 203, 204, 205 and 206 Orleans Bay Road, Condingup';
- 2. Amending Schedule 5 Special Use Zone 3 (SU3) by inserting under Special Use 'Caravan Park' as a 'D' use;
- 3. Amending Schedule 5 Special Use Zone 3 (SU3) by amending subclause b)(i) under Conditions by replacing 'dated April 2008' with 'Plan No. 22070-01'; and
- 4. Amending Schedule 5 Special Use Zone 3 (SU3) by inserting under Conditions a new subclause under H) as follow:

'iii) 'The strata titling of a caravan park is not permitted.'

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

Any other amendment that is not a complex or basic amendment;

Dated this <u>26</u> day of <u>Mag</u> 20 20.

CHIEF EXECUTIVE OFFICER

DOCUMENT CONTROL

Control Version	Date	Status	Distribution	Comment
A	20.02.2020	Draft	Internal	QA
В	20.02.20	Draft	Client/LA	Revised to include comments from QA
с	08.02.21	Final		

Prepared by:	DC
Reviewed by:	DM
Date:	20.02.20
Job No & Name:	22070 Lot 205 Orleans Bay Road, Condingup

Version:

DISCLAIMER

В

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This document has been exclusively drafted. No express or implied warranties are made by the Consultant regarding the research findings and data contained in this report. All of the information details included in this report are based upon the existent land area conditions and research provided and obtained at the time the Consultant conducted its analysis.

Please note that the information in this report may not be directly applicable towards another client. The Consultant warns against adapting this report's strategies/contents to another land area which has not been researched and analysed by the Consultant. Otherwise, the Consultant accepts no liability whatsoever for a third party's use of, or reliance upon, this specific document.

Amendment No. 6 to Shire of Esperance Local Planning Scheme No. 24

🌉 🛑 Harley Dykstra

CONTENTS

		CONTROLi
		UCTION & PROPOSAL
		T ANALYSIS
2.1	1 Land	holding and Ownership11
	2.1.1	Location and Characteristics
	2.1.2	Contaminated Sites 12
	2.1.3	Acid Sulfate Soils
	2.1.4	Heritage
2.2	2 Land	Use
	2.2.1	Existing Land Use
	2.2.2	Surrounding Land Use and Zonings13
2.3	3 Com	munity Consultation
2.4	4 Infra	structure
	2.4.1	Water Supply
	2.4.2	Effluent Disposal
	2.4.3	Power
	2.4.4	Access
	2.4.5	Solid Waste Management14
3.0		NG FRAMEWORK
3.		of Esperance Local Planning Strategy 201615
3.3		of Esperance Local Planning Scheme No. 2415
3.3		Planning Policy 3.7 – Planning in Bushfire Prone Areas 17
3.4		Planning Bulletin No. 49 – Caravan Parks 17
3.	5 State	Planning Bulletin No. 83 – Planning for Tourism17
		SED SCHEME AMENDMENT
		PMENT CONCEPT
6.0	CONCLU	JSION 19
		TE OF TITLE 1
		2 CONCEPT PLAN (2008)
PF	ROPOSEE	O CONCEPT PLAN (2020)

Amendment No. 6 to Shire of Esperance Local Planning Scheme No. 24

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MINISTER FOR PLANNING

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

LOCAL AUTHORITY:	SHIRE OF ESPERANCE
DESCRIPTION OF TOWN	
PLANNING SCHEME:	LOCAL PLANNING SCHEME NO.24
TYPE OF SCHEME:	DISTRICT PLANNING SCHEME
NO. OF AMENDMENT:	AMENDMENT NO 6
AMENDING SCHEDULE 5 TO MODIFY PR	ROVISIONS RELATING TO SPECIAL USE 3 (SU3) –
PORTION LOT 322 ORLEANS BAY ROAD, CO	ONDINGUP

1.0 INTRODUCTION & PROPOSAL

Scheme Amendment No. 6 proposes to introduce "Caravan Park" as a discretionary land use under the Shire of Esperance Local Planning Scheme No. 24 (the '*Scheme*') to Lot 205 Orleans Bay Road, Condingup (the '*subject land*'). In addition, this amendment seeks to update the description of the land, and introduce conditions associated with the use of the land as a caravan park.

The subject land is located in a rural setting and is zoned Special Use 3 (SU3), with the intent of this zone being to provide for the development of tourism accommodation. A tree plantation is currently located on the subject land, which must be harvested prior to the future development of a tourist facility.

