



# **Karratha Industrial Estate**

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## **Planning Compliance Action Plan**

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**Report to**

**The Chief Executive Officer**

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**Prepared By:**

Statutory Planning/ Compliance Officer

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## 1 EXECUTIVE SUMMARY

The City of Karratha (the City) is soon to undertake a review to ascertain the level of unauthorised residential occupation in the Karratha Industrial Estate (KIE). Illegal residential occupation on sites in the KIE has been a recognised issue for the City of Karratha for a number of years. The purpose of this document is to set down a procedure for identifying and addressing non-compliance within the KIE.

**Table 1: Key Actions & Estimated Timeframes**

<b>Task</b>	<b>Responsible Officer</b>	<b>Date</b>
Seek Council Resolution to initiate desktop study and subsequent site inspections.	Statutory Planning/Compliance officer	21 March 2016 (Report Due 4 March 2016)
Send initial letter advising landowners that the City is to undertake a review of the KIE and to expect a site visit in the next 2 months.	Statutory Planning/Compliance officer	23 March 2016
Desktop study – site histories & audit, also identify which site have approval for approved accommodation. Obtain any relevant information from Synergy (Records of approvals) and N Drive.	Statutory Planning/Compliance Officer	25 March 2016 – 8 April 2016
On-site inspections	Statutory Planning/Compliance Officer	11 April 2016 - 31 May 2016
Report back on findings	Statutory Planning/Compliance Officer to Principal Statutory Planner	1 June 2016 – 3 June 2016
Draft up Recommendation & Enforcement Action Plan. The Draft Plan should state that a letter informing landowners of their legal requirements is the preferred initial method of contact.	Statutory Planning/Compliance Officer, to be reviewed initially by Principal Statutory Planner followed by Director Development Services.	6- 8 June 2016

Once the Recommendation & Enforcement Plan is approved by Director, draft Council Report recommending enforcement actions.	Statutory Planning/Compliance Officer	July Council Meeting – Deadline for agenda items is 4 July. It is advised to take this item to a Council briefing session initially.
Send out Letter informing those sites without any approved accommodation that they are required to seek Planning Approval. Letter will contain what approved forms of accommodation the City can consider. The purpose of the letter is just for the applicant to be aware of their responsibilities, and to contact the City to inform us that they will/endeavour to submit a Development Application (DA).	Statutory Planning/Compliance Officer	Subject to when Council resolves to initiate enforcement actions.
If no response by closing date, send out additional letter advising that a breach has occurred and if it continues to occur, there are fines applicable under the <i>Planning &amp; Development Act 2005</i> .	Statutory Planning/Compliance Officer	Subject to a set date for the above.

**NOTE:** Timings are indicative only and progress and procedure will be reviewed on a weekly basis.

## 2 BACKGROUND

At the Ordinary Council Meeting of 20 December 2010 Council resolved to; commence an informational media campaign; issue written correspondence to the KIE community explaining the non-compliance; and granting delegated authority to the CEO to commence legal action where all other enforcement options fail (see Appendix A). It appears that at this time, any progression of compliance action was stalled. This was likely due to a lack of and redirection of available staff resources at the time of the recent resources ‘boom’.

This is a complex issue which has broad reaching outcomes, both socially, politically and economically. A rapid reaction to eliminate illegal occupation of the Karratha Industrial Estate may result in loss to services to the townships, negative political fallout for the City of Karratha and impacts on residents ‘livelihoods’. A procedure must be carefully set out.

## 3 PROJECT OBJECTIVES

The objectives of the project generally follow from the directive given by Council, by way of resolution (No.151482) on 20 December 2010. The objectives of the project are generally driven by a desire to

ensure potential public safety issues are addressed at the same time as reducing the City's potential liability resulting from non-enforcement of the City's Town Planning Scheme No.8 (TPS8).

The Objectives of the project are as follows:

- a. Determine the level of non-compliance within the KIE.
- b. Develop robust procedures for investigation and enforcing planning compliance issues.
- c. Inform owners and occupiers of the KIE of the risks and penalties of residing in and operating illegal accommodation on land zoned Industry under TPS8.
- d. Encourage and assist owners and occupiers to voluntarily legalise or cease illegal residence.
- e. Secure Executive and Council support to initiate enforcement actions as required.
- f. Initiate enforcement actions where necessary to ensure compliance with the TPS8.