This amendment is consistent with the strategic objectives of the Shire of Esperance, and will contribute to the overall supply and variety of tourism accommodation in the locality.

Details of the proposed amendment are contained within this report, including:

- Location and description of the subject land;
- Description of the proposed amendment;
- Overview of the relevant planning framework; and
- Justification for the proposed amendment.

It is respectfully requested the Shire of Esperance support the initiation of this scheme amendment.

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2.0CONTEXT ANALYSIS

2.1 Landholding and Ownership

Details of the landholding and ownership are contained in **Table 1** below. A copy of the Certificate of Title is included at **Appendix A**.

Landowner	Lot No.	Vol/Folio	Plan/Diagram	Area (Ha)	Road Name/No.
Bestall Super Pty Ltd	205	2815/490	DP76552	13.6876	Orleans Bay Road

Table 1: Subject land and owner details

2.1.1 Location and Characteristics

The subject land is 13.6876 hectares in area, located 60km (approx.) east south east of the Esperance Town Centre and 16km (approx.) south of the Condingup Township (refer to **Figures 1** and **2**). The land is generally flat with a gentle fall from 50m AHD in the west down to 46m AHD in the east. A tree plantation is currently located on the property.



Figure 1: Location Plan

(source: Google)

Amendment No. 6 to Shire of Esperance Local Planning Scheme No. 24

Lot 205 Orleans Bay Road, Condingup

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Figure 2: Subject land

(source: Landgate)

2.1.2 Contaminated Sites

A search of the Department of Water and Environmental Regulation Contaminated Sites Database (4th February 2020) reveals that there are no contaminated sites within the subject land.

2.1.3 Acid Sulfate Soils

A search of the Department of Water and Environmental Regulation Acid Sulfate Soils Database (4th February 2020) reveals there is no acid sulfate soil risk over the subject land. No ground disturbance is required as part of this proposal in any event.

2.1.4 Heritage

A search of the Department of Planning, Lands and Heritage Aboriginal Heritage Inquiry System and State Heritage Office Inherit database (4th February 2020) reveals there are no registered European or Aboriginal Cultural Heritage sites located on the subject land.

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2.2 Land Use

2.2.1 Existing Land Use

The subject land contains a tree plantation and dam, as seen in **Figure 2**. The tree plantation will be harvested in the near future, at which point the land will be able to be developed. There are no buildings or other development currently located on the subject land.

2.2.2 Surrounding Land Use and Zonings

The subject land is zoned Special Use 3 (SU3) and is surrounded by rural zoned land to the north, east and west. To the south is Crown land Reserve 41097 which is reserved for Public Open Space under the Shire of Esperance Local Planning Scheme No.24. The nearest building is a rural homestead located 1.2kms (approx.) north of the subject land.

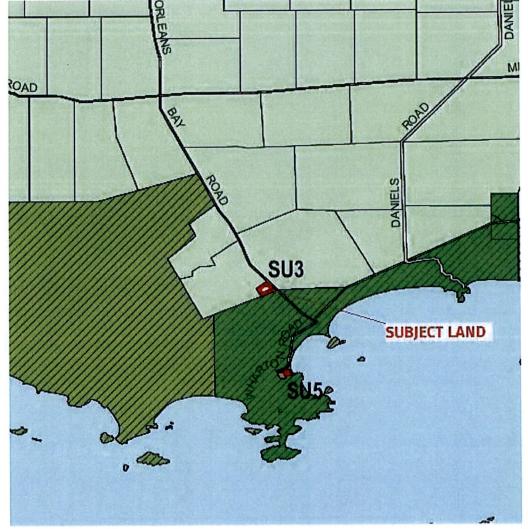


Figure 3 below shows the zoning of the subject land and surrounding area.

Figure 3: Scheme map extract

(source: DPLH)

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2.3 Community Consultation

In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations* 2015, this Amendment is required to be advertised for 42 days.

2.4 Infrastructure

2.4.1 Water Supply

The subject land and surrounding land holdings are not connected to a reticulated water supply. Future development will require a potable water supply be provided from rainwater storage and/or the installation of a bore.

2.4.2 Effluent Disposal

The subject land and surrounding land holdings are not connected to a reticulated sewerage service. Future development will require onsite effluent disposal to the satisfaction of the Shire of Esperance.

2.4.3 Power

Reticulated power infrastructure is located in the locality and is part of the Esperance generation system operated by Horizon Power. Transmission lines from Esperance supply the town of Condingup located 73km from Esperance. From Condingup, a single phase overhead transmission line extends past the subject land supplying power to customers between Condingup and the Duke of Orleans caravan park.