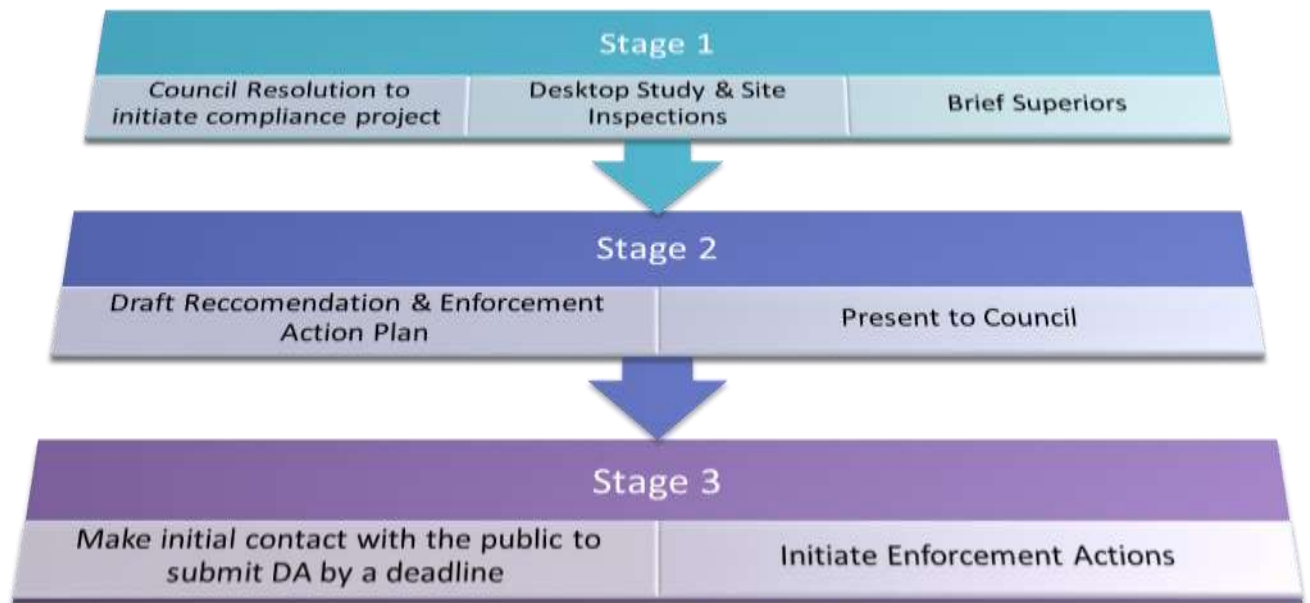
## 4. PROJECT SCOPE

Aerial maps of the KIE are contained in the appendices and depict the project area (Appendix B). The project area containing approximately 315 individual properties will be split into manageable sections to enable efficient and effective implementation. Anticipated timings per property are as follows:

Audit Phase	Best	Worst
Desktop Property History Audit	0.5hr	1hr
Site Audit	0.25hr	0.5hr
Risk Review	0.25hr	0.5hr
Write Up & Action recommendation	0.5hr	1hr
Administration	0.25hr	0.5hr
Meeting/Communications	0.5hr	1hr
<b>Total</b>	<b>2.5 hrs.</b>	<b>4.5 hrs.</b>

When these timeframes are extrapolated for the 315 properties subject to the proposed site audits (and assuming only the City's Planning/Compliance Officer undertakes these tasks), a five (5) to six (6) month timeframe is projected to reach Stage 3 of the project. Stage 3 being the point where property owners would be informed of non-compliance and compliance action taken following this (outlined in further detail under Section 9).

**Figure 1 – Staging Flow Diagram**



## **5. STATUTORY IMPLICATIONS**

### **5.1 TPS8 Requirements**

The Karratha Industrial Estate is currently zoned as 'Industry' under TPS8. TPS8 does not permit any form of residential accommodation in the 'Industry' zone with the exception of a 'Caretaker's Dwelling' and 'Driver's Accommodation'. The definition of these land uses under TPS8 are as follows:

*Caretaker's Dwelling: a dwelling on the same site as a building, operation or plant, and occupied by a supervisor of that building, operation or plant.*

*Driver's Accommodation: a building(s) on the same site as a road freight terminal and occupied by drivers delivering goods or materials to, or collecting goods or materials from the site.*

TPS8 contains relevant provisions for the form, size and use of a caretaker's dwelling under Clause 6.15 and similarly for driver's accommodation under Clause 6.16. These Clauses of TPS8 are presented under Appendix C.