2.4.4 Access

The main access to the subject land, assuming travel from Esperance, is via Fisheries Road and Orleans Bay Road. Neither of these roads are a declared "Highway" or "Main Road" under Main Roads WA responsibility, and are therefore the responsibility of the Shire of Esperance.

Orleans Bay Road is considered to be a safe, well maintained rural road which, although only having a single lane sealed pavement, has been upgraded by widening on bends and improved intersection treatment to provide an acceptable standard of road safety for users.

2.4.5 Solid Waste Management

It is anticipated that solid waste associated with a caravan park development will be collected daily in green wheeled garbage bins, and stored in a rubbish truck onsite, before being sent to the Wylie Bay refuse facility on a regular basis.

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3.0PLANNING FRAMEWORK

3.1 Shire of Esperance Local Planning Strategy 2016

The Shire of Esperance Local Planning Strategy (the Strategy) has been prepared to guide future growth and development within the Shire. The Strategy seeks to balance economic, social, lifestyle and community factors within the Shire, while maintaining the unique character of the locality.

The Strategy acknowledges the important role tourism plays to the current and future growth of the Shires economy, with a primary objective being to support and encourage further development of the tourism industry within Esperance.

The following extracts from the Strategy are relevant to this amendment:

"Caravan Parks and other family orientated ventures are an important component of tourism within the Shire. In excess of 30% of all nights stayed in the Esperance Region were in Caravan Parks (Tourism WA). It is clear that this mode of tourist accommodation has a significant role to play."

And:

"Opportunities exist for the further expansion of the tourism industry in Esperance, particularly eco-tourism, to capitalise on the natural beauty of the environmental features of the area. A wide range of tourist accommodation is required to supplement existing provision, from backpackers' accommodation and caravan parks to serviced apartments and hotels."

Amendment 6 is consistent with objectives of the Strategy, and seeks to provide an opportunity for the development of a caravan park outside the town centre, and support the further expansion of the tourism industry within the Shire of Esperance.

3.2 Shire of Esperance Local Planning Scheme No. 24

The subject land is zoned 'Special Use 3 (SU 3)' under the Shire of Esperance Local Planning Scheme No. 24 (LPS 24). LPS 24 requires that land in a Special Use zone only be used for the purpose(s) set out against that land in Schedule 5 of the Scheme, and subject to compliance with any condition(s) set out in Schedule 5 with respect to that land.

The objective(s) of SU3 are:

- (i) To provide for high quality holiday accommodation to complement the Duke of Orleans Bay Caravan Park; and
- (ii) To ensure all development within the landscape blends in with the landscape and complements the Condingup townsite.

The Duke of Orleans Caravan Park (the 'Duke') is located approximately 5km south of the subject land, with direct frontage onto the Duke of Orleans Bay foreshore, and is surrounded by Crown land Reserve 41097. The Duke enjoys a high level of coastal amenity, and consists of a number of accommodation units, caravan and camping sites, ablution and administration buildings, fuel supplies and a shop.

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In clarifying objective (i) of SU3, it is important to acknowledge that the threat of competition to existing businesses is not a relevant planning consideration. In a decision of the High Court (Kentucky Fried Chicken Pty Ltd v Gantids), it was made clear that economic competition only becomes a relevant planning consideration if there is a prospect that there will be a reduction in the facilities available to the community.

Neither this amendment, nor the subsequent development of a caravan park, will result in a reduction in the facilities available to the community. Planning considerations relating to objective (i) of SU3 would include matters such as:

- The compatibility of the use or development within its setting;
- Any social issues that have an effect on the amenity of the locality;
- The preservation of the amenity of the locality; and
- The impacts of the proposal on adjoining land, or land in the locality, including (but not limited to); the likely effect of building height, bulk, scale and orientation and appearance of the proposal, the potential loss of any community services or benefit resulting from the planning approval;

The subject land has been identified for the development of tourist accommodation, with the above planning matters considered at the time of rezoning the land to SU 3. Amendment 6 seeks to introduce a land use that is compatible within both its immediate setting and locality.

The development of a high quality caravan park on the subject land will complement the Duke of Orleans caravan park, by providing tourists with an alternative accommodation choice in the locality. The unique coastal location of the Duke cannot be replicated on the subject land, and future development will need to incorporate characteristics unique to the site to ensure it is not an inferior substitute to the Duke. Some of these characteristics include the large lot size and availability of space, its rural setting and protection from coastal winds.