### **5.2 Compliance Legislation**

*Planning and Development Act 2005 (Part 13 – Enforcement and legal proceedings)*

*Planning and Development (Local Planning Schemes) Regulations 2015 (Schedule 2: Part 10, Clause 78 & 79).*

Should compliance be undertaken under the Planning and Development Act, Directions shall be issued as they have more force than an infringement notice and larger consequences should the proponent not comply.

## **6. COMMUNICATIONS**

Following Council's earlier December 2010 resolution to undertake compliance action, communications with the community were commenced early 2011 by way of an article in the Pilbara News, which was followed up by a letter sent out to properties in the KIE. Since this time, no further communication has been conveyed to property owners on this matter, on a scale encompassing all sites in the KIE. In recent years any compliance action has been minimal and reactive, on a site by site basis, when complaints have been received.

Communication will be a vital element in achieving the objectives of this project. Any audit and follow up action in regard to this matter requires considered communication methods and content to ensure property owners are clearly aware of the issue and their responsibilities under relevant legislation.

Communication channels between relevant Development Services Departments, the Executive and Councillors is also recognised as important when taking action on a land use matter that presents various sensitivities.

Communications will generally follow the procedure below:

- a. Report to Council to seek direction in regard to initiating this compliance task and undertaking Stage 1 of the task, being the desktop study and site inspection audit.
- b. Initial communication with property owners informing them of the undertaking of an audit in the form of site inspections to be undertaken over a nominated timeframe.
- c. Report to Executive/Council on the Stage 1 audit with recommended enforcement actions and priorities.
- d. Should Council support progression of Stage 3 of the task, communicate with all property owners that have non-compliant accommodation advising that unauthorised accommodation used for residential purposes (except caretakers dwelling) is not permitted.
- e. Initiate enforcement action as required under *Planning and Development Act 2005*.

The above is a basic summary of communication and further detail is presented in following sections pertaining to each stage of the project. Content of letters and any media releases that may be forwarded to property/business owners and/or the public will be vetted initially by the Principal Statutory Planner/Manager Planning followed by the Executive.

## **7. STAGE 1**

### **7.1 SEARCH OF HISTORICAL RECORDS – SITE/PROJECT HISTORY**

The first part of the audit will entail a search of existing council files and records and will compile a list of existing planning/building/health approvals for each site. Historical aerial photo research will also be undertaken in order to get as best picture of historical site development as possible.

An audit spread sheet has been developed to assist information gathering. This spread sheet will form the basis of the desktop research and site visits and will allow for simple extrapolation of relevant information into statistics and categories of compliance.

### **7.2 COMMUNICATION**

In parallel with the beginning of the desktop research outlined in Section 7.1, the Planning/Compliance Officer will prepare a letter to be forwarded to all property owners and business owners in the KIE. The letter will inform them of the City's project to undertake an audit of all forms of residential accommodation in the KIE and the timeframes for City staff to undertake onsite inspections of their properties.

The Planning/Compliance Officer will report to the supervisor any issues or problems that may arise whilst undertaking inspections and consideration will be given to any issue that may arise.

The Planning/Compliance Officer will compile the information gained through the desktop study and site inspections and communicate results, initially to the Principal Statutory Planner/ Planning Manager, for later conveyance to the Executive.

### **7.3 SITE AUDITS**

Following the research phase, an audit of each site shall be undertaken. It is anticipated these inspections will require a timeframe of approximately 8 weeks to complete all inspections based on only the Planning/Compliance Officer undertaking the inspections. Should time be available in the workload of other planning staff this timeframe could be reduced.

Each site will be assessed as either LOW, MEDIUM or HIGH risk and recommendations for action will be presented.

Risk assessments will be made using a prepared risk matrix. This classifies the accommodation onsite as follows:

**Planning Approval & Compliant (LOW RISK)** - Approved Caretaker's/Driver's Accommodation on site, in accordance with all conditions of planning approval issued.

**Planning Approval – Not Compliant (MEDIUM RISK)** - approved accommodation in breach of conditions of planning approval.



**No Approval – Non Compliant (HIGH RISK)** - Accommodation located on site, not approved by the City.

Aerial maps in Appendix B depict all lots. These will be used to produce mapping highlighting lots that fall into each of the abovementioned categories.

## **8. STAGE 2**

### **8.1 RECOMMENDATIONS & ENFORCEMENT ACTION PLAN**

Following the compilation of data acquired under Stage 1 the number of non-compliant sites will be determined along with types of non-compliance. A report will be prepared to be put before Council for consideration of the scale of non-compliance in the KIE and to make determination on progression of the project. The Planning/Compliance Officer in collaboration with the Principal Statutory Planner and Manager Planning will formulate recommendations to Council and options for progression of the project. Further, the report to Council will present an Enforcement Action Plan (EAP) to be signed off by Council should Council wish to progress to Stage 3 of the project, being the undertaking of compliance actions against illegal accommodation in the KIE.

It is recommended that enforcement actions be signed off by the CEO and/or Council to ensure the actions are undertaken with full support.

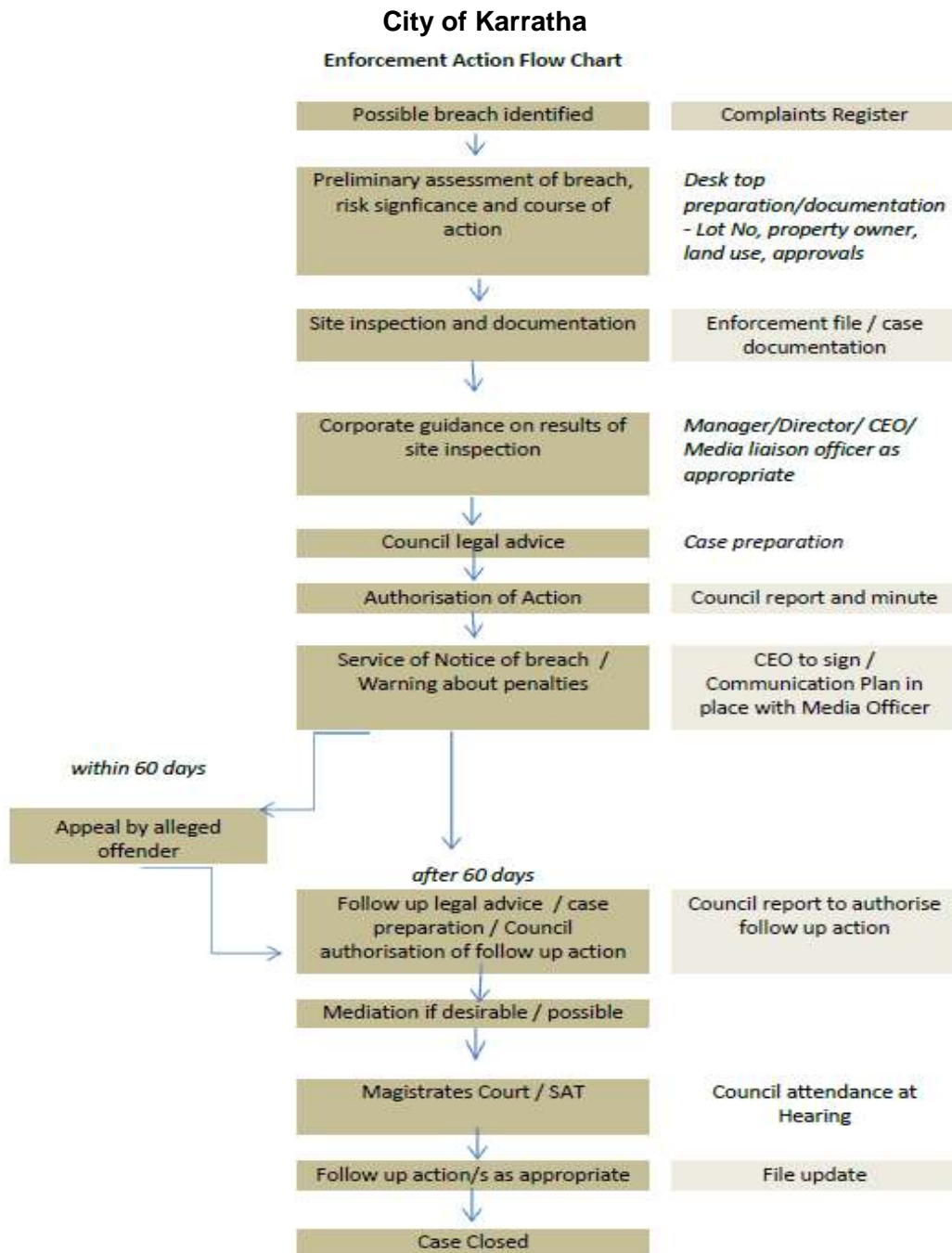
The EAP will be prepared by the Planning/Compliance Officer to enable that position to plan timing of compliance actions around other day to day responsibilities. The Action Plan will also assist the officer to work to timeframes and follow developed process for undertaking the necessary steps associated with compliance under the Planning and Development Act, 2005 and associated Regulations.