A complementary caravan park will increase the supply of caravan and camping sites in this locality, and assist with ensuring tourists are provided with suitable accommodation and facilities, particularly during peak periods. This compatible land use will have little (if any) impacts on the Duke, with the exception of possibly increased patronage for fuel and general store supplies.

Future development on the land will need to consider and support objective (ii) of SU3, to ensure all development within the landscape blends in with the landscape and complements the Condingup townsite. This will occur through the development application process.

Amendment no. 6 supports the objectives of SU3, and will provide the Shire of Esperance with the discretion to consider a suitable and complementary land use, which will increase the use of existing community facilities, and not negatively impact on the local amenity or Duke of Orleans Bay Caravan Park.

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3.3 State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject land is <u>not</u> designated as bushfire prone by the Commissioner of Fire and Emergency Services, or subject to the provisions of SPP 3.7.

3.4 State Planning Bulletin No. 49 – Caravan Parks

This bulletin provides guidance on matters to be taken into consideration in planning for caravan parks, including the development of new parks. The policy contains provisions that are based on the understanding that caravan parks form a fundamental component of Western Australia's tourism accommodation mix, and the retention and development of caravan parks as affordable accommodation within the State is a priority that is being addressed across government.

Key objectives of the policy relevant to this amendment include:

- To recognise that the commercial sustainability of caravan parks requires some flexibility in product mix, site design and risk mitigation approaches;
- To ensure any new caravan parks are located appropriately to their intended market, function and context; and
- To plan for and facilitate growth in the caravan park industry.

Planning Bulletin 49 acknowledges the strata titling of caravan parks is not permitted, so as to avoid the potential for strata lot owners to develop individual sites in a way which is contrary to the purpose and intent of the caravan park.

Amendment 6 will assist with facilitating growth in the caravan park industry, by allowing the Shire of Esperance to consider the development of a caravan park, in an appropriate location and on a land holding currently designated for tourism purposes.

3.5 State Planning Bulletin No. 83 – Planning for Tourism

This bulletin sets out the policy position of the Western Australian Planning Commission (WAPC) to guide decision making by the WAPC and local government for subdivision, development and scheme amendment proposals for tourism purposes.

The bulletin acknowledges the need for a more strategic and flexible approach to tourism planning to encourage and support investment in the industry. A key objective of the policy includes the recognition of local and regional variations in tourism demand and development pressures, and their impacts on the viability of tourism development, in assessing and determining tourism proposals.

Amendment 6 recognises the important role that caravan parks play in the local tourism market, and will provide an opportunity for the subject land to be developed in a way that responds to market demand for caravan and camping in the locality.

4.0PROPOSED SCHEME AMENDMENT

Amendment no. 6 seeks to amend Schedule 5 of Local Planning Scheme No. 24 as follows:

- Update the description of the land;
- Include 'Caravan Park' as a discretionary land use; and
- Include condition(s) associated with the use of a caravan park within SU 3.

It is proposed Schedule 5 of the Scheme Text will be amended to include the following:

No.	Description of Land	Special Use	Conditions
SU3	Lot(s) 203, 204, 205 and 206 Orleans Bay Road, Condingup	As a 'D' use: • Caravan Park	(iii) The strata titling of a caravan park is not permitted

5.0 DEVELOPMENT CONCEPT

Condition b)(1) of Schedule 5 requires Development shall generally be in accordance with the concept plan dated April 2008, or any variation to that plan approved by Council. A copy of the revised concept plan approved by Council is attached at **Appendix B**.

A new concept plan has been prepared and included at **Appendix C** illustrating the layout of a caravan park, and its relationship within SU3 and the surrounding area. The final layout and detailed design of the site will be determined at the development application stage.

The caravan park is proposed to utilise a portion of the subject land currently identified as a 9 hole golf course on the current approved concept plan. Using this portion of the site will assist with ensuring that all development is located away from Orleans Bay Road, and blends in with the landscape.

The layout and design of the caravan park sits comfortably within the lot and surrounding landscape. The siting of development on the subject land and use of vegetation screening, ensures the caravan park will not be dominant in form when viewed from Orleans Bay Road. Further details on these, and other mitigation measures will be provided as part of a development application.

The Concept Plan shows SU3 will offer a range of complementary accommodation types, to cater for all selfdriving tourists, including; a camping area, caravan sites, chalets and a tourist lodge, together with onsite recreational facilities. The concept plan has been designed to utilise existing access points to the site, and provide increased vehicle connectivity throughout SU3 in the event of an emergency.