## **9. STAGE 3**

### **9.1 INITIATE COMPLIANCE/ENFORCEMENT**

Should Council resolve to support and initiate compliance action in accordance with the prepared EAP, the Planning/Compliance Officer will begin Stage 3 of the project. It is anticipated that initially letters would be forward to all non-compliant land owners detailing the non-compliance on their site and the procedure to become compliant if it is possible to do so. In the event that the form of accommodation simply cannot be approved as a caretaker's dwelling under TPS8 then the property owner would be informed that the building/s must be removed. The letter will provide a timeframe to allow owners to comply. This timeframe will be decided as a part of the EAP.

Enforcement shall only be initiated if landowners/applicant's do not submit or advise that they intend to submit a DA by the nominated closing date of the timeframe approved under the EAP. Enforcement shall generally be in accordance with the Enforcement Action Flow Chart shown below.



## **10. CONCLUSION**

This project scope of works intends to commence development of procedures, including delegations to the CEO to instruct staff to investigate and enforce breaches of legislation where it is found that residential occupation of the Karratha Industrial Estate properties is occurring. This will reduce the liability to which the City is currently exposed.

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**COUNCIL RESOLUTION**

Res No : 151482  
MOVED : Cr Pritchard  
SECONDED : Cr Bailey

**That Council**

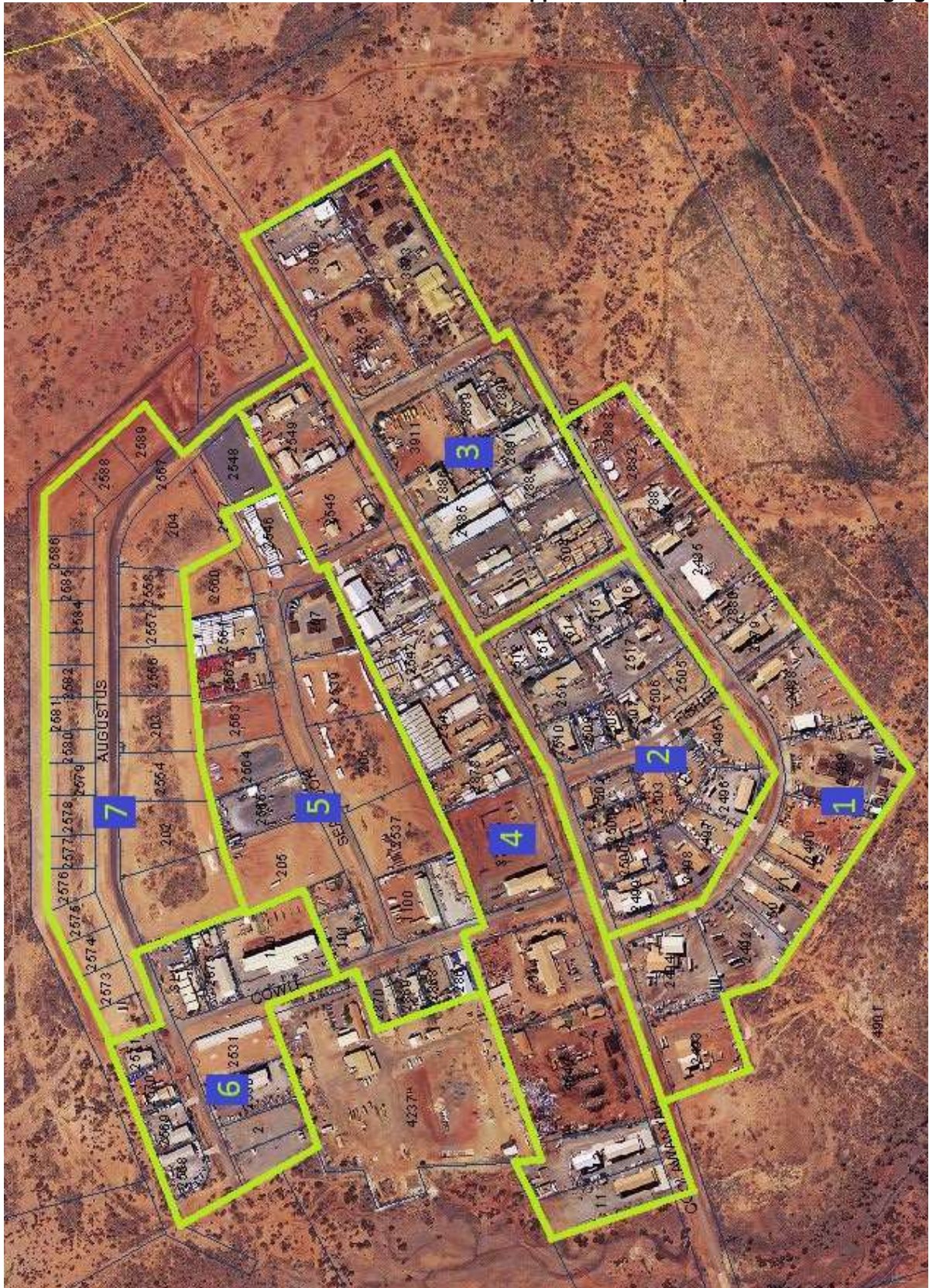
- 1) Direct Development and Regulatory Services to develop procedures for the investigation, assessment and enforcement of the provisions of the Planning and Development Act 2005 in relation to the residential occupation of premises within the Karratha Industrial Estate and other commercial/industrial districts within the Shire.
- 2) Commence an advertising campaign advising that the Shire will be investigating all premises within the KIE to ascertain the extent of the illegal residential occupation. This will focus more so on the current cyclone season and advising any persons living in the area to relocate to appropriate shelter.
- 3) Once procedure is developed, write to each property owner, leasing agent in the area and tenant/occupier advising that the Shire will be taking a more pro-active approach in regard to illegal residency with the KIE. This will take the form of a formal warning letter explaining the issues, compliance, retrospective approvals and penalties.
- 4) Grant delegated authority to the Chief Executive Officer to commence legal action where it is deemed that a breach of the Planning and Development Act has occurred and all other enforcement methods have failed. This includes failure to comply with Notice served under Section 214(2) of the Planning and Development Act 2005.

CARRIED

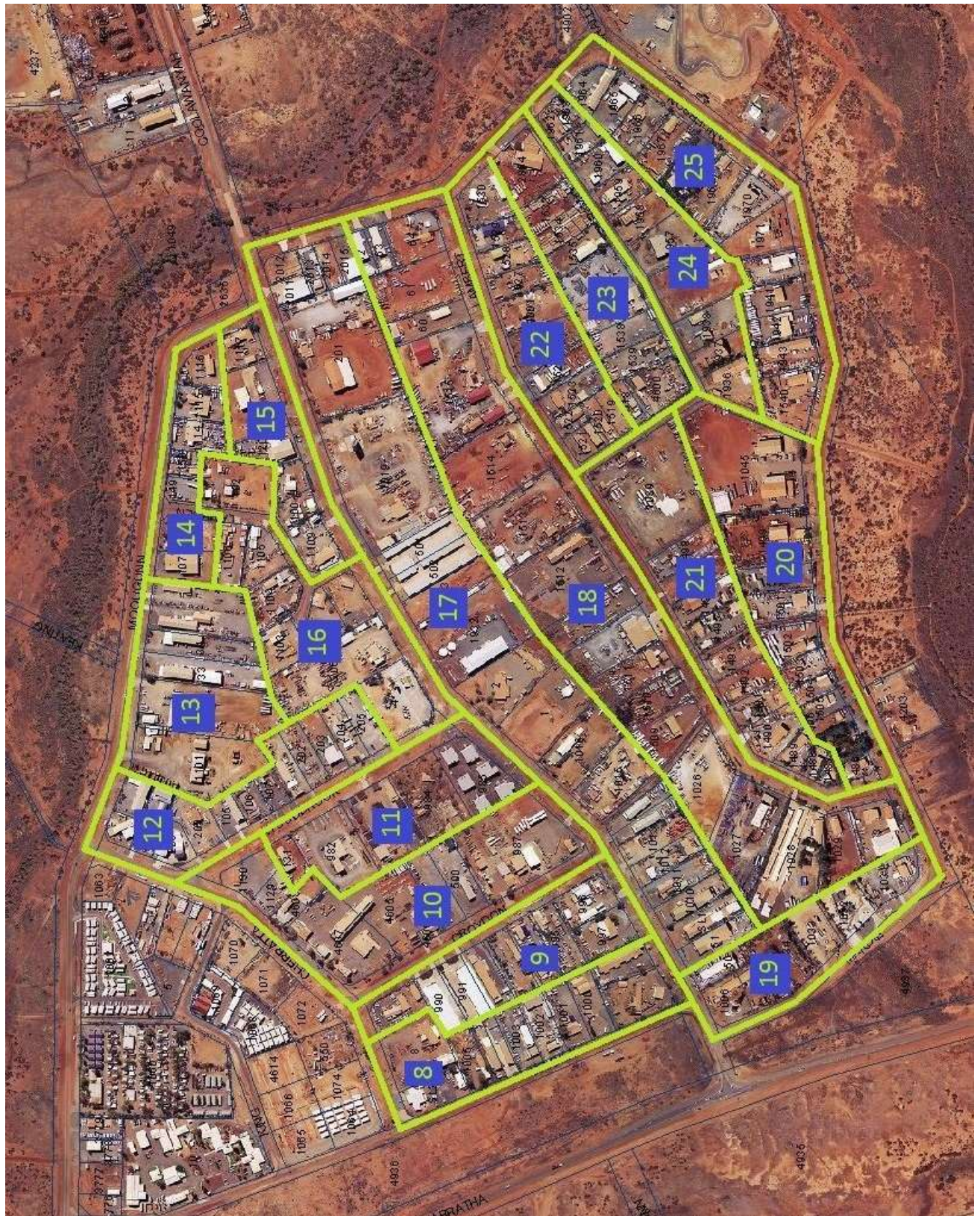
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FOR : Cr Lockwood, Cr Lally, Cr Lewis, Cr Hipworth, Cr Bailey, Cr Pritchard,  
Cr Vertigan, Cr White-Hartig, Cr Cechner  
AGAINST : Nil











## Appendix C – TPS No.8 – Caretaker's Dwelling Definition

### 6.15 CARETAKER'S DWELLING

The provisions of this clause shall apply to all caretaker's dwellings:

- (a) a caretaker's dwelling is not to be developed and/or occupied on a lot unless that lot has been developed and is being used in accordance with the Scheme;
- (b) only one caretaker's dwelling is to be permitted on a lot or as part of a strata development;
- (c) if freestanding a caretaker's dwelling is required to be transportable, a moveable dwelling is not to be permitted as a caretaker's dwelling for either permanent or temporary occupation;
- (d) a caretaker's dwelling is to be screened and/or fenced from the street frontage of the lot to the satisfaction of the local authority and wherever possible is to be sited at the rear of other buildings on the lot;
- (e) a caretaker's dwelling is to contain one bedroom only within a total floor area that does not exceed 100 square metres measured from the external face of walls; and
- (f) open verandah may be permitted but must not be enclosed by any means unless the total floor area remains within the maximum total floor area of 100 square metres as referred to in paragraph (e).

Note: For the purposes of (e) a bedroom is any room able to be set aside for sleeping purposes.

### 6.16 DRIVER'S ACCOMMODATION

The provisions of this clause shall apply to driver's accommodation:

- (a) driver's accommodation is not to be developed and/or occupied on a lot unless that lot has been developed for a road freight terminal and is being used in accordance with the Scheme;
- (b) driver's accommodation must be transportable in order to be capable of being removed upon the cessation of the use;
- (c) a movable dwelling is not to be permitted as driver's accommodation;
- (d) driver's accommodation is to be screened and/or fenced from the street frontage of the lot to the satisfaction of the Council and wherever possible is to be sited at the rear of other buildings on the lot;
- (e) a driver's accommodation building(s) is to have an aggregate total floor area that does not exceed 100 square metres measured from the external face of walls;
- (f) open verandahs may be permitted but must not be enclosed by any means unless the total floor area remains within the maximum total floor area of 100 square metres as referred to in paragraph (e); and
- (g) driver's accommodation shall only be occupied by drivers delivering goods or materials to, or collecting goods or materials from an approved road freight terminal.