It is respectfully requested the Shire of Esperance approve the attached concept plan (drawing 22070-01).

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6.0 CONCLUSION

The salient points of summary and support of this scheme amendment to introduce 'Caravan Park' as a discretionary land use to Lot 205 Orleans Bay Road are:

- The amendment is commensurate with strategic planning for the area.
- Any impacts associated with the future development of a caravan park are considered minor and can be effectively managed through the development approval process.
- The amendment supports the objectives of the zone and will not negatively impact on the local amenity.
- The amendment will not cause a reduction in the facilities available to the community.
- The amendment contributes to the overall supply and variety of tourism accommodation in the locality, and provides economic benefit and increased amenity to the locality.
- There are no constraints to development of the subject land above and beyond the usual local conditions that can't be dealt with through appropriate development controls.

Given the above, it is respectfully requested that Council initiate the proposed amendment.

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO.24

AMENDMENT No. 6

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

1. Delete the content related to SU3 (third row) of Schedule 5 – Special Uses with the following:-

No.	Description of	Special Use	Conditions
SU3	Land Lot(s) 203, 204, 205 and 206 Orleans Bay Road, Condingup	As a 'D' use: • Tourist Development • Caravan Park • Restaurant/Café • Single House (Managers Residence) • Recreation - Private	 Objectives The objectives of the zone are to:

 	 c.	Ongoing management of common
	ι.	property, including bushfire management
	d.	provision of a potable water supply;
	e.	Wastewater disposal in accordance with State policy;
	f.	Staging of development to be coordinated with harvesting and lease arrangements relating to the blue gum plantation;
	g.	Any Building Designs, Materials and Colour as set out in condition 6; and
	h.	Occupation and management of accommodation and its availability.
	p	There strata titling of the site is oposed, the caravan park is to remain n a single land title.
4.	Infrast	tructure
	to be	llowing servicing and infrastructure is provided to the satisfaction of the nt decision-maker:
	(i)	Wastewater disposal in accordance with State policy;
	(ii)	A potable water supply; and
	(iii)	Electricity supply and upgrades as necessary.
5.	Conce	pt Plan and Development Approval
	(i) D ac va Co	evelopment shall generally be in coordance with a concept plan, or any ariation to that plan approved by ouncil and shall incorporate the ollowing:
	•	All fire breaks between the tourist development and adjoining uses;
	•	Any buffers required from the adjoining blue gum plantation and rural land;
	•	If the development is to be staged, the identification of the lots to be developed in each stage.
		ll development shall be subject to evelopment approval.
	o e:	nly one single house may be permitted n the site. This dwelling is for the xclusive occupation of the manager of ne tourist accommodation, including a
		ic toalist accontinuouation, including d

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(iv) All buildings and infrastructure shall set back a minimum of 20 metres fu Orleans Bay Road and Crown Reser 41097 unless otherwise determined the Local Government, in order to reflect current guidelines and code practice in relation to bush fire management and buffer setbacks furural land uses.	rom ve d by s of
6. Building Designs, Materials and Colour	
 (i) Dwellings, outbuildings and structu associated with the use of the land be designed and constructed of materials which allow them to blen into the landscape of the site; 	ires shall
 (ii) No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket unless otherwise determined by the Local Government. Preferred fencing sha of rural construction (post and stra and 	all be
(iii) Development of the site is to addre location in a rural setting with sitin landscaping to limit visual impact o development on landscape values may be demonstrated through a landscape plan.	g and of
7. Bushfire Management	
Prior to subdivision or developme Bushfire Management Plan and Emer Evacuation Plan is to be prepare accordance with State Planning Policy 3 Guidelines for Planning in Bushfire Areas, to the satisfaction of the government	gency ed in .7 and Prone
8. Notification of Prospective Owners	
 (i) Provision shall be made to the Loca Government's satisfaction to ensur prospective purchasers of land wit Special Use SU3 are given a copy o these conditions prior to entering i an agreement to acquire any properties 	re hin f into
(ii) Notifications to be incorporated or titles advising land owners and the successors of the existing blue gun plantation on the adjoining land ar that in future there may be other agricultural uses developed in the surrounding area and that the plantation or other uses may impa the amenity of the tourist develop	eir n nd nct on

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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME NO.24

AMENDMENT No. 6

ADOPTION:

Adopted by resolution of the Council of the Shire of Esperance at the meeting of the Council held on

the <u>26</u>	day of May	20 <u>20</u> :	
Cain	Theil		
Mayor			
a			

Chief Executive Officer

FINAL APPROVAL:

Adopted for final approval by resolution of the Shire of Esperance at the meeting of the Council held on

the 22

_____20<u>2</u> and the Common Seal of the

municipality was pursuant to that resolution hereunto affixed in the presence of: 💡

day of September

Mayor

Chief Executive Officer

RECOMMENDED / SUBMITTED FOR FINAL APPROVAL:

Delegated under s.16 of the PD Act 2005

J

[n]

FINAL APPROVAL GRANTED:

It is hereby certified that this is a true copy of the Scheme/Amendment, final approval to which was endorsed by the Minister for Planning $on_{4}/1$ 1 2 0 2/

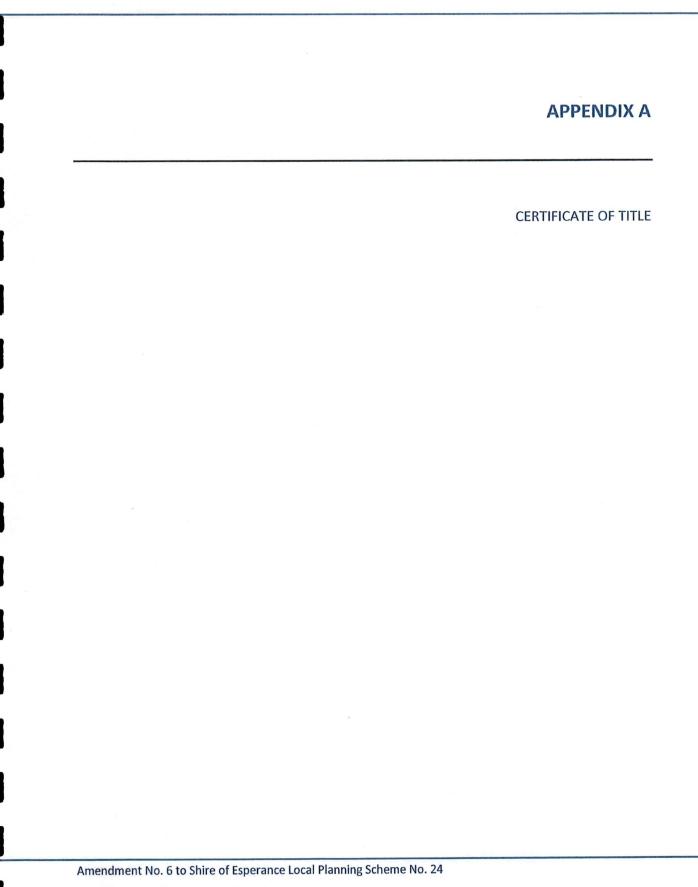
Minister for Planning

Certified by

Officer of the Commission Duty authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 32(3) Scheme and Regulation 63(3) (Amendment) of the Planning and Development (Local Planning Scheme) Regulations 2015.

Date





Lot 205 Orleans Bay Road, Condingup

	REGISTER NUMBER 205/DP76552		52
AUSTRALIA	DUPLICATE EDITION 2	DATE DUPLIC	
ATE OF TI	ГLE	VOLUME 2815	folio 490
		205/ DUPLICATE EDITION	AUSTRALIA 205/DP7655 DUPLICATE EDITION 2 30/10, VOLUME

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 205 ON DEPOSITED PLAN 76552

REGISTERED PROPRIETOR: (FIRST SCHEDULE)

BESTALL SUPER PTY LTD OF 427 RIVERTON DRIVE SHELLEY WA 6148

(T N751926) REGISTERED 27/10/2017

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)

1. *L382295 NOTIFICATION CONTAINS FACTORS AFFECTING THE WITHIN LAND. LODGED 23/7/2010.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. * Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title. Lot as described in the land description may be a lot or location.

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: PREVIOUS TITLE: PROPERTY STREET ADDRESS: LOCAL GOVERNMENT AUTHORITY:

DP76552 2807-588 1692 ORLEANS BAY RD, CONDINGUP. SHIRE OF ESPERANCE



LANDGATE COPY OF ORIGINAL NOT TO SCALE 04/02/2020 10:05 AM Request number: 60283931



APPENDIX B

APPROVED CONCEPT PLAN (2008)



ORIG A3

TOURIST CONCEPT PLAN Lot 201 Orleans Bay Road Shire of Esperance

> AYTON BAESJOU PLANNING 11 Duke Street Albany WA 6330 Ph 9842 2304 Fax 9842 8494



APPENDIX C

PROPOSED CONCEPT PLAN (2020)

